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FRENZIED AND FALLEN FEMALES: *Women and Sexual Dishonor in the Nineteenth-Century United States*

Robert M. Ireland

Nineteenth-century American legalists invented an unwritten law that forgave men and women who killed to avenge sexual dishonor. In part because of the male domination of the legal system, female defendants found it more difficult than males to gain acquittals under this law, and the reputation of women suffered. The law tolerated a double standard of sexuality and reinforced the negative stereotype of the nineteenth-century woman. Nonetheless, women, especially feminists, generally supported the use of the law by females. Observers, particularly women, justified the unwritten law as an appropriate response to an epidemic of male libertinism which they alleged was preying on thousands of innocent, often unmarried women, and leaving them seduced, abandoned, disgraced, and sometimes pregnant. Because of the perceived epidemic and outrage over its specific incidents that sometimes resulted in application of the unwritten law, lawmakers in the late nineteenth century began reforming the written law in an attempt to curtail libertinism. Ironically, as these efforts of legal reform evolved, societal assumptions that excused the female application of the unwritten law began to erode and with them the unwritten law and its utilization.

Nineteenth-century American women, especially those who were young and unmarried, carried a great sexual burden. On the one hand they were supposed to be models of chastity, while on the other they were preyed upon by increasing numbers of men eager for pre-marital or extra-marital sexual relations. The need for them to marry to survive economically and socially and the realities of their sexual drives (as opposed to their theoretically restrained sexuality), coupled with the presence of an abundance of male sexual adventurers, meant that certain of them would become involved in pre-marital sexual liaisons that would result in pregnancy, abandonment, and societal ostracism.

Until sometime in the first quarter of the nineteenth century, women were regarded by those who thought, wrote, and spoke about such matters as sexually passionate, even more so than men. The so-called "Curse of Eve" theory was still popular, holding that just as Eve had brought original sin into the world by seducing Adam, women initiated illicit sexual encounters more frequently than men and spread vice and licentiousness throughout society. For a variety of reasons, including the theories of social

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critics of Anglo-American society, republican apologists, and Protestant theologians, American social theorists transformed nineteenth-century women into sexually restrained guardians of republican morality and virtue. While this change improved the theoretical image of American women, it also created new responsibilities for them. They, more than ever, needed to establish and maintain successful marriages which would preserve the family; the family more than ever was regarded as the foundation of American society. Above all, women needed to avoid pre-marital sexual encounters, which if they became public knowledge, would likely result in permanent social disgrace. The nineteenth-century or Victorian code demanded sexual purity on the part of women.[1]

Although nineteenth-century social theorists regarded working-class women as more sexually passionate than middle-class women, they nonetheless held them to the same standards of conduct. It was often difficult for working-class women to abide by the rules of proper courtship and sexuality, and a number of them failed to do so. Observers blamed this failure on an epidemic of male libertinism that they said was sweeping the nation's cities, an accusation that persisted throughout much of the nineteenth century. Although those observers may have exaggerated and simplified the reasons why growing numbers of working-class women "fell" from social respectability, the problem that prompted their anguish to some degree did exist and for a variety of reasons. More and more young men and women moved from farms to cities to take advantage of greater economic and social opportunities. In order to obtain a measure of economic security, the men postponed marriage but not sexual intercourse. The young women, often separated from their families or, at the least, unchaperoned, experienced a degree of social freedom significantly greater than their mothers and grandmothers. They also found themselves in a labor market that, at best, provided them with barely a subsistence wage, a condition that created the necessity for male financial support that also often entailed either an extra- or pre-marital sexual relationship. A surplus of women in many of the cities and the presence of growing numbers of married men who needed a sexual outlet because their wives insisted on abstinence as a means of birth control, combined with other conditions to produce a climate of sexual desire and opportunity that put large numbers of urban women at risk of violating the Victorian code. The persistence of the male sexual folk code that renounced the Victorian ideal of male continence and regarded discreet libertinism as a sign of manliness only intensified that peril.[2]

Once "seduced," nineteenth-century women, even if pregnant, were often abandoned by their lovers, the Puritan community pressures which favored and often enforced remedial marriage having long since faded

away. These women faced ostracism by society, including their families and employers. Perhaps because of this rejection and certainly in desperation, a few of these "fallen women" killed or attempted to kill their former lovers. The criminal justice system of nineteenth-century America, in response to the pressures of the Victorian sexual code, readily forgave males who avenged sexual dishonor in cases that usually involved husbands, brothers, or fathers who killed the men who had violated the honor of their wives, sisters, or daughters. It did so by inventing an "unwritten law" that contradicted the common or judge-made law and in effect justified the killing of a male libertine who had "seduced" the defendant's wife, sister, or daughter. The system also tended to forgive female avengers, but more reluctantly, less consistently, and in ways that enhanced the already negative stereotype of nineteenth-century women. This essay examines a sample of twelve cases involving female avengers of sexual dishonor in order to discern the realities of the application of the unwritten law to women and to contrast that application with some celebrated cases involving male avengers of sexual dishonor. It will discuss how the double standard of sexual conduct and the male-domination of the legal system made it more difficult for women to gain redress for sexual dishonor under both the unwritten and written law. It will also explain how informed observers, especially certain female activists, responded to womanly and manly use of the unwritten law (especially to the celebrated cases). Finally, it will describe how the female application of the unwritten law influenced changes in the written law and account for the decline and fall of the unwritten law in the twentieth century.[3]

The sample encompasses the period from 1843 to 1896, the heyday of the unwritten law, and represents the best-documented and most celebrated cases of female application of the unwritten law. The first case helped to formulate that law and the last signaled the beginning of its decline. Working-class females constituted eleven of the twelve defendants in these cases. The other woman operated a successful boarding house. All but three of the cases involved single women who killed or attempted to kill their former lovers. The three exceptions concerned a married woman who had begun her sexual relationship with a married man before her marriage and killed him after her marriage, a wife who killed her husband's mistress, and a mother who attempted to kill her daughter's former lover. All but two of the single women had been promised marriage and three had been impregnated. Of the nine male lovers of single women, five were bachelors who never married; three of these were from the working class and the other two were relatively well off. Three of the remaining lovers were single when they courted the defendants, but they eventually married other women; one of these men was from the working

class and the other two were middle-class. The remaining lover was an upper-middle-class, married man who had promised to divorce his wife and marry the defendant.

