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Seduction, Sexual Violence, and Marriage in New York City, 1886-1955.

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On February 15, 1886, in a New York City courtroom, Bridget Grady placed her mark on an affidavit charging Bernard Reilly with rape. The twenty-six-year-old servant told the Magistrate that in July of the previous year, while her employer was in the country, Reilly had called on her at the East 38th Street home where she worked. He had been Bridget's "steady company" for about three years, and had "several times told her that if he married at all, he would marry her." During the visit he made what Bridget described as unexpected, unprecedented "advances" to her. When she resisted, Reilly grabbed hold of her, and they fell to the floor. Bridget, being, as she put it, a "proper and virtuous woman," became so frightened at Reilly's conduct that she immediately lost consciousness. While Bridget was in that state, Reilly had sexual intercourse with her, as a result of which Bridget became pregnant. Once she regained consciousness, Bridget "began to cry, and declared she would kill herself; he took her upon his lap and tried to pacify her, telling her at that time that if anything came of it he would marry her." As a result of that promise, Bridget took no action against Reilly. Seven months later, however, still unmarried, and due to give birth to a child in two months, Bridget had come to the court to make a complaint.[i]

Beneath Bridget Grady's affidavit in the prosecutor's case file is a typed memorandum, authored by an unnamed Deputy Assistant District Attorney (DADA). It is headed, "Question:- Is there a case of Rape against the defendant?" According to historical analyses of how rape was defined in the United States in the late nineteenth and first half of the twentieth century, the prosecutor's answer to that question should have been "no." Historians of sexual violence in this

period have relied on published appellate court opinions for their picture of how rape was understood. The judges who wrote those opinions defined rape as a physically violent assault, an attack by multiple assailants, or an assault by a man with no prior relationship with his victim. Excluded from that definition, until the 1970s, is what legal scholar Susan Estrich has called "simple rape," the rape of a competent, conscious adult woman by a man she knew.[ii]

The DADA appears to have gradually come to see Bridget's charge in terms of that narrow notion of rape. In the first of a series of memos, he focused on Bridget's failure to make an immediate complaint. Appellate courts had interpreted such a failure as discrediting a woman's testimony, but the DADA concluded that, if the jury could be made to believe her story that the delay resulted from Reilly's promise of marriage, it would be possible to win a conviction.[iii] A second memo addressed the requirement that a woman's testimony be corroborated before a man could be convicted of rape, a rule established by the State Legislature in 1886, the same year that Bridget made her complaint.[iv] The prosecutor noted that no such evidence had been gathered in this case. His final memo summarised the results of his efforts to remedy that deficiency, by gathering testimony from witnesses who had seen the couple together. That testimony, the prosecutor concluded, coupled with Bridget's pregnancy, was sufficient evidence to make a case against Reilly. Nonetheless, he concluded that the "chances of conviction for rape are close." That Bernard Reilly was ultimately discharged is not, then, a surprise. However, the explanation scrawled on his case file next to that result is less predictable: it reads "Married." This outcome

is striking not just because it is an unexpected end to a rape prosecution, but also because it is the outcome that Bridget Grady wanted.[v]

I found no other rape cases involving adult women that ended in marriage in the New York County District Attorney's case files from the years between 1886 and 1955. An analysis limited to rape prosecutions would therefore have to dismiss this case as an anomaly. But a broader examination of New York's criminal law revealed other examples of women who, having described being sexually assaulted, also married the man charged with assaulting them. In those cases the men had been charged not with rape, but with seduction. New York was one of thirty-five states that added a seduction law to their statute book between 1848 and 1900.[vi] That a prosecution for this crime would end in marriage does not occasion the surprise provoked by such an outcome in a rape prosecution. New York's seduction statute applied to acts in which a man obtained a woman's consent to sexual intercourse by promising to marry her, and provided that a subsequent marriage between the parties was a bar to conviction. What is unexpected is that a woman charging seduction would describe having been sexually assaulted. In law, a case of seduction involved a consensual act of sexual intercourse, with the crime occurring subsequent to that act, in the form of an unfulfilled promise. In practice, however, many 'seduced' women described acts that had been accomplished as much by violence as by a promise of marriage. Nonetheless, most of those women expressed a desire to wed the man that they accused, rather than to have him sent to prison.

A similar concern to effect a marriage can be found in prosecutions for statutory rape, an offense that in New York took in all acts of sexual intercourse with a female younger than eighteen years of age. Just over one in every four prosecutions for statutory rape in New York City in the years 1896 to 1946 involved efforts to resolve a case through marriage. The broad scope of the law meant that many of the prosecutions that ended in marriage had involved apparently consensual acts. In others, a girl's consent was less apparent. And in fifteen percent of the statutory rape cases in which marriage was pursued as an outcome, the girl had been forced to engage in sexual intercourse.[vii]

That marriage was discussed, proposed, and entered into in such circumstances highlights the extent to which the boundary between consensual sex and coerced sex was blurred in the turn-of-the-century United States. It was not only casual heterosexual relations, such as the treating described by Kathy Peiss, that were suffused with coercion. Women, like Bridget Grady, in a relationship of longer duration, and those being courted, also experienced physical force, and various forms of bullying and pressure.[viii] To a greater extent than historians concerned to explore the growing importance of romantic love, individual choice, and emotional intimacy have recognized, this was a sexual culture that accepted a wide range of male aggression.[ix] The still pervasive acceptance of male pursuit and female submission as the model for heterosexual relations ensured that even relationships into which women entered voluntarily could be marked by aggression and violence, and that such behavior did not preclude the possibility of marriage.

That women who experienced male aggression in courtship were still prepared to enter into marriage with their suitors also challenges the conventional understanding of how marriage was conceived at the turn of the century. Prosecutions for seduction draw attention to the extent to which marriage in practice was not governed by the ideals articulated by middle-class Americans in correspondence between couples, diaries, personal reminiscences, and prescriptive literature. In particular, legal records reveal that many Americans did not follow the ideological imperative to give precedence to the need for romantic love and emotional intimacy.[x] Women's actions in seduction cases instead fit with the "fluid world of marriage" recently described by Beverly Schwatrzberg, a world in which a "pragmatic flexibility" governed how many middle and working-class Americans approached marriage.[xi] A marriage that prevented ruin, illegitimacy, and perhaps even provided material support, as those entered into by women who charged seduction would have, was conceivable in that world, notwithstanding the violence that had marred the relationship. Such a marriage seems an even more likely pragmatic action given that, as Hendrik Hartog has shown, many Americans did not regard marriage as a life-long relationship. Despite moral and theological teachings, and the law, they "insisted on their capacities to construct marriages and to leave them according to their changing desires," manufacturing exits that must have made it easier for a woman to consider marriage to a man who had assaulted her.[xii]

The blurred boundaries between consensual sexual intercourse and sexual assault not only made marriage a possible aftermath of sexual assault, but also produced a broader understanding

of sexual violence than has been associated with the turn-of-the-century United States. Studies of sexual violence have focused on the crime of rape, and found in legal categories and in legal records a narrow understanding of sexual violence that did not encompass acts that took place within relationships. In law, until the late twentieth century, the crime of rape specifically excluded acts committed by a man upon his wife. Judicial decisions effectively extended that exemption to a man's acts with a woman he knew, treating that prior relationship as grounds for presuming that the woman would have consented to the act.[xiii] In this article I argue that the crime of seduction allowed women to invoke the law in circumstances when they had a prior relationship with their assailant and had not been subject to the degree of physical force required to charge rape, and, in so doing, effectively extended the understanding of sexual violence beyond the definition of rape. That understanding did not, however, stretch to marriage, although the marital rape exemption was subject to strenuous challenge from nineteenth-century feminists, and, in the late nineteenth century, courts began to recognize sexual violence, expressed as excessive or unwanted sexual advances, as grounds for divorce.[xiv] The breadth of turn-of-the-century concepts of sexual violence has been overlooked in part because it is less obvious in law books and appellate court decisions than it is in the law in practice, where my research is focused. Such evidence from the law in practice reveals that while the cases like that involving Bridget Grady and Bernard Reilly had no place in legal or popular definitions of rape, they did fall within notions of sexual violence, and there was a place for them within the criminal law.

If the existence and nature of seduction prosecutions enriches our picture of turn-of the-century ideas of sexual violence, the almost complete disappearance of seduction prosecutions after the mid-1930s brings into sharper focus how new understandings of gender, sexuality, and age transformed understandings of sexual violence in the second half of twentieth century. In the 1940s, modern ideas of women as economically independent, socially equal, sexual beings, produced a narrower notion of sexual violence, one focused on rape. Those concepts effected perceptions of girls in statutory rape cases as well, with sexual expression increasingly seen as a normal part of adolescence, and acts with underage girls that did not involve physical force consequently not regarded as rape, but as 'normal sexual relations.' Families, jurors and courts, however, did recognize that teenage girls lacked the economic independence and social equality that adult women possessed. They continued to support not only the prosecution of men who failed to support a girl who they had impregnated, but also efforts to force those men into marriage.[xv]

The New Yorkers who appeared in seduction cases, and in other prosecutions for sexual violence in the city's criminal courts, were almost without exception members of the working class.[xvi] They came from diverse backgrounds, encompassing all the major groups in the white American population: Southern and Eastern European immigrants, particularly Italians and Russian Jews, Germans, and Irish.[xvii] It was not that workers alone understood sexual violence in the ways revealed in seduction prosecutions, but that only they turned to the criminal courts. Despite their diverse ethnic backgrounds, New York City's working people shared the same broad

legal culture.[xviii] Prosecutions reveal that one of the ways in which working-class New Yorkers conceived of the criminal courts was as a means of accessing the power of the state for their personal use, and in particular, for resolving disputes. They gave the law their own meanings, different from those ascribed to it by legislators, judges and middle-class reformers, and used it for their own purposes, particularly as a means to an end other than the punishment laid down by the legislature. Middle-class Americans, by contrast, had sought to avoid the criminal courts since the eighteenth century, concerned to protect their privacy and reputation. They had also made efforts to make the law an effective means of controlling working-class populations. Beginning in the second half of the nineteenth century, a shift took place from particularistic and decentralized institutions toward the more centralized bureaucratic institutions that characterized the administrative state. In New York City, elected legal officials, and the party loyalists who received their patronage, were replaced by salaried professionals. The city's police force was also subject to repeated efforts to make it more professional, and was brought under the jurisdiction of civil service regulations, although neither approach did much to stem corruption and brutality within the force.[xix]

Middle-class attitudes, and the actions of reformers and legislators, neither entirely succeeded in denying working-class New Yorkers access to the courts, nor completely undermined the efforts of women to use the seduction law to compel men to enter into marriage. Juries and judges supported such efforts in part because a marriage would free the state of the burden of supporting children borne as a result of seduction. But they also shared with those who

charged seduction the belief that a woman who had sexual intercourse outside marriage was 'ruined,' and that marriage was only way to make right that condition. Moreover, since the relationships at issue in seduction prosecutions generally crossed neither class nor ethnic lines, courts did not face any of the differences that might have interfered with their willingness to offer support to female plaintiffs.[xx]

If the predominance of workers in seduction prosecutions is explicable in terms of class ideology, the absense of African Americans, despite their presense in prosecutions for other sex crimes in New York City in this period, is not. It is possible to overstate that absense: African Americans only began to appear in other sex crime prosecutions in significant numbers after 1930, when they made up one in every five defendants in the DA's caseload. By that time, prosecutions for seduction were on the wane. However, the presense of four cases involving Puerto Rican couples, even though they did not appear in the courts in significant numbers until the 1950s, indicates that timing is not the entire explanation for the failure of African Americans to feature in seduction prosecutions.[xxi] Working-class Puerto-Ricans were distinguished from their black neighbours by their adherence to the concept of ruin, and consequent emphasis on the importance of marriage.[xxii] Another explanation for the absense of African Americans is thus the lesser importance placed on, or perceived by white courts to be placed on, marriage in working-class black communities, notwithstanding the politics of respectability promoted by black churches and reform groups. Whatever the explanation, it is important to note that black Americans did not participate in the sexual culture described in this article.

The first part of this article provides a legal history of the crime of seduction, examining its origins in antebellum moral reform and its relationship to the civil actions of seduction and breach of promise of marriage. The second section looks at prosecutions for seduction in New York City, exploring the broad range of circumstances encompassed by the law in practice. I give particular attention to those cases that involved physical coercion, and the ways in which seduction encompassed circumstances that fell outside the legal definition of rape, and to cases that produced marriages. The disappearance of seduction prosecutions after mid-1930s is the focus of the final section. I explore the context for that change, the emergence of new ideas of gender, age, and sexuality, and new legal categories, which helped a new understanding of sexual violence take shape in the middle decades of twentieth century.