The first case of the sample involved Amelia Norman, a working-class woman, who on November 1, 1843, attempted to kill her well-to-do former lover, Henry S. Ballard, by stabbing him as he stood on the steps of the Astor Hotel in New York City. Her acquittal of attempted murder in January 1844 represented one of the first documented cases of the unwritten law. Eight years later, in October 1851, a jury in Newark, New Jersey, acquitted Margaret Garrity of the murder of Edward Drum, her former fiancé and the father of her child. Two juries sitting in Memphis, Tennessee, one in 1855 and the other in 1886, acquitted working-class girls indicted for the murders of their former fiancés and the fathers of their children (Mary Moriarty for the killing of John Shehan and Emma Norment for the killing of Henry Arnold). A fifth female, Mary Harris, also won acquittal at her trial for murder in Washington, D.C. in July 1865 following her killing in January of her former fiancé, Adoniram J. Burroughs. The remaining seven fared less well. Theresa Sturla was convicted of manslaughter and sentenced to one year in the penitentiary for the killing of her lover, Charles Stiles, in Chicago in July 1882. Kate Stoddart, who in March 1873 killed Charles Goodrich in Brooklyn after he had severed their relationship which had been established by a bogus marriage, was declared insane and sent to an asylum. Fannie Hyde languished in a Brooklyn jail for several years before, during, and after her only trial for the murder of her employer and lover, George W. Watson, which resulted in a hung jury in April 1872. The other single women, Laura D. Fair and Maria Barberi, were initially convicted of murder and sentenced to death before having their convictions reversed on appeal and being acquitted upon retrial. Fair killed Alexander Crittenden in Oakland, California, in November 1870 after a seven-year romance during which Crittenden repeatedly promised to divorce his wife and marry Fair. Barberi knifed to death her lover, Dominico Cataldo, in New York City in April 1895 after he refused to marry her. The remaining two cases involved Caroline Vreeland, who in June 1870 was convicted in New York City of attempting to kill her daughter's former lover, and Kate Southern, who in April 1878 was convicted in Pickens County, Georgia, of the murder of her husband's mistress.[4]

The ten most celebrated male avengers of sexual dishonor in the nineteenth century fared significantly better at their trials for murder than their female counterparts. All but one of the men were acquitted quickly and easily at their first trials. Singleton Mercer, whose trial in New Jersey in April 1843 represented the first well-documented application of the unwritten law in the nineteenth century, needed to wait only one-half hour

for the jury to decide to acquit him of the murder of his sister's seducer, Mahlon Hutchinson Heberton. In January 1858 a jury in Philadelphia acquitted Thomas Washington Smith of the murder of Richard Carter who had impregnated Smith's wife before their marriage. Congressman Daniel Sickles, the most celebrated beneficiary of the unwritten law, easily won acquittal in his trial in April 1859 for the murder of Philip Barton Key, who had carried on an affair with Mrs. Sickles for over one year in Washington, D.C. Likewise juries almost routinely exonerated Daniel McFarland in May 1870 in New York City after he killed Albert D. Richardson, whom he accused of sexual intimacy with Mrs. McFarland; Harry Crawford Black, who on October 17, 1870, had gunned down his sister's seducer, William W. McKaig, in Cumberland, Maryland; Daniel Giddings, who on August 5, 1882, had killed his wife's lover, Benjamin Wiltshire, near Chillicothe, Ohio; Congressman "Little Phil" Thompson, who on April 27, 1883, killed his best friend, Walter Davis, near Harrodsburg, Kentucky, for allegedly seducing Mrs. Thompson; James Nutt, who on June 13, 1883, had killed his sister's lover, Nicholas Lyman Dukes, in Uniontown, Pennsylvania; and Edward T. Johnson, who on September 23, 1884, killed his wife's lover, Edwin Henry, at Haysville, Tennessee. Only George W. Cole, who killed his wife's lover, L. Harris Hiscock, on June 4, 1867, in Albany, New York, encountered any difficulty in securing an acquittal, his first trial ending in a hung jury in May 1868 and the second trial in acquittal in December 1868.[5]

The male defendants and the image of manhood emerged in a much more positive condition from these trials of male and female avengers of sexual dishonor than did the female defendants and the image of womanhood. Although some of the male defendants, such as Daniel Sickles and Daniel McFarland, encountered some adverse commentary about their own lapses of sexual and spousal honor, they and the other male defendants, for the most part, came through these affairs as strong and virile champions of manly honor, sexual virtue, and the stability of the family, marriage, and society. The ideology of these trials argued that men constituted the stronger of the sexes and had a duty to protect weak women who were ready prey to slimy, snake-like libertines or, conversely, to punish the consorts of Eve-like women who too readily embraced those libertines. Of course the trials also depicted some men as libertines, but that depiction gave way to the portrayal of more men as honorable protectors of female virtue. The social message of the trials of vengeful females reinforced that of the trials of dishonored males. The women defendants were depicted as either weak and hysterical, whose hysteria rendered them legally insane and therefore innocent of any criminal wrongdoing, or inherently licentious and the purveyors of social evil. Although most male defendants also pleaded insanity, their insanity was said to have resulted from a temporary

rage over manly dishonor, while the female insanity was said to have derived from an inherent condition of emotional instability.[6]

Defenders of female vengeance for sexual dishonor blamed the male domination of the criminal justice system and the double standard for the different ways that individual women and womanhood were treated in the nineteenth-century trials of the unwritten law. They noted that the system, in which only men could be judges and jurors, overlooked social impurity in male defendants, but did not in female defendants. Thus an all-male jury acquitted Daniel Sickles of murdering his wife's paramour in 1859 even though Sickles himself was a notorious libertine who had engaged in a number of extra-marital affairs. Juries in the trials of Daniel McFarland, Edward T. Johnson, and Daniel Giddings likewise ignored evidence that the defendants had been abusive and perhaps unfaithful husbands.[7]

Critics of the sexist application of the unwritten law unfavorably compared the verdict in the McFarland trial with that of Caroline Vreeland, who was tried shortly afterwards in the same courtroom before the same judge for the attempted murder of Robert Schroeder, who had impregnated Vreeland's daughter and then had her aborted. While the judge had provided McFarland with very favorable evidentiary rulings and jury instructions, he sided with the prosecution in these crucial areas in the Vreeland trial. Not surprisingly, the all-male jury convicted Vreeland, and the judge sentenced her to five years in the penitentiary at hard labor. The jury had refused to find Vreeland legally insane at the time of the assault even though the evidence of insanity in many ways seemed stronger than in the McFarland case where insanity was the ostensible ground for acquittal. *The Women's Journal* bitterly complained that the male-dominated criminal justice system acquitted McFarland because he was a member of "the aristocracy of sex" and convicted Vreeland because she was not. Following Maria Barberi's first trial and her conviction, feminists complained that a woman had been condemned for upholding her honor, while men who did so had been routinely exonerated.[8]

Similar complaints greeted the conviction of a Georgia housewife, Kate Southern, for the murder of her husband's mistress in April 1878. Clearly the unwritten law forgave husbands who killed their wives' paramours, but in Southern's case it did not forgive a wife who killed her husband's paramour. An all-male jury convicted Southern of murder and a male judge sentenced her to be hanged. "What would be chivalry in a husband is murder in a wife," the *New York Herald* editorialized, an allegation repeated by several other newspapers and various women's groups. Bombarded by protests from within and without the state, Georgia's governor commuted Southern's sentence to ten years in a prison farm, and four years later he pardoned her. Despite her escape from the gallows,

Southern was forced to endure a much more significant punishment than many of her male counterparts.[9]

Kate Stoddart experienced a punishment even more severe than Kate Southern's. Stoddart killed Charles Goodrich on March 21, 1873, in Brooklyn after he had revealed to her that their marriage had been a fraud and evicted her from his townhouse. After she had languished in jail for more than a year, a judge committed her to an insane asylum despite her complaints throughout the proceeding that she was sane and that her lawyers and the prosecution had conspired to place her in an institution. Had Stoddart's lawyers adhered to the traditional strategy in such cases and allowed their client to trial and there plead temporary insanity, they could have very likely secured her acquittal. One of the few reporters who covered her insanity hearing had doubts about her insanity, writing that "no symptoms of insanity have been betrayed by the prisoner" and that "she addressed the court in a way which made it hard to believe she was of unsound mind."[10]

Although she was eventually acquitted, Laura D. Fair was convicted and received a death sentence at her first trial in April 1871 for the murder of her lover, Alexander P. Crittenden, a prominent San Francisco attorney. Most of the press and the prosecution described Fair as the embodiment of the Eve syndrome, a materialistic and licentious woman who tried to destroy Crittenden's marriage. Some even called her a "female Hercules" who somehow reduced Crittenden, the acknowledged leader of the San Francisco bar, to a suppliant weakling who obeyed her every command. The evidence suggests that the theory of the defense more accurately portrayed reality, namely that Crittenden enticed Fair into a relationship by initially concealing his marriage and then dragged that relationship on for more than seven years by falsely promising to divorce his wife and to marry the mistress.[11]

The evidence indicates that some of the jury in Fanny Hyde's trial for the murder of George Watson judged her as severely as did Tennessee lawyer Walter Morton Cocke, who wrote about the case and others like it fourteen years later in the *Criminal Law Magazine and Reporter*. Cocke, who regarded Laura Fair as a "moral monster unfit to live" and Daniel Sickles and Edward T. Johnson as models of sexual purity, argued that Hyde should have been convicted for Watson's killing because she made only "slight resistance" to Watson's "seduction" and killed him only because he called her a "prostitute." A more objective reading of the record indicates that Watson, a married man with a wife and five children, enticed Hyde at age 15 into a sexual relationship as the price for her continued employment at his hairnet factory and forced her to maintain that relationship even after her marriage. Despite persuasive proof that the involuntary

affair had caused Hyde to suffer physically and mentally and that Hyde killed Watson when he insultingly and with physical force tried to have sex with her during the lunch period at his factory, at least two members of the jury refused to support a verdict of acquittal and caused a mis-trial. Although she was never retried, Hyde was forced to remain in jail for over one year.[12]

The jury in the trial of Theresa Sturla in November 1882 for the murder of Charlie Stiles convicted her of manslaughter despite proof that Stiles, under false promise of marriage, had made her his mistress when she was only 15, forced her into prostitution, kept most of her earnings, and abused her verbally and physically. Thus the jurors imposed a much tougher standard of proper social conduct on Sturla than any of their counterparts had done in the celebrated trials of male avengers of sexual dishonor. Thirteen years later a jury in New York City convicted Maria Barberi of murder, and a judge sentenced her to death for the killing of Dominico Cataldo. A public movement led by female activists, who charged the criminal justice system with practicing a double standard, raised money to hire new lawyers who secured a reversal of Barberi's conviction and an acquittal at her second trial.[13]

Many of those who complained that a double standard made it more difficult for women avengers of sexual dishonor to gain legal immunity under the unwritten law also blamed that difficulty on the fact that men dominated the American legal system. In particular some of these observers accused the legal system of prejudice against certain of the women defendants in unwritten law trials. After Laura Fair's initial conviction, a female activist denounced the bias against the defendant on the part of the "masculine" judge, "masculine" jurors, and the "masculine" laws. Another woman's rights advocate made a similar complaint about the first trial of Maria Barberi. More generally, feminists lamented the inability of women to serve on juries. In the face of criticism that they sometimes excused felonious homicide when committed by women, woman's rights advocates routinely replied that women should not be held to the same standard of legal conduct as men because women were not allowed to sit on juries or otherwise participate in the criminal justice system. These same observers complained about the unwillingness of male juries to convict males on trial for rape or for the abuse of women or children or to prescribe meaningful punishment when they infrequently convicted. Other women denounced the tendency of judges, encouraged by defense attorneys, to order women removed from the courtroom during sensitive testimony in the trials involving sexual dishonor and sexual assaults because such evidence was supposedly not fit for the ears of delicate women. Of course the defendant or the prosecuting witness remained in the courtroom and

was subjected to obscene dialogue and, in the case of witnesses, degrading cross-examination. Several local feminists flanked the judge in the trial of Emma Norment in order to prevent the verbal character of the proceeding from being reduced to a series of male obscenities.[14]