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Ten years of agitation and petitioning by female moral reformers lay behind New York's seduction law, passed in 1848, casting a deep shadow over how historians have interpreted the statute. That association has generally led scholars to see the seduction law as a product of a vision that saw seduction as the originating moment of a career in prostitution.[xxiii] But the concerns of moral reform were broader than prostitution, and so, accordingly, was the nature of the crime of seduction. Stirred by the Second Great Awakening, the supporters of moral reform were convinced that "an era of millennial perfection awaited human effort," if only they did not compromise with sin and human injustice, and that God commanded and authorized their work.[xxiv] More so than other reform movements that arose from this ferment, moral reform was a

women's cause, galvanizing those who sought to shape a society in which women's contributions were valued and their rights protected, and to create a middle-class culture centred on the family. For reformers moved by that vision, the seduction law represented one plank in a campaign to replace licentiousness and the sexual double standard with a single standard of sexual abstinence. In the 1830s, moral reformers re-focused their activity from the reclamation of prostitutes to prevention. That shift came in part from reformers' frustration at the failure of reclamation: efforts to save the fallen won over few women, but "while Christians were engaged in efforts to reclaim abandoned females the machinery of Satan would still be at work to ruin the innocent."[xxv] Moral reformers therefore shifted their energies to preventive work focused on cultivating habits of personal purity, on raising children so that they possessed the same purity, and on holding men responsible for their sexual behaviour. Ostracism and exposure were the favoured strategies for achieving that last goal, but moral reformers were also willing to use law, especially once the limits of their other strategies became clear.

In 1838, the New York Female Moral Reform Society launched a campaign for a seduction law, calling on their 361 auxiliary societies throughout the state to petition the legislature, and printing a form to use for this purpose in their paper, the *Advocate of Moral Reform*. The Legislature received 20,000 such petitions in 1840, and a bill was reported in the legislature, but not acted upon. Through the 1840s, as this pattern repeated itself, the campaign attracted support from major newspapers like the *Tribune*, the *Herald*, and the *Sun*, and female reformers began to travel to the debates on the bill to lobby legislators. In 1848, when that mounting pressure finally

saw the Legislature act, it divided the legislation into two parts, the seduction law, and an abduction law that made it an offence to "inveigle, entice or take away any unmarried female of previous chaste character, under the age of twenty-five years,…for the purposes of prostitution."[xxvi]

The abduction statute addressed the concern to curtail prostitution, leaving the seduction law to deal with other forms of sexual activity outside marriage, with other deviations from the standard of sexual abstinence promoted by moral reform. Under the crime of seduction, "A person, who under promise of marriage, seduces and has sexual intercourse with a female of previous chaste character, [was] punishable by imprisonment for not more than five years, or by fine of not more than a $1000, or both." The statute went on to specify "The subsequent intermarriage of the parties, or the lapse of two years after the commission of the offence before the finding of an indictment, is a bar to prosecution." It also imposed a corroboration requirement: "No conviction can be had for the offence specified, upon the testimony of the female seduced, unsupported by other evidence."[xxvii] That statute remained in place throughout the first half of the twentieth century, with the addition, in 1916, of a further clause that punished seduction by means of a fraudulent representation by a man that he was married to a woman – for example, the claim that being granted a marriage license meant that a couple was married.[xxviii]

The statute's reference to a promise of marriage signalled that it was concerned with pre-marital sexual intercourse. Until the eighteenth century, such behaviour had been dealt with in the criminal courts using fornication and paternity laws, with both men and women held responsible.

In the more commercially oriented society of the Revolutionary era, courts became inundated with financial and commercial cases, and took less and less interest in the enforcement of moral issues.[xxix] At the same time, elite and propertied householders began to move toward "an ethic of privacy in which middle-class respectability was preserved by shielding the family name from public exposure."[xxx] As a result, they no longer turned to the public forum of the courts when faced with sexual crises. Other Americans, particularly workers living in urban settings, continued to go to the courts when informal efforts failed to resolve such crises, and to initiate prosecutions in order to put pressure on men to agree to private settlements involving compensation or marriage.[xxxi] In the formal decisions in those cases, particularly prosecutions for fornication, judges and juries departed from earlier practices and held women alone responsible, although historians differ over the significance of that shift. Cornelia Dayton has argued that those decisions reflected an emerging double standard that favoured men and left women and their families to shoulder the costs of child support alone, whereas Richard Godbeer contends that the appearance of male impunity is misleading, the product of a move toward settling more cases out of court.[xxxii] Regardless of whether it shifted the responsibility for pre-marital sexual activity from women to men, what is significant about the seduction statute is that it represented an effort to reinvigorate the legal regulation of private sexual behaviour.

The seduction statute also broadened the definition of sexual violence. Ellen DuBois and Linda Gordon, in a still influential article published in 1983, argued that nineteenth-century feminists considered many of the sexual encounters defined as rape by feminists in the 1970s to

be "mere seduction," imputing to them a denial or evasion of sexual violence. That argument stressed the limits of the nineteenth-century discourse of seduction. It was not only that seduction, structured as it was by a framework of male pursuit and female passivity, with the later cast as feigned or coy indifference, that made it difficult to establish that whether a woman had consented or been coerced, was marked by an indeterminacy that was out of step with the late-twentieth-century feminist effort to precisely define sexual violence. It was that seduction signified a lesser form of coercion than rape, if it involved any coercion at all, and justified an accordingly reduced degree of sanction.[xxxiii] However, DuBois and Gordon did not fully consider what seduction did contribute to understandings of sexual violence. A juxtaposition of the seduction and rape laws highlights those impacts. Judicial interpretations of rape law conceptualised sexual violence as involving force and unrelenting physical resistance. Anything short of the utmost resistance of which a woman was considered to be capable was taken to demonstrate her consent. Some judges and legal commentators took this logic a step further, and questioned whether an act of intercourse could be completed without a woman's consent.[xxxiv] The definition of seduction complicated that dichotomous vision. Consent was not an issue in seduction law, so in terms of the logic of rape, seduction was positioned between consent and coercion, was as Pamela Haag has put it, an "evocatively ambiguous expression of relations of power in which imperfect choices are made -- neither fully 'chosen' nor demonstrably 'forced'." Since the seduction law dealt with promises of marriage, it encompassed acts of sexual intercourse that occurred within relationships, a context in which judges were unwilling to see

rape. Moreover, the focus on promises meant that the other circumstances surrounding an act of intercourse were not limited to a specified character, such as those that demonstrated a woman's utmost resistance, allowing the statute to encompass a range of situations. Although, as Pamela Haag put it, a "strange signification by modern standards," in the context of the period before sexual modernity, the seduction law extended the reach of understandings, and legal definitions, of sexual violence.[xxxv]

A focus on a promise of marriage, and the law's title, also associated the crime of seduction with the existing civil actions for breach of promise and seduction. In its combination of the two actions, the criminal law paralleled what was happening within civil law in the early nineteenth century. A suit for seduction, an action established in common law, could only be brought by a woman's master or father, not by the woman herself. The basis of his action was the loss of a woman's services as a result of her becoming pregnant. The tort was thus concerned with the material, not the moral, consequences of sexual activity outside marriage. Even though the suit for seduction did not apply to single women over the age of majority, it flourished prior to the mid-nineteenth century because of a lack of other means by which a woman could seek redress.[xxxvi] A woman could, however, bring an action against a man who had failed to fulfil his promise to marry her. That suit had a different basis to the seduction tort, namely contract law, a reflection of the property transactions that accompanied matrimony, particularly among elites.[xxxvii] Although the two suits overlapped when a man accomplished the seduction of a woman by a promise of marriage, American courts worked to ensure that the suits operated as

distinct actions. A breach of promise action applied to the situation of courtship, and need not involve sexual intercourse; if it did, judges rebuffed efforts by women to introduce evidence of intercourse and pregnancy as grounds for additional damages. At the same time, American courts refused to allow mention of "a promise of marriage as a weapon of seduction," on the grounds that "the jury might award damages for breach of promise of marriage when the seduced woman still had an independent cause of action in her own right for that breach."[xxxviii]

Beginning in the mid-nineteenth century, the distinctions between the two torts began to collapse. Both actions saw a shift from economic and property considerations to issues of morals. As the seduction action was codified, and women in fourteen states gained the right to sue in their own right, the property basis of the tort, the need to show the loss of services, was displaced by a focus on a woman's loss of chastity and the social consequences of a personal injury. That transformation reflected young women's move outside the home to take up the wage labour opportunities offered by urbanization, Jane Larson has argued, and the increased vulnerability to sexual exploitation they faced as a result of that move.[xxxix] The suit for breach of promise also saw a new stress on the emotional suffering resulting from aborted nuptials, rather than on the commercial losses incurred. Michael Grossberg has explained that shift as the product of the triumph of the ideal of romantic love, the rise of the privatised family, and judicial recognition of the vulnerable position of women, and consequent treatment of them as a dependent class.[xl] As a result of those shifts, the two actions became confused. Seduction, sexual intercourse that resulted in pregnancy, began to feature in breach of promise suits, as grounds for increased

damages. A promise of marriage to induce a woman to consent to sexual intercourse likewise became a recurrent feature of seduction suits, as courts responded to a woman's ability to sue by requiring evidence of seduction, of consent obtained by seductive artifices, "arts and blandishments," and to treat consent in other circumstances as a defence.[xli]

The crime of seduction differed from those civil actions in casting extra-marital sexual activity as a crime against society, not an injury to a woman, or to her father. Moral reform rhetoric presented seduction as having consequences for society as a whole, in that it damaged institutions central to the emerging middle-class vision of society. Reverend Nathaniel Hurd, writing in support of a seduction law in 1838, described the male seducer as a "prowling tiger in human form," who at that time was free to "go forward to the work of encroaching upon the sanctity of female virtue, may make havoc of the innocence and loveliness of female youth, may wring the hearts of parents, may disturb the peace and harmony of the conjugal relation, may break into the sacred enclosure of domestic happiness, and bring it down to destruction, and may blast all that is dear and lovely in human society."[xlii] Hurd's seducer systematically attacked the building blocks of middle-class identity -- the female purity that anchored morality and male self control, the young in whom middle-class parents invested their hopes for future mobility and security, the marriage that provided the intimacy that sustained a middle-class couple, and the family whose support allowed males to succeed in the public sphere, and whose shelter nurtured children and shaped their character. Only criminal law could address damage to such key, "sacred," elements of society. Without such a law, the editors of the *Advocate of Moral Reform*

complained, "A young and innocent girl insulted under aggravated circumstances, her health injured -- her life endangered -- and the offender can be brought to justice only by the contemptible plea of loss of services." Placing a cash value on female chastity, as civil actions did, commercialised sexuality; in the process female purity was profaned, and, by divorcing sexuality from romantic love, intimate relations were devalued. That response, Lydia Maria Child argued, treated a "woman [as] a chattel or a plaything," not the pure, moral guardian, who complemented men and shaped the character of children imagined by the emerging middle class.[xliii] More pragmatically, moral reformers presented criminal law as necessary to hold wealthy men accountable, given that such men suffered little penalty in paying the damages imposed by a civil action.[xliv]

However well the crime of seduction suited the ends of moral reformers, according to historians Lea VanderVelde and Constance Backhouse, it offered little to female victims. VanderVelde and Backhouse contend that the best such women could hope for from a criminal prosecution was vengeance. Charging a crime would bring a woman no compensation or redress.[xlv] In the case of American laws, that argument discounts the provision in most seduction statutes that marriage was a bar to prosecution.[xlvi] For VanderVelde, the idea that marriage could redeem a betrayal, let alone the sexual assaults that featured in some seduction cases, "seems a rather odd notion of justice," "a peculiar arrayment of victim "choice"," unworthy of more than passing mention. In the context of the turn-of-the-century United States, however, female plaintiffs appeared to favour that outcome above the other options available to them. Courts and

legislators agreed that marriage was the best form of redress for a woman who had been seduced. "Marriage is only a partial atonement for the wrong inflicted," wrote the New York Appellate Court in 1909, in its decision in *Scharff v. Frost*. "It does not wholly alleviate the mental anguish and social disgrace[, but] in the popular estimation the shame of the seduction is lessened to some extent by the marriage -- and to a great extent where the parties, as sometimes happens, continue thereafter to live together in apparent amity." Moreover, the judges noted, a marriage in such circumstances would "render the afterborn offspring legitimate."[xlvii] For female moral reformers such an outcome also addressed what the *Friend of Virtue*, the journal of the Boston Female Moral Reform Society, described as the principal harm of seduction -- its "defeat [of] the designs of the marriage institution," that men and women be bound together in "social and civil compacts."[xlviii]

If seduction was the only criminal charge or civil action in New York law that formally provided marriage as an outcome, it was only one of a number of criminal charges that a woman and her family could bring to put pressure on a man to agree to marriage.[xlix] And, until the end of the nineteenth century, the need to provide corroborative evidence to bring a charge of seduction, a requirement that did not apply to those other charges, made it more difficult to use that charge than those alternatives. It is not surprising then that women and their families appear to have continued the longstanding practice of charging men with fornication and bastardy when they sought to promote a marriage, notwithstanding reforms in the mid-nineteenth century that placed control of the process of criminal justice in the hands of salaried city officials -- professional

police, district attorneys, and magistrates – in an effort to make the law less accessible to personal use.[l]

But, in the 1880s, that situation changed. The offense of fornication was not included in the new Penal Code adopted in 1881. The New York state legislature also made it more difficult for an adult woman to bring a charge of rape, and thus to use that charge as a form of leverage, by adding a corroboration requirement to the rape statute in 1886. Seduction, by contrast, became a relatively more attractive option. In the 1881 Penal Code, the crime of seduction was upgraded from a misdemeanour to a felony, increasing the leverage gained by bringing such a charge.[li] The need to corroborate that charge, previously a disincentive to use the law, now appeared a relatively light burden. Corroborating a charge of rape required evidence that established the coercive nature of an act that had almost always occurred in private. In contrast, while the promise of marriage required to bring a charge of seduction also occurred in private, men who made such promises often subsequently told neighbours, friends and relatives of their pledge, witnesses who could provide the corroboration required by law.