Some of these critics charged that certain of the members of the legal system were themselves libertines. Female activists commonly complained that libertines populated state and federal legislatures, a reality that allegedly explained the failure of these bodies to enact statutes that effectively dealt with libertinism. *The Woman's Journal* accused Congressman Joseph H. Acklen of Louisiana of seducing a poor, working girl and then "marrying her off to his hostler," who shortly thereafter abandoned her to sickness and death by yellow fever. Following her acquittal, Laura Fair, in a public lecture, alleged that both the principal prosecutor and the judge in her case kept mistresses and that the judge had married his paramour only after impregnating her, while the prosecutor had abandoned his when she faced motherhood. Certain woman's rights advocates declared Grover Cleveland unfit for the office of the Presidency, technically the nation's chief law enforcement officer, when he admitted an episode of libertinism as a younger man.[15]

Female activists and others also faulted the male-dominated American legal system for failing to provide adequate remedies to the victims of male lust and cited this failure as a reason to support the female application of the unwritten law. At common law only the parents, preferably the father, of a seduced woman had a civil remedy against the seducing libertine and only if the female victim lived with her parent(s). In theory the suit was not for the dishonor of the seduction, but for the loss of services suffered by the father as the result of his daughter's seduction and pregnancy, if such was the result of the seduction. Feminists regarded the common law of civil liability for seduction as an outrage that justified the implementation of the unwritten law as a much better way to deal with male libertines. Following the acquittal of Amelia Norman, a prominent woman writer wrote that she reacted "with burning indignation" to the suggestion by Norman's prosecutor that the defendant should have allowed the common law to have taken its course rather than to have attempted herself to deal with her seducer in a homicidal way. The civil remedy furnished no adequate redress for the "blighted reputation, the desertion of friends, the loss of respectable employment, [and] the scorn and hissing of the world." Furthermore the civil remedy's "impudent assumption" that women were nothing more than "chattels" constituted "a standing insult to womankind." A correspondent to *The Woman's Journal* submitted in 1878 that some male libertines took care to seduce only those young women who had no parents so that they would not risk civil liability for their treachery. Defense

counsel for Margaret Garrity argued that the inadequacy of the civil remedy served as a stimulus and excuse for the female victims of male lust to kill without penalty their faithless libertine-lovers, a contention endorsed by defense counsel in similar trials and by proponents in general of the female application of the unwritten law.[16]

Female avengers of sexual dishonor not only found it harder than males to secure relief under the unwritten law, but in the process of seeking such relief they found that their womanhood in particular and womanhood in general were depicted in unflattering and stereotypical ways. In most of the trials of women who had invoked the unwritten law, defense lawyers based an important part of their defense on the assertion that their clients were hysterically insane when they killed their former lovers, a condition that was not unique to the defendants, but rather a part of a general emotional disorder that afflicted most women. Amelia Norman's lawyers argued that she was legally insane when she assaulted Henry Ballard. Because she was a "feeble" woman prone to hysteria, her seduction by Ballard had rendered her mentally unbalanced. Although the judge, unlike the judges in subsequent trials, undermined their attempts to prove that Ballard's dishonorable conduct had caused her insanity by refusing to admit testimony about that conduct, he permitted counsel to comment freely to the jury on their theory and to put the jail physician on the stand to testify about Norman's female tendency to be "feeble," "excitable," and "hysterical." Clearly the trial produced broad hints about the inherent instability of women.[17]

Margaret Garrity's was the first of the representative cases to involve the introduction of evidence connecting the female defendant's sexual organs with her mental processes. Nineteenth-century American physicians commonly believed that a woman's reproductive system, especially the functioning of her ovaries and uterus, directly affected her mind. Expert witnesses for the defendant testified that she suffered from suppressed and irregular menstruation (dysmenorrhea) at the time of the homicide, causing her to become insane (as was often the case with women in general).[18]

The definitive reliance on the dysmenorrhea-insanity defense occurred in the trial of Mary Harris. On that occasion several eminent physicians, including the superintendent of the Government Hospital for the Insane in Washington, D.C., and a professor of obstetrics and diseases of women at Columbia University, endorsed the findings of her personal physician that she suffered from "severe congestive dysmenorrhea, arising for the most part as a consequence of the irritability of the uterus . . . a disturbance . . . that is with females one of the most frequent causes of insanity." Harris's acquittal, ostensibly because the jury believed her painful menstruation caused her to become insane, prompted controversy. An

eminent authority on insanity, Dr. John P. Gray, in an article in the *American Journal of Insanity*, which he edited, argued that Harris was simply hysterically vengeful and not insane when she killed Burroughs. Critics such as Gray seemed to endorse the fears of Harris's prosecutor who contended that dysmenorrhea was so commonplace that Harris's acquittal would give "carte blanche to every wicked woman to shoot down any man who has once courted her and afterward married another woman. . . ." Whatever the effect of the verdict might have been on the nation's homicide rate, it probably reinforced the stereotype of rampant female emotional instability bordering on insanity.[19]

Gray and other critics did not discourage lawyers for outraged females from utilizing the dysmenorrhea-temporary insanity defense, and the Harris verdict became a precedent for similar cases that followed it, including those of Laura Fair, Fanny Hyde, and Theresa Sturla. In each of these trials defense lawyers offered expert testimony that the defendants suffered from dysmenorrhea-induced insanity at the time of the killing. In the process of so arguing, defense lawyers and expert witnesses portrayed an epidemic of similar disorders among the female population at large. Laura Fair's principal attorney at her first trial told the jury that "a great majority of the female patients [in] the insane asylums of the world [suffered from] insanity produced by reason of sexual disturbances, sexual irregularities, disturbances of the womb, disturbances of that peculiar, sensitive, uncontrollable and unaccountable organ of the . . . female system." One of Fanny Hyde's experts testified that normal menstruation could cause mental disorders, while such a witness for Theresa Sturla asserted that "it would be almost miraculous" for a woman suffering from aggravated dysmenorrhea "to be sane at her menstrual period." Although the prosecution occasionally introduced a few experts who attempted to counter such testimony, the overwhelming impression from these trials was that not only were the female defendants insane during their menstrual periods, but so were most of the women of the world.[20]