If a charge of seduction became a more attractive option for women who turned to the criminal courts seeking to pressure men into marriage, it is not clear if the criminal courts were a more effective or oft used means to that end than the civil courts. Research on the Canadian context suggests that in some cases a charge of seduction could be a more effective source of pressure than a civil action. In the only comprehensive study of seduction litigation, Constance Backhouse found that in nineteenth-century Canada it was very much a working-class action,

with defendants' typically "somewhat wealthier than the plaintiffs." In criminal seduction prosecutions, by contrast, both parties came from the same class, and defendants had little to offer in the way of financial compensation.[lii] The threat of a loss of freedom that attended a criminal conviction for seduction seems likely to have weighed more heavily on men with few financial resources than did the award of damages portended by a suit for breach of promise or seduction. However, in the absense of such a study of civil actions in the United States, this article cannot compare the civil and criminal courts; it can deal only with the crime of seduction. What that statute offered to women, and to what extent its recognition of marriage as a defence led to that outcome, are questions that are most effectively answered by looking at legal practice.

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The neglect of the crime of seduction in the twentieth century reflects an assumption that, as the product of antebellum moral reform, seduction laws were anachronistic and moribund after the turn of the century. The rising tide of sexual modernity, in which women featured as active sexual subjects rather the passive victims of male seducers, would have made them dead laws.[liii] Prosecutions for seduction, however, did feature on the dockets of New York City's criminal courts. My sample of the case files of the District Attorney of New York County – the borough of Manhattan in New York City – which included all the cases in every fifth year from 1886 to 1955, found fifty-one prosecutions for seduction involving women aged over eighteen years, which amounted to ninety-one percent of the seduction cases that included evidence of the plaintiff's age.[liv] In the first three decades of the twentieth century, those seduction prosecutions

occupied a prominent place in the legal response to sexual violence against adult women. Placed in the context of other felonies in New York that encompassed sexual assault – namely, rape, attempted rape, abduction, incest, and sodomy – prosecutions for seduction in those thirty years amounted to twenty-five percent of the prosecutions that involved women aged eighteen and older.[lv]

Although higher courts and prosecutors were concerned to ensure that men who promised marriage subsequent to an act of sexual intercourse, or only if a woman became pregnant, were not prosecuted for seduction, a wide range of working-class sexual relations fell within the scope of the law. That breadth reflected the ubiquity of promises of marriage in working-class sexual relations. Among the cases prosecuted for seduction were instances in which women had been subjected to physical violence. The circumstances of those assaults fell outside the definition of rape employed by the courts. The violence the women had suffered fell short of what prosecutors defined as rape; they knew the man who had assaulted them, and they often continued their relationship with him after being assaulted; and insufficient evidence existed to corroborate their statements. That such women nonetheless found a way into the criminal courts reveals that understandings of sexual violence extended beyond the definition of rape. Few of those women, or any of those who charged seduction, saw their assailants convicted. But some achieved another outcome, marriage, which they appear to have sought.

Martha Olatka's complaint against Michael Polokoff is typical of twentieth-century seduction cases. The twenty-three-year-old domestic servant described a relationship that began

with a flirtation on Ninth street in Manhattan, one Thursday evening in May 1914, and a date to meet at the home of her cousin the following Sunday. On that afternoon Polokoff, a twenty-four-year-old Russian labourer, took Martha to the "moving pictures." For the next ten months, he met her for similar dates every Thursday night and Sunday afternoon. On those outings, Polokoff repeatedly told Martha he would marry her. On March 23, 1915, with Polokoff again promising to marry Martha, they had sexual intercourse. Three more times in the following four months they repeated that act, until, on July 29, as Martha later told a DADA, she asked Polokoff " Are you going to marry me," and he said he didn't have any money, and I said, "If you don't marry me I'll take you to court." On August 4th, she did as she had threatened. When Polokoff was brought to the DA's office, he agreed to marry Martha -- as soon as he had the money. "He came to me and he was crying," Martha recounted, "and said I should give him a chance of one month to think it over." She agreed, but Polokoff's contrition was short-lived. Three days later he told Martha he would not go through with the marriage, boasting, "I fooled the court, and I fool you; I am not afraid of the court; they did nothing." He then disappeared, taking with him $36 Martha had given him to pay the rent on his plumbing office. A few weeks later Martha had a miscarriage, which left her too sick to take any more action against Polokoff. On the 18th of December, she appeared in the Magistrate's court, and again charged him with seduction. It took until January 19, 1916, for Polokoff to be arrested. When he was arraigned in the Third District Court several days later, he pleaded not guilty, and was released on bail.

Michael Polokoff expressed his desire to marry Martha Olatka on the first occasion that he took her out, highlighting that one reason why seduction was not a dead law was that promises of marriage were a far more ubiquitous part of working-class social relations than we might have expected. Men pledged to marry women not only as the culmination of a courtship, the context with which such an act is most commonly associated, but also in the context of briefer or more casual relationships. In fact, given the dangers that premarital sex still posed to many, particularly working-class, women in the early twentieth century, before contraception and child support was widely available, a promise of marriage was a necessary feature of heterosexual relations, "the usual precondition for sexual relations."[lvi] In the same year in which Michael Polokoff was prosecuted, 1916, a typical year in my sample, only one of the seduction cases involved an extended courtship. Joseph Malinowski, a twenty-eight-year-old Russian baker promised to marry Helen Minko the first time he met her, when she visited the family with whom he boarded.[lvii] Vincent Blascke, a twenty-one-year-old Russian labourer, made his offer of marriage only a week after meeting Matilda Widmann, a twenty-four-year-old domestic, also born in Russia.[lviii] Twenty-two-year-old Michael Gilbert, an American born chauffeur, took Beckie Greenberg out for two and a half months before asking the twenty-two-year-old lithographer if she was willing to marry him.[lix] Only Benjamin Rosenstein, a twenty-seven year old cutter, pursued a long courtship, in this case of five years in duration, before telling Mary Cohen, a twenty-four-year-old Polish dressmaker, that "he had made up his mind," and that he was going to marry her.[lx] Such an extended courtship was, however, clearly not a precondition for a

promise of marriage; consequently, the seduction statute, despite applying to a narrowly defined circumstance, encompassed a broad range of working-class sexual relations.

However, not all promises of marriage exposed a man to a charge of seduction. The statute excluded pledges made subsequent to an act of sexual intercourse, promises which had no bearing on how a man completed the act. The seduction cases in my sample, with one exception, did not involve such promises, suggesting that most New Yorkers, or at least those who served on the grand jury, accepted that only a promise made prior to an act constituted seduction. Mary Raymond, however, did not. On August 1, 1931, after she finished work, the twenty-five-year-old Polish waitress met Joseph Dominick, a twenty-three-year-old Italian laundry worker, whom she had known for a year. On this evening, they went driving in Central Park with one of Joseph's friends. After half an hour, the friend announced he needed to do some quick repairs on the car. After driving the car into a garage, he got out, and left Mary and Joseph in the car. Joseph then insisted on having sexual intercourse with Mary, telling her, "Come on; come on, hurry up before I smack you!" When she cried, he told her, "I will marry you; don't be afraid." Irving Mendelson, the DADA who questioned Mary, asked her when precisely Joseph had talked of marriage, leading to the following exchange:

Q. When did he say he was going to marry you? A. In the car.

…Q. Did he say it before he did it or after? A. After.

Q. Was he finished then? A. Yes.

> …Q. We haven't got much of a case. He didn't promise to marry you until after you had relations with him and you didn't object the first time. A. He said "I am going to marry you."[lxi]

Mary's response suggests that she either did not understand or did not accept the significance of the timing of Joseph's promise. Mendelson tried again to explain the law when he questioned her stepbrother, Richard, several months later. The DADA read his exchange with Mary to Richard, and then told him, "You see, in this case, in order to prove seduction, we would have to establish the fact that he promised to marry her in order to have sexual relations with her. But if a man has relations with a girl and says subsequently that he will marry her, that's only a promise." Apparently Richard understood or accepted Mendelson's explanation of the law; the transcript records that he offered no answer to the DADA's statement, and that the interview ended at that point. Three months later, Mendelson's recommendation that the charges against Joseph Dominick be dropped was approved.[lxii] Dominick's fate makes clear that the law was intended to protect women from duplicitous men, not to help them deal with the consequences of sexual intercourse.

New York courts interpreted the seduction statute as excluding a second form of promise, a conditional promise, a commitment to marry contingent on a particular circumstance occurring, usually a woman becoming pregnant. "It is impossible to have seduction under a promise to marry," the decision in *People v. Duryea* in 1894 explained, "when the only promise at the time of the seduction is one depending upon an event that may never occur." In that same year, the

Court of Appeals justified that position, in *People v. Van Alstyne*, by arguing that, "It was never intended to protect a woman who was willing to speculate upon the results of her intercourse with a man and who only exacted as the price of her consent a promise on his part to marry her in case the intercourse resulted in her pregnancy,…[a woman] who only asked for a promise of marriage in case her lapse from chastity should be discovered by reason of her pregnancy." The proper subject of the law, the Court went on to explain, was "a confiding and chaste woman [who yielded] to the solicitations of the man who had promised to marry her."[lxiii] But the facts of the case that prompted that decision suggest that this distinction was more difficult to draw than the judges implied. In charging George Van Alstyne with seduction, Jennie Campbell related the following encounter, during a carriage ride from a social to her home:

> He wanted I should do as he wanted me to, and I objected.…He kept teasing me all the way along, and said, if I would, he would marry me. I said I didn't want any boy to have to marry me in that way, and he said he would; and finally he turned around, and wanted me to, again, and said he would not have turned around if he had thought I was not going to let him. He told me, if he got me in the family way, he would marry me. I told him I didn't want to have any boy obliged to marry me. He said he didn't want to be obliged to, but would. And he wanted me to get out of the wagon, and I would not. Finally, I yielded to him, and he had connection with me.[lxiv]

The Court of Appeals considered "it obvious from her whole evidence that the conditional is really the only promise which she regards as made or which can reasonably be inferred."[lxv] Not so the four judges whose decision the Court reversed. They concurred in the argument that

> he first promised to marry her if she would let him do as he wished. He thus held out that inducement to her, and then allayed her fears by telling her that if she got in the family way he would marry her; and, in answer to her statement that she didn't want to have any boy obliged to marry her, he stated that he did not want to be obliged to, but would -- thus indicating that the marriage would be voluntary on his part. The appellant argued that the subsequent conditional promise of marriage qualified the promise of marriage that preceded it; but we do not think that the court could so hold or charge.[lxvi]

The two courts differed not over a question of law, but over how to interpret Van Alstyne and Campbell's exchange. The murky and often indeterminate form of a couple's communications and negotiations, the difficulty of establishing the nature of a promise, meant that the exclusion of conditional promises did not narrow the scope of the statute to the extent that it appeared to at first glance.[lxvii]

However much the scope of the seduction statute was restricted by those concerns about the timing and contingency of a man's promise, it was not limited by the narrow interpretations of coercion and resistance that circumscribed the reach of the rape law. To be sure, an act of sexual intercourse accomplished by force was not seduction, but rape. But courts considered an act to have been completed by force only if a woman resisted to the limit of her physical capacity. For

some judges, physicians, and ordinary Americans, even that was not enough. They believed that an act of sexual intercourse could not be completed unless a woman consented.[lxviii] Thus, so long as a promise of marriage was one of the means by which a man attempted to complete an act of intercourse, his actions could be characterized as a seduction regardless of the amount of force he employed. In the cases for which details survive, more than one in every three women who made a charge of seduction described being subject to physical force and violence.[lxix]

Martha Olatka was one such woman. Her statement to the DADA in 1916 included details of her relationship with Michael Polokoff omitted from the Magistrates Court complaint, and from the prosecutor's later summary of the facts. Beginning on their first date, Polokoff expressed not only a desire to marry Martha, but also a desire to have sexual intercourse with her. Each time they met, he attempted to act on that desire, trying to pull up Martha's clothes, and kiss and hug her, efforts that she repulsed. Polokoff's 'seduction' of Martha occurred when he found her alone in her cousin's house, whereupon, in her words, "he came to me and he locked the door, and he put me in the bed. I started to holler, and he closed my mouth, and he said, 'Don't holler,' and he pulled up my clothes and then he had connection with me…I tried to stop him, but I couldn't; he said 'Don't you worry, I am going to marry you.'" After that occasion, Martha continued to refuse to have intercourse with Polokoff, but he succeeded in having sex with her on three subsequent dates, once when, after she said, "'I didn't want to,' …he said 'then I won't marry you if you won't let me.'"[lxx]

Prosecutors would not have regarded the force to which Polokoff subjected Martha as sufficient to constitute a rape. Only if a woman had suffered "observable injuries," New York DAs believed, would a jury consider that she had been assaulted and had resisted to the limit of her capacity, that she had been raped. Most of the handful of rape cases involving adult women in my sample that ended in convictions, other than those where there was an eyewitness, or in which a white woman accused a coloured man, involved a victim who had suffered such injuries. Nineteen-year old Susan Nicholas spent a week in hospital after being assaulted by Jonathon Reynolds in 1946 following a party at the Decker Record Company, where they both worked. She received two stitches in lacerations to her mouth, and was treated for bruises on the throat, injuries and lacerations of her nose, and swelling of both of her eyes.[lxxi] When, like Martha, a woman had not suffered such grievous injury, a rape prosecution rarely produced an indictment, let alone a conviction.[lxxii] In my sample, grand juries did not see injuries such as a knife wound, scratch marks on a woman's neck, bruises on her body, or even a fractured jaw, as establishing either that a man had used force to complete an act of sexual intercourse with a woman, or that she had resisted him to the utmost of her ability.[lxxiii] Without Polokoff's promise of marriage, then, prosecutors would certainly have denied Martha access to the legal system.