Expert testimony in many of these trials that a broken engagement, seduction, and/or impregnation could easily produce female insanity compounded the image of the average woman as mentally fragile, semi-hysterical, and emotionally unsound. In the Harris trial, one of her lawyers contended that the nation's insane asylums were full of women driven mad by broken engagements, while an expert in the Hyde trial argued that libertinism caused many women to become insane. Following Mary Harris's acquittal, and in an effort to support the soundness of that verdict, Dr. Isaac Ray, one of the most eminent authorities on insanity and the law, published an article in the *American Journal of Insanity* strongly endorsing

the theory that breach of promise or seduction could easily plunge a woman into insanity.[21]

The ideology used in the trials of women who invoked the unwritten law also reinforced society's assumption that marriage was indispensable to the success, even the survival, of women. More than any other case, that of Mary Harris involved this notion. At bottom, the lawyers for Harris defended her on the theory that a breach of promise to marry sometimes justified murder. This was because marriage constituted such a critical part of a woman's life that a fiancé's failure to form the partnership could drive a woman to a condition of insane desperation. One of Harris's lawyers, Daniel Voorhees, put this theory in full focus:

> "[Marriage], peculiarly, is woman's sphere of happiness. There she concentrates all the wealth, the unsearchable riches of her heart, and stakes them all upon the single hazard. If she loses, all is lost; and the night and thick darkness settle down upon her pathway. It is not so with man. His theatre is broader. No single passion can so powerfully absorb him. A variety of interests appeal to him at every step. If disappointment overtakes him, a wide and open horizon invites him to new enterprises, which will relieve him of that still, deep, brooding intensity which is the pregnant of woe, insanity, and the death to woman."[22]

Despite the unfavorable image of womanhood that resulted from these trials, women in general and female activists in particular rallied to the cause of the defendants. Large numbers of women often flocked to the trials, filling seats of the courtroom and applauding loudly when juries announced acquittals. So many women attended Margaret Garrity's trial that only a handful of men could find seats. Prominent women allied themselves with particular defendants. Lydia Maria Child, a well-known writer and abolitionist, openly supported Amelia Norman throughout her trial and took her into her home following her acquittal. Jane Grey Swisshelm, an active journalist and suffragist, wrote a letter to the *New York Tribune* defending the jury's acquittal of Mary Harris, while local feminist, Mrs. W. P. Black, wrote to the *Chicago Times* endorsing Theresa Sturla. Even as a clear majority of journalists and public leaders denounced Laura Fair as the destroyer of a Christian marriage and applauded her conviction in her first trial, Susan B. Anthony, Elizabeth Cady Stanton, and Emily Pitt Stevens, president of the California State Woman's Suffrage Convention, openly described her as a victim of man's injustice and libertinism. Stevens' outspoken support of Fair at her first trial earned her a contempt citation and a fine from the judge. The state lecturer of the Tennessee Women's Christian Temperance Union, Elizabeth L. Saxon, together with other women of that organization, partly to demonstrate support for the defen-

dant, sat on either side of the trial judge throughout the trial of Emma Norment. Several prominent women, including Mary Livermore, president of the Massachusetts WCTU, and Ellen Battelle Dietrick, chair of the National American Woman Suffrage Association press committee, denounced Maria Barberi's first conviction and urged the governor of New York to pardon her.[23]

These American women and others supported female avengers of sexual dishonor because they regarded their application of the unwritten law as an appropriate response to particularly aggravating examples of male libertinism. During much of the nineteenth century and into the first two decades of the twentieth, beginning with the New York Female Moral Reform Society of the 1830s and ending with the Social Purity Movement of the post-Civil War period, woman's groups and the organizations they joined and often led sought to counteract what they perceived as an epidemic of male libertinism that was undermining American womanhood and the republic itself. Commenting on the acquittal of Amelia Norman in 1844, members of the New York Female Moral Reform Society wrote to the *New York Tribune* that there were thousands of other young women in New York City alone just "as wronged and wretched" as Norman. In 1895 the Woman's Rescue League of Boston submitted that the practice of "keeping a mistress is almost a universal practice in swelldom, and is fast becoming an epidemic in the lower walks of life." Nearly twenty years later, the battle continued as the Atlanta Vice Commission proclaimed that the "greatest menace" to the young women of the nation were "the advances of men . . . who hunt as their lawful prey . . . defenseless females."[24]

Some believed that female use of the unwritten law would curtail male libertinism. In her post-acquittal public lecture, "Wolves in the Field," Laura Fair professed her belief that "when an American woman in justice avenges her outraged name, the act will strike a terror to the hearts of sensualists and libertines . . . [and] have a more powerful influence for the spread of morality than all the moral preaching and legislative enactments of a century." Following her assassination of Henry Arnold, Emma Norment received written congratulations from a "Wronged Lady" of Louisville, Kentucky, who advocated killing all male libertines who seduced and abandoned innocent women. If only "this great country had more noble women of such spirit and nerve, we would then get rid of the low dogs that rob us women of all we have—our virtue." Expressing similar sentiments and endorsing the homicidal act of Maria Barberi, "Mrs. M. R." of East Boston wrote to the *Boston Post* that if more women responded to sexual dishonor as had Barberi "there would be fewer seducers walking

the streets in disguise of gentlemen, and happier families today," a conclusion expressed by several other letter writers.[25]

Some, such as the *Memphis Daily Appeal*, regarded female utilization of the unwritten law as a victory for woman's rights. Emma Norment's "triumphant acquittal shows that woman is proudly emerging from the dark ages. . . . The cause of woman's rights everywhere is upward and onward." Other woman's rights advocates seemed to believe that woman's suffrage more than female application of the unwritten law would do more for woman's rights as well as for the cause of social purity. Woman voters would elect legislators and judges who would make the written law more effective against libertinism, and woman jurors would more readily convict male rapists, abusers, and seducers. Even without woman suffrage, male legislators could be pressured into changing the written law so that it more adequately punished male libertinism.[26]