Even had Michael Polokoff subjected Martha to a more violent assault, and caused her serious injury, Martha's relationship with him would almost certainly have led a court to dismiss any charge of rape she made against Polokoff. Nineteenth and early-twentieth-century courts afforded a man broad sexual access to a woman he knew. They required a woman to display far

more resistance to establish her lack of consent if she knew her assailant than they did if he was a stranger.[lxxiv] At the extreme end of the spectrum of relationships that circumscribed a woman's ability to charge rape was marriage. New York law defined rape to include only acts committed by a man with "a female not the wife of the perpetrator."[lxxv] Extended relationships, like that of Martha and Michael Polokoff, were generally recognized as a form of courtship, or "keeping company" in the turn-of-the-century idiom, and thus sat near to marriage on the spectrum of relationships. Although not formally denied the ability to refuse consent in the way that wives were, women in such relationships did face a strong presumption that they would have consented. Appellate courts routinely held that even a previous relationship with a woman "made it improbable on its face that [a man] would resort to violence to secure sexual access [to her]."[lxxvi]

Just how powerful that presumption was is illustrated by a rape case in my sample, from 1946, in which the outcome turned on the issue of whether the complainant was the defendant's girlfriend. At about 6 p.m. on November 2nd, Gordon Marshall arrived at the rooming house he managed at 149 West 126th Street to collect the rent. As he entered the building Marshall heard a noise and screams coming from one of the rooms. On reaching that room, he heard a woman calling "Help, help," and pushed open the door. Inside, on the bed, stood Clement Washington, a twenty-nine-year-old African American, naked except for his shorts, struggling with a half-naked black woman, Teresa Caldwell. Marshall told Washington to let the woman go, which he did, and then sent Caldwell for the police. She found a police officer on 126th Street, and told him Washington had attempted to rape her. Washington appeared a few minutes later. He told the

officer that Caldwell was his girlfriend, and that they had been going to have sexual intercourse, but she had wanted more money than the $15 he had given her, leading to their quarrel. Caldwell denied knowing Washington. He and another man had dragged her from street into cab, she told the police, and had taken her to Washington's room. Gordon Marshall reported that Caldwell had told him a different story -- that she had been visiting a friend in the rooming house, and Washington had dragged her into his room. Marshall also said that he had seen Caldwell with Washington on other occasions; so too did three other witnesses. The ADA and the judge clearly found Washington and those witnesses more persuasive than Caldwell; they did not treat the case as an attempted rape. Instead, they allowed Washington to plead guilty to misdemeanour assault, and sentenced him to time served, the period of five months he had spent in jail awaiting trial.[lxxvii] That outcome punished Washington for committing a physical assault on Caldwell – the ADA recorded that she had suffered a cut lip and a sore back – but, since the prosecutor and judge determined the couple were 'keeping company,' it imposed no sanctions on Washington for his efforts to have intercourse with her. However, had Washington promised to marry Caldwell, he would have forfeited the sexual access to her that the law otherwise gave him. In that situation, the seduction statute held him, not Caldwell, responsible for their sexual activity, and his assault on her would have been recognized as criminal, as sexual violence.

The seduction law also provided a woman who had been promised marriage access to the legal system even if she continued to see a man after having been assaulted by him. In those circumstances, a woman could not get her assailant prosecuted for rape, as Susan Russell found

out in 1916. The seventeen-year-old Russell alleged that Peter Waldstein, a twenty-six-year-old Russian salesman, had put drugs in her wine, and, once she lost consciousness, proceeded to have intercourse with her. In return for his promise to marry her, Susan had agreed not to tell her brothers about the assault, and thereafter regularly had sexual intercourse with Waldstein. However, when Susan became pregnant, Waldstein refused to go through with the marriage, even after Susan's brothers confronted him. Susan then charged him with rape. That she had "continued to receive the attentions of the defendant" convinced the ADA assigned to the case that Susan's claim to have been raped was a lie, and on that basis he recommended that the charges against Waldstein be dismissed.[lxxviii] In the eyes of the prosecutor, it was inconceivable that a woman would continue to see a man who had assaulted her, or would entertain an offer of marriage from him. That position overlooked the power of the concept of ruin in turn-of-the-century working-class communities. A woman found to have had pre-marital sexual intercourse lost her respectability, damaged her prospects of marriage, and disgraced her family. Her best opportunity to avoid that fate lay in marrying the man who had ruined her, an action that effectively cast their sexual encounter as part of a courtship, and thereby reduced the stigma attached to it.

It was also the case that the firm distinction between coerced and consensual intercourse made by the ADA generally did not exist in turn-of-the-century sexual culture. It was not just that acts of violence like those suffered by Martha Olatka and Susan Russell occurred even in sexual relationships into which women 'willingly' entered. Male sexual aggression permeated

relationships to such an extent that even women who were not subject to such violence could not be said to have clearly consented. Sarah Kaplan, when asked by an ADA in 1912, "Well, did you permit [Morris Solomon] to have intercourse with you?", answered "I never did really allow him to have anything to do with me, but I got so tired, he worried and bothered me so long." Asked again why she let him do it, she answered, "Because he told me he will marry me."[lxxix] In this sexual culture, the fact that a man coerced a woman into having sexual intercourse did not necessarily put an end to their relationship.[lxxx] The rape law, with its dichotomous vision of consent and coercion, took no account of this reality. The seduction statute, however, could accommodate relationships that mixed elements of consent and coercion, and as a result provided women like Sarah Kaplan and Martha Olatka with access to the law.

It is clear from Martha Olatka's prosecution of Michael Polokoff, and the other cases like it in my sample, that a woman who charged seduction sidestepped the barrier to the legal system created by judicial interpretations that excluded a sexual assault on a competent, conscious adult woman by a man she knew from the legal definition of rape. In effect, to indulge briefly in anachronism, the crime of seduction was something like a Victorian date rape law. Such an analogy does overstate somewhat the scope of the statute. Unlike the offence of statutory rape, which encompassed any act of sexual intercourse with an underage girl, seduction applied only to an act preceded by a promise of marriage. However, men made such promises far more readily and often in working-class social relations than we might expect. Since the seduction law

focused on such promises of marriage, it did not require a woman to display utmost resistance, and allowed for prior or subsequent relationships of the kind that nullified a charge of rape.

A woman did pay a price for that access to the law. A man convicted of seduction faced a maximum punishment of five years in prison, a far shorter term than the twenty years provided for a rape conviction. Moreover, a woman who charged seduction still faced attacks on her character similar to those to which women who charged rape were subject. At his trial in 1912, Morris Solomon, a twenty-five-year-old clerk, defended himself against Sarah Kaplan's charge that he had seduced her, by claiming that she had come to his room and offered to have sexual intercourse with him if he paid her a dollar, which he did then, and regularly in the subsequent weeks. He also produced three friends, who also testified that they had paid to have sexual intercourse with Sarah. In mounting that attack on Sarah, all of which she denied, Solomon "bolstered up [his] defense by glorying in her shame,' as the trial judge put it, "and by saying that she has arrived at the streets and is a common sinner, that she is selling her body for hire."[lxxxi]

Nonetheless, it appears that it was women who instigated the prosecutions for seduction in my sample.[lxxxii] Whereas cases involving teenage girls in which marriage was discussed often ended up in court as a result of being discovered by police, social agencies or school staff, or at the instigation of a girl's family, women themselves went to court to charge seduction, sometimes after having discussed their situation with relatives. Such actions suggest awareness among immigrant working-class women of the existence of the seduction law. Some women, at least, were also aware of the nature of the law; Martha Olatka and at least two other women hired

lawyers. Such was the "confusion, noise, and incessant movement" in the courts, sociologist Mary Roberts Smith reported in 1899, that "no one can hope to understand the procedure of the court without some legal training, and perhaps not even then without a close connection with the court itself."[lxxxiii] Before 1910, ADAs were not present for arraignments in magistrates' courts, leaving a woman to negotiate that chaotic environment on her own. Having a lawyer helped a woman in that task. The lawyer that Fannie Kiak hired in 1906 certainly performed that role. He presented her case at the arraignment, and later sent a letter to the DA's office describing the hearing and his approach, and apprising them of additional evidence that he had not presented.[lxxxiv] A case in 1911 in which a woman retained a lawyer showed that a role remained for such a legal representative even after prosecutors handled arraignments. Rosie Kahn, a twenty-two-year-old who owned her own hairdressing establishment, went to "her lawyer, " Isador Apfel, before going to the court, and was sent by him for a medical examination. After she reported that the physician told her she "was no longer a maiden" – her assailant, Nathan Krapes, had insisted that he had not had intercourse with her, but had been "only fooling," and that her bleeding and pain "was nothing" -- the lawyer accompanied Rosie to the Third District Magistrates' Court, and helped her obtain an arrest warrant. Krapes was arrested the next day in the lawyer's home.[lxxxv] It is not clear what role Martha Olatka's lawyer played; he was present when Martha gave a statement to a DADA in September 1916, but does not feature in Martha's long struggle before and after that interview to get the DA's office to mount a prosecution of Polokoff.

Even with the help provided by a lawyer, the efforts of women like Fannie Kiak and Rosie Kahn to use the law should have been short-lived, given that the statute included the same corroboration requirement as the rape law. However, in practice, New York judges did not interpret that requirement as strictly as they could have, or as strictly as they did in rape cases. In rape cases, the higher courts read the requirement as imposing a strict standard. Their decisions held that the supporting evidence had to corroborate every material fact of the crime and connect the defendant to it. Evidence of opportunity, the courts ruled, did not constitute corroboration; such evidence was so easily obtained, it was argued in 1915, that to treat it as corroborative would "practically nullify the protection to which by this section of the law a defendant is entitled."[lxxxvi] In seduction cases, appellate courts interpreted the rule to require only corroboration of the act of intercourse and of the promise of marriage; a woman's testimony, the judges determined, was sufficient on its own to establish her chaste character.

Courts proved easy to satisfy in regard to corroborative evidence. In contrast to the situation in rape cases, evidence of opportunity, such as testimony that a couple had been in a room alone, was accepted as corroboration that an act of intercourse had taken place. Even evidence that did not relate to the act of seduction was accepted as corroborative of a woman's claim that a man had promised to marry her. Statements from Martha Olatka's neighbours that Polokoff had introduced her as his wife, and from her cousin and her husband, to whom he had spoken of going to bed with Martha, satisfied the requirement in that case. Other women met the requirement by producing rings and presents they had been given, and witnesses who testified to

having heard the defendant announce his intention to marry, or to having seen the couple together, 'keeping company.' One court even accepted evidence of a defendant's "attentions" to the victim as sufficient to satisfy the requirement.[lxxxvii] Prosecutors often seem to have left it to the plaintiffs to find this corroborative evidence. When Sarah Kaplan visited the DA's office in 1911 after receiving a subpoena, accompanied by her landlady, who had given evidence at the arraignment of Morris Solomon, she testified that the ADA handling her case said to her, "Why haven't you got more witnesses?" Sarah then brought four further witnesses to the ADA, two woman with whom she had shared rooms during the time Morris Solomon was visiting her, a neighbor, and a cousin who Solomon had told of his intention to marry Sarah.[lxxxviii] That the corroboration requirement was in practice not the obstacle that it was in rape cases is thus further evidence of women's determination to use the seduction law to gain access to the courts.