The notoriety of certain of the cases of females invoking the unwritten law or male relatives doing so in their behalf focused public attention on the alleged inadequacy of the common and statutory law as it related to libertinism and helped produce public pressure for reforms to redress that perceived inadequacy. Three of the most common reforms that resulted from this agitation involved statutes giving female victims the right to sue their seducers, statutes penalizing seduction, and statutes raising the age of consent which theoretically expanded criminal liability for statutory rape. Even though they believed that civil remedies for seduction should apply to female victims, most opponents of libertinism believed such laws did not offer sufficient redress. Seduction, an immoral act "worse than death," merited severe criminal sanctions. As the number of celebrated trials involving the assassination of libertines grew with their attendant publicity, so too did public outrage and pressure on legislatures to enact laws making seduction a crime. The Pennsylvania legislature passed one of the first such statutes in 1843 in the aftermath of the Mercer-Heberton affair which involved Singleton Mercer's assassination of Mahlon Heberton for the seduction or possible rape of Mercer's teenage sister. Partly because of the Amelia Norman case and partly because of agitation by the New York Female Moral Reform Society, the New York legislature began considering an anti-seduction statute in early 1844. In its report on the proposed legislation, the judiciary committee of the New York legislature argued that such a law was necessary to combat the double standard of sexual conduct and male libertinism. The report also concluded that civil remedies for seduction were inadequate because only parents could sue and because money damages could not compensate for lost female virtue. Opposition to the proposed legislation immediately surfaced, much of it because of professed fear that such a statute would be used to blackmail

innocent male victims of conniving and lecherous females. Such fears probably influenced the all-male legislature which did not enact an anti-seduction statute until 1848 and which tempered the effect of the law by including provisions that required a reputation of chastity on the part of the victim and corroboration of her testimony.[27]

By 1880 most states had made seduction a crime, but champions of female chastity complained that too often the traditional requirement of "previous chaste character" put too much of a burden on the prosecution. "Of all the fragile things in this world, a woman's good name is about the most defenseless," lamented woman's rights activist Genevieve Lee Hawley. Hawley and others also contended that the requirement of proof corroborating the victim's testimony and the inevitability of all-male juries made convictions difficult to attain. The fact that trials were conducted in male-dominated courtrooms full of "the low crowd" of leering males and defense attorneys eager to cast "loathsome aspersions . . . to blacken the girl's character" compounded the difficulty of securing effective enforcement of the statutes.[28]

For a variety of reasons that included the belief on the part of some that anti-seduction statutes were not that effective and public pressure generated by certain cases of the unwritten law, opponents of male libertinism began in 1886 to campaign for laws that raised the age that a female could legally consent to having sexual intercourse with a male. Most states had set the age of consent at ten, Delaware put it at seven and four others at twelve. Champions of sexual morality argued that such statutes encouraged seduction, rape, and prostitution, and they campaigned to raise the age of consent to twenty-one. By 1895 most states had raised their age of consent, not to twenty-one, but usually to fourteen or higher. Technically, males who engaged in sexual intercourse with underage females were guilty of statutory rape even though the females had "consented." Yet, anti-libertines discovered that reformed age of consent laws were as difficult to enforce as statutes that made seduction a crime. All-male juries refused to convict male defendants of statutory rape if they believed the female victims were old enough "to know better," and in some states appellate court judges judicially amended their age of consent laws to require proof of violence and "previous chaste character" despite the absence of such requirements in the statutes themselves. By 1896 some champions of sexual morality such as Elbridge T. Gerry, president of the New York Society for the Prevention of Cruelty to Children, had given up on the age of consent statutes as a way to eliminate libertinism.[29]

At about the same time, the unwritten law as a female weapon against male libertinism began to decline. The decline occurred in part because of changing perceptions about female sexuality and the place of women in

society. Throughout the period of the trials under discussion, opponents of libertinism and especially the supporters and attorneys for female defendants on trial accepted the validity of the prevailing Victorian theory that women were sexually less passionate than men and that men initiated most, if not all, sexual conduct. These assumptions account in part for the terms "libertine," which implies overly aggressive, promiscuous male sexual conduct, and "seduction," which suggests males persuading weak, sexually unaggressive females to engage in sexual relations through fraud and artifice. Yet throughout the nineteenth century, the older theory of sexually aggressive women persisted, as for example in certain of the trials of female users of the unwritten law. It was obviously in the interests of prosecutors in these cases to attempt to prove that female defendants had initiated or at least willingly participated in the illicit sexual conduct that eventually led to the homicide or attempted homicide at issue in the trial.

Those asserting the sexual agressiveness of women did so with mixed results. The prosecution invoked the Eve syndrome against Amelia Norman, portraying her as a temptress in the tradition of humanity's first seduction in the Garden of Eden where woman supposedly persuaded man to eat the forbidden fruit. "Woman has beguiled man from that day to this," the prosecutor declared. By its quick acquittal of Norman, the jury repudiated the prosecutor's contention that the nation's sons were in more danger from loose women such as the defendant than from libertines such as Henry Ballard. Another quick acquittal likewise repudiated the heavy hints of the prosecution in the Mary Harris case that the milliners for whom she worked and with whom she boarded in Chicago actually ran a brothel. The prosecution argued that Fanny Hyde was more experienced sexually than she or the defense would admit, and perhaps the division within the jury suggested some doubt on that score. Obviously the jury in the trial of Theresa Sturla believed that she shared some of the sexual guilt in that affair, and its counterpart in the first trial of Laura Fair might well have regarded that defendant as more of a libertine than her married lover.[30]