Notwithstanding how permeable appellate court judges made the corroboration requirement, only a very small number of seduction prosecutions produced a conviction, just sixteen percent of the cases in the years 1886-1955.[lxxxix] However, it would be to misapprehend how the law worked in practice to simply conclude, on the basis of the conviction rate, that the seduction law was of little use to women. Seduction prosecutions did have the lowest rate of success of any sex crime in New York law. Even in the first three decades of the twentieth century, when seduction prosecutions formed a significant proportion of the sex crime cases involving adult women, almost twice as many rape prosecutions involving adult women, and two and half times more of the statutory rape prosecutions, resulted in convictions.[xc] Almost all the men who avoided

conviction for seduction had the charges against them dismissed, rather than being acquitted at trial. However**,** in approximately half those cases, a grand jury or DA dismissed the charges against a man not because a woman's effort to prosecute him had failed in some way, but because the parties had settled on an outcome other than conviction and imprisonment.[xci] Eight prosecutions, the same number that resulted in convictions, ended, like Bridget Grady's prosecution of Bernard Reilly, in the marriage of the parties. Several more marriages probably went unrecorded on the case files: six men who had been in extended relationships with women, and whose promise of marriage was corroborated by witnesses, had the charges against them dismissed.[xcii] The women who brought these charges seem unlikely to have disappeared, and were not particularly vulnerable to attacks on their character. On the other hand, the extended nature of the relationships, and the witnesses who could attest to the defendants' promises of marriage, make it likely that they had been moved to act on their commitment.

As they did in statutory rape prosecutions involving teenage girls, New York courts endorsed marriage as an outcome, and gave women as much scope as they could to pursue that result.[xciii] Whereas judges in other states ruled that that a man could only obtain a discharge by marrying the woman who had charged him with seduction prior to his indictment, or prior to his conviction, New York judges allowed him that option right up to the moment he was sentenced. Twentieth century courts continued to argue that it was the Legislature's contention that marriage, "even when entered into under the compulsion of the law, comes nearer to constituting reparation for the wrong which the man has done the woman than any other redress that can be

devised." In a case decided in 1910, the Court of Appeals thus dismissed a district attorney's argument that such a construction "permits the defendant, under an indictment for seduction under promise of marriage, to put a stop to the prosecution in the course of the trial by marrying the complainant whom he may, nevertheless, at once abandon and leave without his society or support." The justices held that the purpose of the legislation "may be affected just as well by the marriage of the defendant to the complainant at one stage of the prosecution as at another. So long as the prosecution has not ended, the marriage brings the case within the express terms of the statute, and we think it constitutes a bar where, as here, it takes place at any time before judgment."[xciv] Even a marriage after a man had been sentenced could provide grounds for his sentence to be suspended, or for him to receive an executive pardon. The courts thereby maximized a woman's opportunity to use the law to pressure a man to acquiesce to a marriage.

In most seduction cases, aside from the small number involving men who were already married, it appears that marriage was the outcome that women sought.[xcv] Even women like Martha Olatka, whose seduction had been accomplished at least in part by physical force, were primarily interested in getting a man to honour his promise. Such an attitude was not unique to seduction prosecutions. Underage girls in statutory rape cases displayed a similar willingness to marry the man who had assaulted them.[xcvi] In Martha's case, part of the explanation for why she pursued that outcome lay in her feelings for Polokoff. In the course of questioning Martha about her response to Polokoff's frequent claims that he was going to marry her, the DADA asked, "You didn't want to marry him? A. Yes, I wanted he should marry me. Q. Well, you liked him?

A. Yes. Q. You like him yet? A. Yes."[xcvii] That Martha could still want to marry Polokoff despite his constant efforts to coerce her into having sexual intercourse is testimony to the extent to which the distinction between consent and coercion was blurred in turn-of-the-century sexual culture. It also suggests that the appellate court judge quoted earlier, who claimed that it was possible for a couple married after a seduction case to "continue thereafter to live together in apparent amity," was not simply repeating a convenient truism, but expressing a belief that had some grounding in reality. It was not just the power of marriage as a "restraint, a control producing upright living," as Jane Addams put it, which could make such a relationship work.[xcviii] The judge who had presided over the trial of Michael Lione in 1906 pointed to two further factors that could justify support for a marriage in such circumstances. Although Lione had forced Donna Gallo to have intercourse with him, subsequently stopped keeping company with her, and refused to marry her until after the prosecution presenting damaging evidence against him, the judge felt that, given the support of both sets of parents for the marriage, and Lione's previous good character, there was "no good reason why [the] two young people cannot live happily together."[xcix]

Women also sought to marry a man who had seduced them because they saw themselves as ruined. Concern about their reputations was clearly a feature of those women's lives. Sarah Kaplan and her female roommates, for example, testified that "it is not [considered] pleasant for a girl to have a room alone," that it harmed her reputation not to have a roommate who could testify that she had not slept with a man, as Sarah's did for her. When, after Solomon had

seduced her, she did agree to his request that she take a room alone, Sarah faced constant comments from her landlady that having Solomon stay with her was not "nice." Sarah's response was that Solomon was her "intended," her "groom."[c] Just how deeply some women felt their ruin is dramatically illustrated by the behavior of Gussie Hess. In 1906, she had agreed to have intercourse with William Kahn after he had promised to marry her and, as she put it, asked her to demonstrate her devotion to him. For the next six months the couple had intercourse in a variety of hotels, until Kahn stopped calling on Gussie. Eventually she went to his workplace in Staten Island to confront him. When it became clear that he had no intention of marrying her, Gussie threw a bottle of vitriol on Kahn, and then threw herself in front of an approaching train.[ci] Ten of the fifty-one women in my sample, 20 percent of the total, like Bridget Grady, experienced ruin in a very concrete sense -- they had to provide for a child born as a result of a sexual encounter. A slightly higher proportion of the teenage girls at the centre of statutory rape cases, 31 percent, were pregnant.[cii] It was extremely difficult for a working-class woman to raise a child alone and provide him or her with economic support. In a period when bastardy proceedings were neither easily accessible, nor particularly effective, marriage represented their best hope of getting the support they needed.[ciii]

Women's focus on using a charge of seduction to bring about a marriage at least partly explains why African-American women did not make use of New York's seduction law. Mary Frances Berry has argued that black women's reputation for licentiousness caused jurors to regard it as impossible for them to be seduced, out of the question because a black woman needed

no encouragement to consent.[civ] But there is also evidence that African-American women were less concerned with marriage than white women, and therefore had less interest in making a charge of seduction. Efforts to arrange the marriage of pregnant African-American girls involved in statutory rape cases in New York City occurred far less often than in the cases involving pregnant immigrant girls.[cv] That pattern is consistent with the findings of sociologists and social workers, who made much of the acceptance of illegitimacy in African-American communities. "If a girl is pregnant, [her parents] feel that she should "have the baby" and that the father (if they can find him) should contribute to its support," sociologists Drake and Clayton wrote of lower class black families in Chicago in 1945. "They seldom insist, however, that he marry the girl to "give the child a name" or to save their daughter's honour." Drake and Clayton traced that stance to a belief that girl who had illegitimate child "has not necessarily 'ruined' herself," since "lower class men do not necessarily refuse to live with or marry [such a] girl."[cvi]

For many white working-class women from immigrant backgrounds, however, marriage appeared to be their goal, despite the violence that had marred their relationships. Insofar as the experiences and attitudes of those women appear a jarring counterpoint to the histories of heterosexuality and courtship with which we are familiar, they are a reminder of how narrowly those histories focus on the path to happy married life.[cvii] The reality in most working-class communities was much more mixed, marked by conflict as well as caring, relationships that went awry as well as successful marriages.[cviii] New York's law made little formal provision for those realities, and offered women few means of redressing the imbalance of power they faced in

sexual relationships. The seduction statute, however, provided some women with a means of deploying the power of the state in support of their efforts to achieve the presumed security of a marriage.

Martha Olatka's experience offers a salutary warning against carrying too far the argument that women gained something from the seduction law. On the first occasion on which she charged Polokoff with seduction, Martha's efforts won her only another unfulfilled promise that he would marry her. In the month after Martha charged Polokoff with seduction for a second time, the detective assigned to the case repeatedly failed to keep appointments with her, leading her to complain to the New York Probation and Protective Association that "nothing had been done for her." That frustration was a portent of what was to come. Although Polokoff was indicted by a grand jury on January 20, 1916, the day after he was finally arraigned and released on bail, a worker from the Probation and Protective Association who inquired at the Court of General Sessions in March 1916 was told that the case was still pending. The worker got the same answer on return visits to the court in September, in October, in January 1917, and in April 1917. After that final visit, a DADA did contact the Association requesting information about the case. But in May, 1917, the Superintendent of the Probation and Protective Association was writing to the DADA on Martha's behalf to ask to have the prosecution continued, explaining that Martha had refused to answer his questions at their last meeting because "having been [to the DA's Office] so many times, and [having] been asked the same questions over and over, she felt discouraged." The Superintendent's appeal came to naught. The DADA's summary of the case

was dismissive of Martha's relationship with Polokoff. He described the couple as having gone out "at various times together for a couple of months," before, after Polokoff "promised to marry her if she would allow him to have sexual intercourse with her," they had sexual intercourse. After that time, they "indulged in sexual intercourse very frequently." He then noted that Martha had made no complaint until several months after her alleged seduction. The DADA's account shortened the duration of the couple's relationship, and omitted the miscarriage that kept Martha away from the courts, changes that trivialized the situation in which she found herself. Not surprisingly given how he presented the case, the DADA then recommended Polokoff be discharged, claiming, without explanation, that a jury would not convict him.[cix]

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By the 1940s, seduction cases had almost entirely disappeared from Manhattan's criminal courts. Only three prosecutions for seduction involving adult plaintiffs were undertaken in the four years I examined in the 1940s and 1950s, amounting to less than three percent of the prosecutions for sexual violence that involved adult female victims.[cx] The two seduction cases in the 1950s are of a different nature than those in the preceding years. Both involved men who had deceived a woman into believing that they were married, in these cases by convincing them that obtaining a marriage license meant that were married. As such, the cases are instances of fraud rather than sexual violence, and signal that the crime of seduction was no longer being used as a way around judicial interpretations of the rape law.

The atrophying of the crime of seduction occurred at the same time as American legislatures repudiated the civil actions of seduction and breach of promise, suggesting a broad discrediting of seduction as a form of sexual violence, and as a framework for understanding heterosexual relations. The "anti-heartbalm" campaigns -- which also targeted actions for criminal conversation and alienation of affection -- began with attacks on the civil actions by legal academics in the 1920s, and produced legislative action in 1935. Spurred by the efforts of Indiana legislator Roberta West Nicholson, twenty-three state legislatures considered bills directed at the heartbalm actions. Within six months of March 1935, when the law Nicholson sponsored was enacted, six states had followed Indiana's example, New York among them, and abolished all or some of the actions.[cxi]

The preamble to New York's legislation identified the target of the anti-heartbalm campaigns as "unscrupulous persons" who used the actions for their "unjust enrichment," a figure instantly recognizable in 1935 as the gold-digger, a woman who attempted to extort money or marriage from a rich man.[cxii] The gold-digger could also be found in the criminal courts, at least according to one defence attorney. John Creegan, the attorney for a man accused of seduction in 1936, painted his client's accuser in such terms. Thirty years old, and previously married, she had brought the "unfounded charges," he claimed, "with the design of forcing [his client] into marriage to save his medical career."[cxiii] However, this case is the only one I found in which the defendant was not working class.

The gold-digger was just one of a multitude of female figures endowed with agency who gained new prominence in the 1920s, expressions of a growing recognition of women as economically independent, socially equal, sexual beings.[cxiv] Such women did not need the protection of a seduction law, in either its civil or criminal forms. Attacking the breach of promise suit brought by a secretary against her boss, who had backed out of a six year relationship, Senator McNaboe, the sponsor of the New York anti-heartbalm legislation asserted, "Any girl intelligent and self-respecting enough to make her own way in the world might have been expected to smell a rat long before the boss broke the bad news."[cxv] What is striking about McNaboe's vision is how little regard he paid to the continuing double standard of sexual morality, instead imagining women's social and economic gains as simply flowing across into their heterosexual relations. Contemporary feminists endorsed McNaboe's arguments, joining Roberta West Nicholson in rejecting both the special treatment that heartbalm laws accorded women, and the vision that the laws offered of women as dependent on men and marriage for their economic support and social identity.[cxvi]

If many of the working-class women of New York City still lacked the economic independence lauded by anti-heartbalm activists, they did share some of the new attitudes toward sexuality that undermined support for seduction laws. Statutory rape prosecutions suggest that the concept of ruin held less sway in working-class communities. Whereas parents, and girls, had turned to the legal system after a girl lost her virginity, after the 1930s they turned to the courts only when she became pregnant. And even then, their goal was less often to arrange a marriage

than to obtain financial support. As talk of ruin subsided, discussions of love became more prominent. Working-class girls involved in statutory rape cases began to speak of being in love, something they had not done prior to the 1930s.[cxvii] Those girls were part of a new generation of working-class women who, sociologists reported, having grown up with *True Love* and other mass circulation "sex adventure" magazines, "demanded love as the only valid basis for marriage."[cxviii] Such attitudes left little room for marriages founded on legal action, and few reasons to expect them to succeed.[cxix]

For women whose situation might have led them to pursue marriage notwithstanding their new concern with love, those whose pre-marital sexual activity had led to pregnancy, an alternative emerged, in the form of criminal paternity proceedings. In New York, Poor Law officials had handled bastardy cases, and prosecuted men only when children were in danger of becoming public charges. But in 1925, in response to campaigns by the Progressive-era child welfare movement, the New York Legislature created criminal paternity proceedings that could be initiated by a woman or her family.[cxx] Very few men contested paternity proceedings in New York City in this period, and the Probation Department and the city's welfare agencies worked to ensure that men made their child support payments.[cxxi] Even when New York City's working-class women became pregnant outside marriage, then, they had less cause to charge a man with seduction than had women in earlier generations.

Even as legislators and working-class communities increasingly left adult women to fend for themselves in heterosexual relations, they still saw the need for girls in their teens to receive legal

protection. Four of the seven state legislatures who repealed heartbalm actions in 1935 retained them for females under the age of majority. Statutory rape prosecutions still accounted for the vast majority of the prosecutions for sexual violence in New York City. Girls and their families initiated most of those cases, and their efforts to obtain financial payments, and, less often, to secure a marriage, still enjoyed the support of jurors and legal officials, albeit in a narrower range of circumstances than earlier in the century. Only men who committed acts with virgins or girls much younger than they were, or who failed to provide for a child they had fathered, faced indictment and prosecution. Although, by the 1930s, the efforts of reformers to cast teenage girls as innocent children had failed, white Americans of all classes nonetheless saw girls as lacking the economic and social independence of adult women. That more and more girls spent their teenage years in high schools, segregated from adults, cemented their claim to protection.[cxxii]

What occurred in the late 1930s and 1940s, then, was the breakdown of the nineteenth-century framework for understanding sexual violence against adult women. In New York City in the 1940s and 1950s, ninety percent of the prosecutions for sexual assaults on adult women were for rape.[cxxiii] However, the situation had been very different earlier in the twentieth century. Just over one in every four prosecutions for sexual violence against an adult woman in New York City in the years between 1886 and 1936 was for an offence other than rape. Most of those prosecutions were cases of seduction.[cxxiv] Both the existence of the crime of seduction, and the ability the law gave women who made that charge to both punish their assailant and to marry him – however inappropriate we now find marriage as a response to sexual coercion – complicate the

generally accepted argument that, until the 1970s, women had no access to the law when sexual assaulted by men they knew. To define sexual violence narrowly in terms of rape appears to be a relatively recent development, the product of mid-twentieth century ideas of gender and female sexual subjectivity as much as of the longstanding sexism and suspicion of female sexuality to which they have been commonly attributed. For almost one hundred years prior to the 1940s, seduction had also formed a part of understandings of sexual violence. The history of sexual violence can therefore not be the history of rape alone. Only by looking at the whole fabric of the law, as it is revealed in practice, can we understand the sexual culture of the twentieth-century United States.

Appendix

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Notes

[i] Court of General Sessions Case File (hereafter CGSCF), *People v B. D.* (April 1886) (Municipal Archives, New York City). I have changed the names of all the parties to the cases I discuss in this article. The names of the legal officials have not been changed.

[ii] Susan Estrich, *Real Rape: How the legal system victimizes women who say no* (Cambridge, Mass.: Harvard University Press, 1987). Estrich offers the best discussion of appellate court decisions on rape.

[iii] For discussion of appellate court decisions on that issue, see *Ibid*, 42, 53-54.

[iv] *Laws of New York, 1886*, chap. 663, 953.

[v] CGSCF, *People v B. D.* (April 1886).

[vi] Nathan Feinsinger, "Legislative Attack on "Heart Balm"," *Michigan Law Review* 33, 7 (May 1935): 988, note 58. Those laws were still in place in 1951. The thirteen states without seduction laws were Delaware, Florida, Idaho, Kansas, Louisiana, Maine, Maryland, Nevada, New Hampshire, Tennessee, Utah, Vermont and West Virginia. See Robert Bensing, "A Comparative Study of American Sex Statutes," *Journal of Criminal Law, Criminology, and Police Science* 42 (1951): 66-67. In 1967, Walter Wadlington found seduction laws in thirty-seven states, as well as the Canal Zone, Guam, Puerto Rico, and the Virgin Islands. See Walter Wadlington, "Shotgun Marriage by Operation of Law," *Georgia Law Review* 1 (1967): 193.

[vii] Stephen Robertson, "Making Right a Girl's Ruin: Working-Class Legal Cultures and Forced Marriage in New York City, 1890-1950," *Journal of American Studies* 36, 2 (2002): 207-9.

[viii] Kathy Peiss, *Cheap Amusements: Working Women and Leisure in Turn-of-the-Century New York* (Philadelphia: Temple University Press, 1986). For a particularly powerful account of the male aggression suffered by women, see Elizabeth Lunbeck, *The Psychiatric Persuasion: Knowledge, Gender, and Power in Modern America* (Princeton: Princeton University Press, 1994), 209-28.

[ix] Ellen Rothman, *Hands and Hearts: A History of Courtship in America* (New York: Basic Books, 1984); Karen Lystra, *Searching the Heart: Women, Men, and Romantic Love in Nineteenth Century America* (New York: Oxford University Press, 1989); John D'Emilio and Estelle Freedman, *Intimate Matters: A History of Sexuality in America*, 2nd ed. (Chicago: University of Chicago Press, 1997), 73-78.

[x] Until the 1920s, neither women, nor their male partners, nor their families, used the language of love when they talked about relationships and marriage in New York City's courtrooms (Robertson, "Making Right," 210). In other contexts, working women talked of marriage instead in terms of the escape it offered from the paid workforce. In Italian neighborhoods, the feelings of an individual woman mattered less than those of her parents, who still sought to arrange the marriage of their daughter, and in doing so gave

more attention to how well a prospective husband could provide for her than to his feelings for her (D'Emilio and Freedman, *Intimate Matters*, 184-86; Caroline Ware, *Greenwich Village, 1920-1930* (New York: Harper, 1935), 181-82, 184, 405; Virginia Yans-McLaughlin, *Family and Community: Italian Immigrants in Buffalo, 1880-1930* (Urbana: University of Illinois Press, 1971), 95).

[xi] Beverly Schwartzberg, "'Lots of Them Did That': Desertion, Bigamy, and Marital Fluidity in Late-Nineteenth-Century America,' *Journal of Social History* 37, 3 (2004): 572-73, 592.

[xii] Hendrik Hartog, *Man and Wife in America* (Cambridge, Mass.: Harvard University press, 2000), 28, 30, 284.

[xiii] For a discussion of this point, see Estrich, *Real Rape*, 49-50.

[xiv] Jill Hasday, "Contest and Consent: A Legal History of Martial Rape," *California Law Review* 88 (October 2000): 1373-505; Elaine Tyler May, *Great Expectations: Marriage and Divorce in Post-Victorian America* (Chicago: University of Chicago Press, 1980), 104-8.

[xv] See Stephen Robertson, *Crimes against Children: Sexual Violence and Legal Culture in New York City, 1880-1960* (Chapel Hill: University of North Carolina Press, forthcoming 2005), chapter nine.

[xvi] Their occupations provide a relatively clear indication of their class identity, one confirmed by the details of the cases. For example, of the fifty occupations reported by defendants in sexual violence cases in 1901, the most common were barber, laborer, and painter. The defendants in subsequent years came from similar groups. In 1936, an even greater proportion were laborers, with the other most common occupations being porter, chauffeur [taxi-driver], dishwasher and painter. There were also clerks, janitors, bellboys, shoemakers, carpenters, salesmen, hairdressers, packers, laundrymen and seamen. Plaintiffs reported similar occupations. In 1901, the largest group of women worked in factories, mostly in the garment industry, with almost as many employed as domestic servants, and the remainder as shopgirls and salesgirls. By 1936 only a small number worked in factories; waitress was the most common occupation, followed by domestic service. In contrast to 1901, almost all those under eighteen years of age were in school.

[xvii] In 1901, for example, after the one third of defendants in sexual violence cases who were American born, the next largest groups were Italians, who constituted nearly one in every five defendants, Russians and Germans (N=69). Twenty-three defendants were American-born; thirteen were born in Italy, nine in Russia and eight in Germany. The remainder included several Englishmen, a West Indian, a Canadian, a Norwegian, a Frenchman, and an Austrian.

[xviii] That conclusion must be couched somewhat generally because the legal records do not allow a fine-grained of different groups. The forms used by the DA's office recorded only birthplace, providing evidence of ethnicity only when most working-class New Yorkers were first generation immigrants, in the years before 1930. An individual's name obviously provides some guide to his or her ethnicity, but names are not sufficiently reliable evidence to support a fine-grained analysis of differences between ethnic groups. Moreover, there was no section on the forms that required clerks to record any information about an individual's race. As a result, African Americans can only be identified when their racial identity is mentioned in documents contained in a file, or when a clerk or prosecutor added a scrawled note to the file. But not every African American who appeared before a grand jury had such a notation on his file. Only the Probation Department files consistently provided information on race, but records for the period before the 1920s have not survived, and records for only some of the small group of men who were convicted are extant. More significant, however, is the fact that only in regard to a narrow range of issues do the details of the cases themselves offer any evidence of differences within the working-class.

[xix] See Robertson, *Crimes against Children*, chapter one.

[xx] The only case that appeared to cross class boundaries and involve a middle-class man was prosecuted in 1936; see District Attorney's Closed Case Files (hereafter DACCF)

210716 (1936) (Municipal Archives, New York City). Only four couples came from different ethnic groups: a Dutch/Puerto Rican couple; a Spanish/English couple; a Polish/Italian couple; and an Austrian/Polish couple. All the remaining 29 cases in which it was possible to establish, or to make an informed guess about, ethnicity involved couples from the same group – ten Russian Jewish couples, four Italian couples, three German couples, two Hungarian couples, two French couples, two Puerto Rican couples, one Austrian couples, one Dutch couple, one Polish couple, one Romanian couple, one Finnish couple, and one Irish couple.

[xxi] Only two of those cases are part of the sample discussed in this article: DACCF 187612 (1931); and DACCF 210354 (1936), which ended with the marriage of the couple. Neither of the remaining two cases contained information on the plaintiff's age, precluding their inclusion in the sample. One, prosecuted in1941, in which the woman was pregnant, was dismissed by the grand jury after the couple married. See DACCF 230135 (1941). The second, prosecuted in 1955, was also dismissed by the grand jury; there is no indication of the grounds for that decision. See DACCF 192 (1955).

[xxii] Robertson, *Crimes against Children*, chapter nine.

[xxiii] Marilynn Wood Hill, *Their Sisters' Keepers: Prostitution in New York City, 1830-1870* (Berkeley: University of California Press, 1993), 140-44; Barbara Berg, *The*

Remembered Gate: Origins of American Feminism. The Woman and the City, 1800-1860 (New York: Oxford University Press, 1978), 209-12.

[xxiv] Carroll Smith-Rosenberg, "Beauty, the Beast, and the Militant Woman: A Case Study in Sex Roles and Social Stress in Jacksonian America," in *Disorderly Conduct: Visions of Gender in Victorian America* (New York: Oxford University Press, 1985), 110.

[xxv] *First Annual Report of the Female Moral Reform Society of the City of New York, Presented, May 1835,* excerpted at http://womhist.binghampton.edu/fmrs/doc1.htm (4 October 2002)

[xxvi] For moral reform, see Berg, *Remembered Gate*; Mary Ryan, *Cradle of the Middle Class: The Family in Oneida County, New York, 1790-1865* (New York: Cambridge University Press, 1981), 116-26; Smith-Rosenberg, "Beauty;" Barbara Hobson, *Uneasy Virtue: The Politics of Prostitution and the American Reform Tradition* (New York: Basic Books, 1987), 49-76; Pamela Haag, *Consent: Sexual Rights and the Transformation of American Liberalism* (Ithaca: Cornell University Press, 1999), 3-24; and Daniel Wright and Kathryn Kish Sklar, "What was the Appeal of Moral Reform to Antebellum Northern Women?" http://womhist.binghamton.edu/fmrs/intro.htm (4 October 2002). For the campaign for the seduction law, see Hill, *Their Sisters' Keepers*, 140-44; and Berg, *Remembered Gate*, 209-12. For the abduction law -- which the commissioners who drafted New York's Penal Code had proposed to entitle "seduction

for the purposes of prostitution" -- see *Laws of New York, 1848*, Chapter 105, 118; and Robertson, *Crimes against Children,* chapter four. The Legislature took no action in reference to adultery, which reformers had also sought to have made a crime.

[xxvii] *Laws of New York, 1848*, chap. 111.

[xxviii] *Laws of New York 1916*, c. 196. In addition, in 1881, the authors of the new Penal Code upgraded the offense from a misdemeanor to a felony. See Penal Code of the State of New York, title X, sec, 284, in *Laws of New York, 1881*, vol. 3, chap. 676.