Of all the cases studied, the most recent one chronologically, that of Maria Barberi, produced the frankest dialogue about female sexuality and the strongest public endorsement of the notion that certain women, if not Eves, were nonetheless more than capable of aggressive sexual adventure. Much of that debate took place on the pages of the *Boston Post* which, like many other newspapers of the day, devoted extensive coverage to the case, and unlike most, encouraged its readers to send in their candid observations about the moral and social aspects of the affair. Many of these reader-correspondents clearly believed that many women not only willingly engaged in illicit sexual relationships, but initiated those relationships. "A Daily Reader of the Post" attributed a perceived decline in the

marriage rate to the fact that "the morals of women at the present time are so loose . . .", while Frank H. Layne submitted that there were "dozens of young men . . . who are seen upon our streets daily . . . who are supported by their mistresses, many of whom are ladies that are . . . among the four hundred of our city." "Charleston" thought it naive for woman's rights advocates such as Mary Livermore to assume that there were "no such people, as female seducers," while Frederick W. Peabody, a Boston lawyer, branded the entire woman's suffrage movement as immoral for its endorsement of the allegedly promiscuous Barberi, the "savage murderess." Others, such as Mrs. S. C. Hazlett-Bevis of Boston, clung to the Victorian concept of male libertines seducing innocent young girls. "This world has grown gray in the service of libertines, who have and are wronging women every hour and in this manner," she declared.[31]

The candid nature and extent of the discussion of female sexuality that accompanied the Barberi case at the end of the nineteenth century constituted one of the signals of the decline and fall of the Victorian age of libertinism and seduction and the start of the sexual revolution that assumed women could seduce and even be libertines. The post-Victorian age reduced the consequences of being a "fallen women," improved the economic conditions of women in general, made marriage less significant, improved birth control, and thereby began to diminish some of the causes of the female application of the unwritten law. By the mid-twentieth century the unwritten law had practically become obsolete.[32]

Yet the decline and fall of the concepts of sexually unaggressive women and the unwritten law and the rise of the sexual revolution did not mean that notions of male sexual and legal exploitation of females disappeared. Currently feminists and other critics complain that a male-dominated legal system continues to impose definitions of rape that permit modern-day male libertines without penalty of law to engage in what nineteenth-century observers would have defined as seduction. Furthermore, women who defend themselves against males who physically and sexually abuse them do not always secure legal forgiveness. While the modern notion of pre-menstrual syndrome somewhat resembles the nineteenth-century theories of insanity that led to the acquittals of many of the female avengers of sexual dishonor, twentieth-century American courts have not accepted PMS as a valid legal defense for female criminality; and some twentieth-century feminists, unlike those in the nineteenth century, have rejected its validity because of its degrading implications about the emotional condition of women. So too, according to contemporary female critics, many battered wives and girl-friends who in desperation kill their abusive husbands and boyfriends are convicted of murder and manslaughter because of the unjust imposition of a male-oriented definition of self-

defense. The nineteenth-century unwritten law about avenging sexual dishonor might be dead, but at the end of the twentieth century it may re-emerge in order to address sexual abuse.[33]

NOTES

[1] Nancy F. Cott, "Passionlessness: An Interpretation of Victorian Sexual Ideology, 1790-1850," in *A Heritage of Her Own*, ed. Nancy F. Cott and Elizabeth H. Pleck (New York: Simon and Schuster, 1979), 107-135; Jan Lewis, "The Republican Wife: Virtue and Seduction in the Early Republic," *William and Mary Quarterly* 44 (October 1987): 689-721; John D'Emilio and Estelle B. Freedman, *Intimate Matters: A History of Sexuality in America* (New York: Harper & Row, 1988), 39-84; Charles E. Rosenberg, "Sexuality, Class and Role in Nineteenth-Century America," *American Quarterly* 25 (May 1973): 131-153; Michael Grossberg, *Governing the Hearth: Law and Family in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1985), 3-30. There is debate among historians about whether nineteenth-century Americans regarded middle-class women as inherently sexually passionless. See Estelle Freedman, "Sexuality in Nineteenth-Century America," *Reviews in American History* 10 (December 1982): 201-202; and Steven Seidman, "The Power of Desire and the Danger of Pleasure: Victorian Sexuality Reconsidered," *Journal of Social History* 24 (Fall 1990): 47-67. This disagreement notwithstanding, there is a general consensus that Victorian America demanded social (sexual) purity on the part of women who desired respectability.

[2] Rosenberg, "Sexuality, Class and Role in Nineteenth-Century America," *American Quarterly* 25 (May 1973): 140-144; Christine Stansell, *City of Women: Sex and Class in New York, 1789-1860* (Urbana: University of Illinois Press, 1986), 4-30, 62-87, 124-127, 162-192; Barbara Epstein, "Family, Sexual Morality, and Popular Movements in Turn-of-the-Century America," in *Powers of Desire: The Politics of Sexuality*, ed. Ann Snitow, Christine Stansell, and Sharon Thompson (New York: Monthly Review Press, 1983), 120-121; Joanne Meyerowitz, *Women Adrift: Independent Wage Earners in Chicago, 1880-1930* (Chicago: University of Chicago Press, 1988); Nathan G. Hale, Jr., *Freud and the Americans: The Beginnings of Psychoanalysis in the United States, 1876-1917* (New York: Oxford University Press, 1971), 258.

[3] Robert M. Ireland, "The Libertine Must Die: Sexual Dishonor and the Unwritten Law in the Nineteenth-Century United States," *Journal of Social History* 23 (Fall 1989): 27-44. The only avengers of sexual dishonor afforded relief at common law were husbands who caught and killed their wives' paramours while in the act of sexual intercourse (*in flagrante delicto*), and these persons received only partial relief by having the crime reduced from murder to manslaughter. A few states, such as Texas, New Mexico, and Utah (by statute) and Georgia (at common law) afforded avenging husbands (but not wives) complete relief. *Ibid.*, 31-32, 40 (f.n. 8).