[xxix] Richard Godbeer, *Sexual Revolution in Early America* (Baltimore: Johns Hopkins University Press, 2002), 228; Hobson, *Uneasy Virtue*, 31, 51

[xxx] Cornelia Dayton, *Women Before the Bar: Gender, Law and Society in Connecticut, 1639-1789* (Chapel Hill: University of North Carolina Press, 1995), 12-13, 208, 215, 227, 305-7, 327.

[xxxi] Godbeer, *Sexual Revolution*, 255; Robertson, "Making Right," 215.

[xxxii] Dayton, *Women Before the Bar*, 188-207; Godbeer, *Sexual Revolution,* 256-57.

[xxxiii] Linda Gordon and Ellen DuBois, "Seeking Ecstacy on the Battlefield: Danger and Pleasure in Nineteenth Century Feminist Sexual Thought," *Feminist Review* 13 (1983): 50.

[xxxiv] For judicial interpretations of resistance, see Estrich, *Real Rape*, 29-41. For discussion of the argument that it was impossible for a healthy adult woman to be raped,

see Stephen Robertson, "Signs, Marks and Private Parts: Doctors, Legal Discourses, and Evidence of Rape in the United States, 1823-1930," *Journal of the History of Sexuality* 8 (January 1998): 350-63.

[xxxv] Haag, *Consent*, 3. See also Lea VanderVelde, "The Legal Ways of Seduction," *Stanford Law Review* 48 (April 1996): 862-64.

[xxxvi] M. B. W. Sinclair, "Seduction and the Myth of the Ideal Woman," *Law and Inequality* 5 (1987): 35-47; VanderVelde, "Legal Ways," 867-83

[xxxvii] The best account of the breach of promise tort in the American context is Michael Grossberg, *Governing the Hearth: Law and Family in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1985), 34-44.

[xxxviii] Sinclair, "Seduction," 46.

[xxxix] Nineteen states codified seductions actions, but five of those states did not allow the victim to sue on her own behalf. See Sinclair, "Seduction," 61; and Jane Larson, ""Women Understand So Little, They Call My Good Nature 'Deceit'": A Feminist Rethinking of Seduction,' *Columbia Law Review* 93 (1993): 385-87.

[xl] Grossberg, *Governing the Hearth*, 34-38.

[xli] Sinclair, "Seduction," 52-53.

[xlii] "The Importance of Petitions," Letter from N. H. of Westmoreland, New York, October 26, 1838*, Advocate of Moral Reform*, 15 November 1838, 174-75 http://womhist.binghampton.edu/fmrs/doc19.htm (4 October 2002).

[xliii] Berg, *Remembered Gate*, 210. See also Haag, *Consent*, 6; Hill, *Their Sisters' Keepers*, 142; Hobson, *Uneasy Virtue*, 67.

[xliv] Hobson, *Uneasy Virtue*, 58, 68.

[xlv] VanderVelde, "Legal Ways," 846; Constance Backhouse, *Petticoats and Prejudice: Women and Law in Nineteenth-Century Canada* (Toronto: University of Toronto Press, 1991), 80.

[xlvi] Wadlington found provisions for marriage as a defense in thirty-four of the forty-one state seduction laws. See Wadlington, "Shotgun," 193.

[xlvii] *People ex rel Scharff v. Frost*, 135 A.D 473, 120 N.Y.S. 491 (1909).

[xlviii] Haag, *Consent*, 10.

[xlix] In some other states, fornication, statutory rape, bastardy or adultery laws recognized marriage as a defense. See Wadlington, "Shotgun," 193-94.

[l] Allen Steinberg, *The Transformation of Criminal Justice: Philadelphia, 1800-1880* (Chapel Hill: University of North Carolina Press, 1989); Lawrence Friedman, *Crime and Punishment in American History* (New York: Basic Books, 1993); VanderVelde, "Legal Ways," 853-55. There is no study of fornication and bastardy prosecutions in New York

in the eighteenth or nineteenth century. The only information on seduction prosecutions prior to 1881 is provided by Hill, who notes that there were only eight prosecutions in New York City in the two years immediately after the enactment of the law (Hill, *Their Sisters' Keepers*, 143).

[li] For the new corroboration requirement, see *Laws of New York, 1886*, chap. 663, 953. For the change to the seduction statute, see Penal Code of the State of New York, Title X, sec. 284, in *Laws of New York, 1881*, vol. 3, chap. 676; and New York State Legislature, Law Revision Commission, *Communication and Study Relating to Sexual Crimes* (Legislative Document 65(O), 1937) (Albany: J. B. Lyon, 1937), 54.

[lii] Backhouse, *Petticoats and Prejudice*, 61; Karen Dubinsky, *Improper Advances: Rape and Heterosexual Conflict in Ontario, 1880-1929* (Chicago: University of Chicago Press, 1993), 80.

[liii] See, for example, Haag, *Consent*, 57.

[liv] N=51 of 56. There were fourteen cases files that contained provided no evidence of the plaintiff's age. See Appendix, Table 1. The cases discussed in this article were gathered as part of the research for Robertson, *Crimes against Children.*

[lv] N= 44 of 179. In my sample years from the period 1886 to 1955 as a whole, 22 percent (N=71 of 316) of prosecutions saw men charged with a crime other than rape. Most of those prosecutions, 72 percent (N= 51 of 71), were for the crime of seduction. See

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Appendix, Figure 1. The New York County District Attorney's Case Files, and consequently my research, encompass only felonies. The crime of seduction was made a felony in 1881, by the authors of the state's Penal Code; prior to that time, it was a misdemeanor. The only evidence surviving of misdemeanor prosecutions in New York City are the docket books of each court. I did not attempt an analysis of those records. For a more detailed breakdown of prosecutions of sexual violence in the period covered by this article, see Robertson, *Crimes against Children,* Appendix. That study includes only a very brief discussion of prosecutions for sex crimes against women over eighteen years of age; it is focused on the cases involving children that constituted the vast majority of the cases of sexual violence dealt with by the courts of New York County.

[lvi] Hartog, *Man and Wife*, 285.

[lvii] DACCF 111200 (1916).

[lviii] DACCF 113158 (1916).

[lix] DACCF 112932 (1916).

[lx] DACCF 112411 (1916). There is one additional seduction case in 1916, but the file does not contain details of when that defendant first proposed marriage.

[lxi] Statement, March 1, 1932, 3, 5, in DACCF 189287 (1931).

[lxii] *Ibid*.

[lxiii] *People v Duryea*, 30 N. Y. S. 877 (1894); *People v. Van Alstyne* 144 N. Y. 361 (1894). Prior to *People v. Van Alstyne* some confusion had existed as to what constituted a conditional promise. The decisions cited to support the argument that the law applied to conditional promises dealt with cases in which the promise was that "the accused would marry the prosecutrix if she would consent to have connection with him." See *Kenyon v. People*, 26 N.Y. 203, and *Boyce v. People*, 55 N. Y. 644. As the decision in *People v Duryea* put it, in reasoning approved by the Court of Appeals in *People v. Van Alstyne*, "In the case of a promise conditional upon immediate intercourse, the condition is performed at the moment of the sexual act, and the promise to marry becomes absolute at once. Seduction in such a case is clearly accomplished under a promise to marry."

[lxiv] *People v. Van Alstyne*, 29 N. Y. S. 543 (1894)

[lxv] *People v. Van Alstyne* 144 N. Y. 363 (1894).

[lxvi] *People v. Van Alstyne*, 29 N. Y. S. 544 (1894)

[lxvii] For another example of a case in which the nature of the promise is difficult to establish, see *People v. Ryan* 71 N. Y. S. 527, 63 App. Div. 429 (1901).

[lxviii] Robertson, "Signs, Marks and Private Parts," 350-63.

[lxix] Women described being subject to physical force in thirty-nine percent (N=31) of the files that contain details of the circumstances of the case, or twenty-four percent (N=51) of my total sample of seduction cases. The only other study of criminal seduction cases,

Karen Dubinsky's work on Ontario, found that twenty percent of the cases involved violence. However, the Canadian law applied only to promises of marriage made to females under twenty-one years of age, and also encompassed sexual intercourse with girls aged between fourteen and sixteen years, and sexual intercourse with a female ward or employee under twenty-one years of age. As a result, Dubinsky's figures do not provide the basis for a comparison. See Dubinksy, *Improper Advances*, 66-79.

[lxx] DACCF 109042 (1916).

[lxxi] DACCF 3715 (1946). For other examples, see DACCF 35385 (1901); DACCF 167338 (1926); DACCF 186006 (1931); DACCF 211275 (1936); DACCF 229384 (1941); DACCF 364 (1946); DACCF 1931 (1946); DACCF 1976 (1946); DACCF 3052 (1946)

[lxxii] For comments concerning a woman's lack of injuries, see DACCF 187321 (1931); DACCF 2550 (1946); DACCF 3489 (1946): DACCF 1719 (1946); DACCF 2270 (1946); DACCF 3333 (1946); DACCF 3489 (1946).

[lxxiii] DACCF 207491 (1936); DACCF 207587 (1936); DACCF 228867 (1941); DACCF 3215 (1946); DACCF 3203 (1946). Courts throughout the United States took similar positions. See Estrich, *Real Rape*, 29-36.

[lxxiv] Estrich, *Real Rape*, 27-56.

[lxxv] *Laws of New York, 1881*, vol. 3, chap. 676, 66-67.

[lxxvi] Estrich, *Real Rape*, 49-50.

[lxxvii] DACCF 3333 (1946). Stereotypes about the sexual licentiousness of black women would almost certainly have contributed to this decision, but it is consistent with the decisions prosecutors and courts made in cases in my sample that involved white women. It is also consistent with the appellate court decisions described by Estrich, who noted that the influential Model Penal Code also "automatically downgrades the severity of the offense where there is a past relationship of intimacy (Estrich, *Real Rape*, 18, 23-25, 49-50 [quotation on 50])."

[lxxviii] DACCF 86286 (1911). Since Susan was under eighteen years of age, this case was a prosecution for statutory rape. But given that it involved an allegation of force, and that neither the courts nor the New York Society for the Prevention of Cruelty to Children, which oversaw prosecutions involving child victims, treated seventeen-year-old girls as children, it can serve as an example of what would have occurred in cases involving adult women. On the prosecution of statutory rape cases in the first half of the twentieth century, see Robertson, *Crimes against Children*, chapters six and nine.

[lxxix] Trial Transcript, in CGSCF, *People v. J.F.* (1911), 4.

[lxxx] For an elaboration of this argument, see Robertson, "Making Right a Girl's Ruin," 207-9. When DADA Donohue asked Martha Olatka, "Why did you go out with this man when every time you went out with him you struggled in your cousin's hallway?" she

answered, "Well, he always came to me." "Why didn't you tell your cousin you didn't want to go out with him?" Donohue followed up. The only answer Martha could give was to reiterate, "Well, he came all the time I was there." See DACCF 109042 (1916).

[lxxxi] Trial Transcript, in CGSCF, *People v. J.F.* (1911), 36-61, quotation on 60. For other cases that involved attacks on a woman's character, see CGSCF, *People v. G. M*. (1891), DACCF 84528 (1911); DACCF 112932 (1916); and DACCF 113158 (1916).

[lxxxii] Not all the case files contain information on this topic, but none of those that do record the involvement of other parties.

[lxxxiii] Mary Roberts Smith, "The Social Aspect of New York Police Courts," *The American Journal of Sociology* 5, 2 (September, 1899): 145-46. On the conditions in Magistrates' Courts, see also Eric Fishman, "New York's Criminal Justice System, 1895-1932," (Ph.D. thesis, Columbia University, 1980), 68-69. The Police Courts were renamed Magistrates' Courts in 1910.

[lxxxiv] Joseph Morgenstern to J. Perkins, January 3, 1907, in DACCF 57810 (1906).

[lxxxv] DACCF 83969 (1911).

[lxxxvi] *People v. Kingsley* 166 App. Div. 322 (1915).

[lxxxvii] DACCF 109042 (1916); For cases involving witnesses, see CGSCF, *People v W. M.* (April 1891); DACCF 57464 (1906); DACCF 82813 (1911); DACCF 112932 (1916); DACCF 113158 (1916); DACCF 111200 (1916); DACCF 188658 (1931); DACCF

185206 (1931). For cases in which women produced rings and gifts, see DACCF 136956 (1921); DACCF 165496 (1926); DACCF 166849 (1926). For the case involving a man's attentions, see *People v Gumaer* 30 N. Y. S. 17, 80 Hun, 78 (1894).

[lxxxviii] Trial Transcript, in CGSCF, *People v. J.F.* (1911), 58-9.

[lxxxix] N=8 of 51.

[xc] See Appendix, Table 2.

[xci] Some of the prosecutions that failed did so for the same reasons that led to the dismissal of women's rape charges, namely complainants failing to appear, or a lack of corroborative evidence; see DACCF 84014 (1911); DACCF 57464 (1906); DACCF 166019 (1926); DACCF 209716 (1936). Fourteen of the twenty-seven cases that ended in dismissals for which details survive involved marriage, or a likely marriage. No details survive in twelve of the cases that were dismissed.

[xcii] DACCF 35443 (1901); DACCF 139808 (1921); DACCF 136956 (1921); DACCF 165886 (1926); DACCF 165137 (1926); DACCF 188658 (1931). Two of the five seduction cases involving girls under the age of eighteen also ended in marriage, as did two of the twelve seduction cases where the woman's age was not recorded. The other two cases contained no information.

[xciii] On judges' support of attempts to arrange a marriage in statutory rape cases, see Robertson, "Making Right," 224-29.

[xciv] *People ex rel. Scharff v, Frost*, 198 N.Y. 110, 91 N.E. 376 (1910). In the earlier decision in this case, four judges in the Appellate Division of the Supreme Court had put a narrower construction on the statute, arguing "It seems to be reasonably clear that to [act as a bar to prosecution] the marriage must take place before the prosecution has been proceeded with to conviction." Judge Clarke in dissenting from that opinion advanced the broader construction "that the prosecution referred to continues until final judgement (*People ex rel Scharff v. Frost*, 135 A.D 473, 120 N.Y.S. 491 (1909))."

[xcv] In regards to the civil action for breach of promise, Martha Coombs has claimed "a woman determined to bring a suit was no longer concerned primarily with the loss of opportunity to marry the defendant." Her claim, which is unsubstantiated, may apply better to women who turned to the civil law rather than the criminal law, but it appears to be an assumption. See Mary Coombs, "Agency and Partnership: A Study of Breach of Promise Plaintiffs," *Yale Journal of Law and Feminism* 2 (1989): 10.

[xcvi] See Robertson, "Making Right," 207-9.

[xcvii] Statement, 9, in DACCF 109042 (1916).

[xcviii] Addams argued that, "Even the sordid marriages in which the senses have forestalled the heart almost always end in some form of family affection. The young couple who may have been brought together in marriage upon the most primitive plane, after twenty years of hard work in meager, unlovely surroundings, in spite of stupidity and many

mistakes, in the face of failure and even wrong-doing, will have unfolded lives of unassuming affection and family devotion to a group of children." See Jane Addams, *A New Conscience and an Old Evil* (New York: Macmillan, 1912), 203.

[xcix] Trial Transcript Collection (hereafter TTC), Case 619, Roll 100 (1906), 10, 21, 39, 64, 90, 146-91, 240-42 (John Jay College of Criminal Justice). For a marriage under similar circumstances in a seduction case, see DACCF 83969 (1911). That case went to trial, but the jury could not reach a verdict. After the trial, the couple married, and the DA dismissed the charge of seduction.

[c] Trial Transcript, in CGSCF, *People v. J.F.* (1911), 9, 17, 18, 22.

[ci] DACCF 57464 (1906). For other, less dramatic, examples of women expressing a sense that they were ruined, see DACCF 83969 (1911); DACCF 185206 (1931).

[cii] N=225 of 734. The proportion jumped significantly in the second half of the period. In 1896-1926, only 13 percent of the girls in statutory rape cases were pregnant (N=40 of 300); in 1931-1955 the proportion was 39 percent (N=185 of 474). See Robertson, *Crimes against Children*, Appendix, Table 5.

[ciii] On bastardy proceedings in New York, see Robertson, "Making Right," 219.

[civ] Mary Frances Berry, *The Pig Farmer's Daughter and Other Tales of American Justice* (New York: Knopf, 1999), 131-32.

[cv] Efforts to arrange a marriage took place in thirty-six percent of the cases (N= 22 of 61), compared to an average of fifty-five percent of the cases involving immigrant girls (although those figures are drawn from two separate periods – the figure for African-Americans refers to the years 1931-1955; the figure for immigrant girls to the years 1896-1926). See Robertson, *Crimes against Children*, chapter nine.

[cvi] St. Clare Drake, and Horace Clayton, *Black Metropolis: A Study of Negro Life in a Northern City* (New York: Harcourt, Brace, 1945), 592, 594. See also Enid Smith, *A Study of Twenty-Five Adolescent Unmarried Mothers in New York City* (New York, 1935); and the studies discussed in Donna Franklin, *Ensuring Inequality: The Structural Transformation of the African-American Family* (New York: Oxford University Press, 1997), 132-36.

[cvii] Rothman, *Hands and Hearts*; Lystra, *Searching the Heart*.

[cviii] See Schwartzberg, "'Lots of Them'."

[cix] DACCF 109042 (1916).

[cx] See Appendix, Table 2.

[cxi] Three more states passed legislation between 1936 and 1939, and a fourth, Florida, in 1945. See Sinclair, "Seduction," 65-68, 82-86.

[cxii] Larson, ""Women Understand So Little'," 395, note 88.

[cxiii] John Creegan to Foreman, Grand Jury, 31 July 1936, in DACCF 210716 (1936).

[cxiv] Joanne Meyerowitz, "Sexual Geography and Gender Economy: The Furnished Room Districts of Chicago, 1890-1930," *Gender and History* 2, 3 (Autumn 1990): 285-88.

[cxv] Sinclair, "Seduction," 92. It is worth noting that only two years later, in 1937, McNaboe would promote, and then chair, a joint committee of the state legislature charged with investigating sex crime, a committee that would play a prominent role in articulating an understanding of sexual violence focused on crimes against children. See Robertson, *Crimes against Children*, chapter seven.

[cxvi] Sinclair, "Seduction"; Coombs, "Agency and Partnership."

[cxvii] Robertson, "Making Right," 210; Robertson, *Crimes against Children*, chapter nine.

[cxviii] Robert Lynd and Helen Lynd, *Middletown: A Study in Modern American Culture* (New York: Harcourt, Brace, Jovanovich, 1929, 1956), 114, 241. Frazier noted that African American girls also read, and were influenced by, those magazines; see E. Franklin Frazier, *The Negro Family in the United States*, revised and abridged (Chicago: University of Chicago Press, 1948), 264.

[cxix] As early as the 1920s, social workers had begun complaining that marriages orchestrated by the courts only led to more social problems. See Arthur Towne, "Young Girl Marriages in Criminal and Juvenile Courts," *Journal of Social Hygiene*, 8 (July 1922): 287-305; and Robertson "Making Right," 218.

[cxx] For an analysis of bastardy law and its reform in the nineteenth century, see Grossberg, *Governing the Hearth*, 196-233. For the emergence of illegitimacy as a problem that concerned Progressive reformers, and their decision to address that problem through a focus on paternity and maintenance, see Susan Tifflin, *In Whose Best Interest? Child Welfare Reform in the Progressive Era* (Westport: Greenwood, 1982), 166-86. For the New York law, which was added to the Domestic Relations law, see *Laws of New York, 1925*, chap. 255, 508-14. For a discussion of paternity proceedings in the late 1940s and early 1950s, see Association of the Bar of the City of New York and Walter Gellhorn, *Children and Families in the Courts of New York City* (New York: Dodd, Mead, 1954), 192-216; and Sidney Schatkin, *Disputed Paternity Proceedings*, 3rd ed. (New York: M. Bender, 1953), 357-89.

[cxxi] In 1951, for example, men admitted paternity in 837 of the 917 cases decided; see Association of the Bar of the City of New and Gellhorn, *Children and Families*, 198.

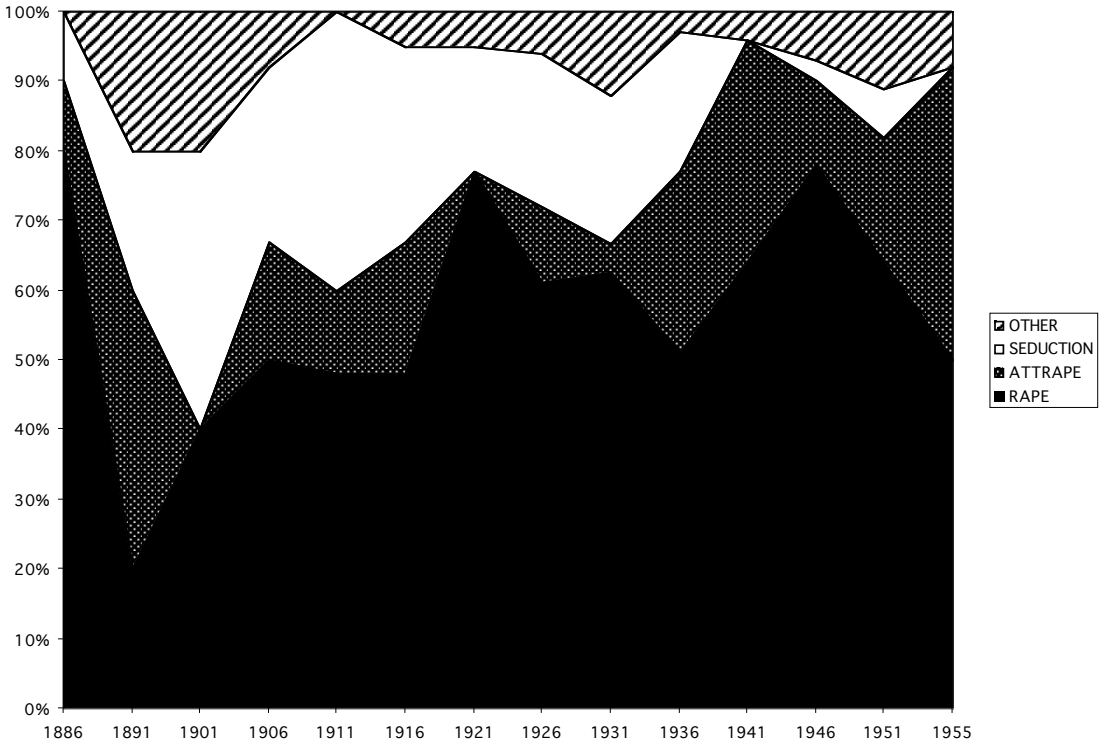
[cxxii] Sinclair, "Seduction," 91; Robertson, "Making Right," 228-29**;** Robertson, *Crimes against Children*, chapter nine. About fifty percent of working-class youth attended high school in 1930; by 1960, the proportion had risen to over ninety percent. Beginning in the early 1940s, the percentage of black students finishing high school jumped dramatically, and by the early 1960s, almost as many blacks were completing high school

as whites. See James Gilbert, *Cycle of Outrage: America's Reaction to the Juvenile Delinquent in the 1950s* (New York: Oxford University Press, 1986), 18-19.

[cxxiii] N=10 of 115.

[cxxiv] N=59 of 200. Seduction cases made up eighty-one percent of those cases (N= 48 of 59).

Figure 1:
DISTRIBUTION OF PROSECUTIONS INVOLVING WOMEN AGED 18 YEARS AND OLDER, 1886-1955*



*The graph omits 1896 because only one case involving a woman was prosecuted in that year, a rape case.

Table one: prosecutions for Seduction, 1886-1955

Age of Plaintiff	1886	1891	1896	1901	1906	1911	1916	1921	1926	1931	1936	1941	1946	1951	1955	Total
18 Years & over	1	1	-	2	3	10	6	4	8	6	7	-	1	2	-	51
Under 18 Years	-	1*	-	-	1	1	2	-	-	-	-	-	-	-	-	5
Not recorded	-	-	-	2	1	3	3	-	1	-	2	1	-	-	1	14
Total	1	2	-	4	5	14	11	4	9	6	9	1	1	2	1	70

Source: CGSCF 1886, 1891; DACCF 1896, 1901, 1906, 1911, 1916,1921, 1926, 1931, 1936, 1941, 1946, 1951, 1955.

* Between 1886 and 1892, the age of consent was sixteen years; the girl in this case was 17 years of age. It was therefore not possible for the case to be prosecuted as statutory rape.

Table Two: Conviction Rates in Prosecutions involving Female Complainants, 1886-1955

Offense and Age of Victim	**Rape 0-10 years**	**Sodomy 0-10 years**	**Carnal Abuse 0-10 years**	**Rape 11-17 years**	**Sodomy 11-17 years**	**Rape 18 years & older**	**Seduction 18 years & older**
1886-1901*	61% [N=23]	33% [N=3]	-	69% [N=67]	75% [N=4]	64% [N=11]	25% [N=4]
1906-1926	60% [N=27]	60% [N=5]	-	50% [N=514]	67% [N=6]	29% [N=65]	16% [N=31]
1931-1946	50% [N=4]	50% [N=4]	46% [N=59]	35% [N=551]	62% [N=8]	22% [N=81]	14% [N=14]
1951-1955	0 [N=1]	25% [N=4]	50% [N=12]	24% [N=155]	60% [N=10]	33% [N=30]	0 [N=2]

Sources: CGSCF 1886, 1891; DACCF 1896, 1901, 1906, 1911, 1916, 1921, 1926, 1931, 1936, 1941, 1946, 1951, 1955.

*The District Attorney's Case Files in the years 1886-1901 include only cases in which a grand jury indicted the defendant. As a result, the conviction rates in this period cannot be compared with those from the other periods, which include cases dismissed by the grand jury.