[4] For the Norman case see *New York Herald*, January 17-22, 27, 1844; *New York Tribune*, January 18, 20, 22, February 8, March 6, 1844. For the Garrity case see *New York Tribune*, October 8-12, 14, 1851; *New York Times*, October 11, 14, 17, 21, 23, 1851. For the Moriarty case see *Trial of Mary Moriarty, for the Murder of John Shehan, Her Seducer* (Memphis: Memphis Typographical Association, 1855); *Daily Memphis Whig*, November 19, 21, 27, 1855. For the Norment case see *Memphis Daily Appeal*,

April 1-4, 1886; *Daily Memphis Avalanche*, March 18-19, April 1-4, 10, 1886. For the Harris case see "The Trial of Mary Harris for the Murder of Adoniram J. Burroughs, Washington, D.C., 1865," in *American State Trials*, ed. John D. Lawson, 17 vols. (St. Louis: Thomas Law Books, 1914-1936), 17: 233-373; *Chicago Tribune*, July 20, 1865; *New York Tribune*, July 8, 15, 20, 21, 1865; *New York Times*, July 24, 1865; *New York Herald*, July 20, 1865. For the Sturla case see O. E. Turner, *Sturla-Stiles Tragedy* (Chicago: O. E. Hammond, 1883); *Chicago Times*, July 11, 13, 16-18, 26, December 3, 16-17, 1882; *Chicago Tribune*, July 11, November 21-30, December 2, 16, 1882. For the Stoddart case see *The Goodrich Horror. Being a full confession of Kate Stoddart, or Lizzie King. Why She Killed Charles Goodrich* (Philadelphia: Old Franklin Publishing House, 1873); *New York Herald*, March 21, July 11-16, 18, 1873; *New York Times*, July 14, 16, 18, 22, 1874. For the Hyde case see *Official Report of the Trial of Fanny Hyde for the Murder of Geo. W. Watson . . .*, rep. William Hemstreet (New York: McDivitt, 1872). For the Fair case see "The Trial of Laura D. Fair for the Murder of Alexander P. Crittenden, San Francisco, California, 1871," in *American State Trials*, ed. John D. Lawson, 15: 197-464. For the Barberi case see *New York Times*, April 27-28, July 12, 16-18, 20, 23-24, 31, August 1, 3, 8, 16, 1895, April 8, 22, 29, November 18-19, 21, 24, 26, December 4-5, 8, 11, 1896; *New York Tribune*, July 12, 19, 21, 23, 25, 27, 1895. For the Vreeland case see *New York Times*, June 29, 1870; *New York Herald*, June 29, 1870; *New York Tribune*, June 29, 1870. For the Southern case see *The sad case of Mrs. Kate Southern! The beautiful, virtuous Georgia wife, who, being maddened to insanity by the outrageous taunts of a bad woman who had enticed her husband away, killed her . . .* (Philadelphia: Old Franklin Publishing House, 1878); *Atlanta Constitution*, February 14, May 3, 9, 17-18, 24, 1878; *New York Herald*, February 14, 17, May 19, 21, 24, 31, June 1, 1878; *New York Times*, May 24-25, 27, June 21, 1878.

[5] For the Mercer-Heberton case see *A Full and Complete Account of the Heberton Tragedy: To Which is Added Beauchamp, or the Kentucky Tragedy* (New York: published for the trade, c. 1849); for the Smith case see *Philadelphia North American and United States Gazette*, January 7-9, 11-13, 15, 18-19, 1858; for the Sickles case see "Trial of Daniel E. Sickles for the Murder of Philip Barton Key," in *American State Trials*, ed. John D. Lawson, 12: 494-762; for the McFarland case see *The Trial of Daniel McFarland for the Shooting of Albert D. Richardson, the Alleged Seducer of His Wife. . . .*, (New York: American News Company, 1870); for the Black case see *Trial of Harry Crawford Black, for the Killing of Col. W. W. McKaig, Jr.* (Washington, D.C.: Chronicle Print, 1871); for the Giddings case see *Trial of Daniel Giddings for Shooting Benjamin Wiltshire, August 5, 1882, near Chillicothe, Ohio. . . .* (Hillsboro, Ohio: N. F. Dean, 1885); for the Thompson case see *Louisville Courier-Journal*, April 28-30, May 1-19, 1883; for the Nutt case see *The Very Pathetic and Truly Remarkable Trial of Young James Nutt for the Killing of N. L. Dukes, at Uniontown, Fayette Co., Pa., June 13th, 1883. . . .*, (Pittsburgh: Stevenson & Foster, 1884); for the Johnson case see *New York Times*, June 12, 16, 18-19, 24, 27, 1885, *Indianapolis Journal*, June 12-27, 1885, *Speech of D. W. Voorhees, delivered at Greenville, Tennessee, June 23, 1885, in Defence of Edward T. Johnson. . . .*, (Washington, D.C.: Judd & Detweiler, 1885); for the Cole case see "Cole's Trial," *Abbott's Practice Reports* 7 (New Series) 321 (1868), *New York Times*, June 5, 1867, January 30, April 21-30, May 1-4, 7-8, 1868. For an analysis of these cases see Ireland, "The Libertine Must Die," *Journal of Social History* 23 (Fall 1989): 27-44.

[6] Ireland, "The Libertine Must Die," *Journal of Social History* 23 (Fall 1989): 27-44.

[7] *Ibid.*, 34.

[8] *New York Times*, June 29, 1870, July 17, 20, 23-24, 31, August 1, 2, 8, 16, 1895; *New York Tribune*, June 29, 1870; *New York Herald*, June 29, 1870; *The Woman's Journal* 1 (July 9, 1870): 213; Robert M. Ireland, "Death to the Libertine: The McFarland-Richardson Case Revisited," *New York History* 68 (April 1987): 191-217; *Boston Post*, July 21, 28, 31, 1895.

[9] *New York Herald*, May 24, 1878; *New York Times*, March 29, 1882. The *Springfield [Massachusetts] Republican* and the *New York Graphic* also complained that the criminal justice system had convicted Southern because of an act that routinely resulted in acquittal if perpetrated by a man. The editorials of the *Republican* and the *Graphic* are reprinted in *The Woman's Journal* 9 (June 1, 1878): 169; 9 (July 13, 1878): 221.

[10] *The Goodrich Horror; New York Herald*, March 21, July 11-16, 18, 1873. For journalistic commentary on Stoddart's apparent sanity see *New York Times*, July 14, 16, 18, 22, 1874. For a study of the American tradition of committing more women than men to insane asylums see Phyllis Chesler, *Women and Madness* (New York: Doubleday, 1970).

[11] "The Trial of Laura D. Fair," in *American State Trials*, ed. John D. Lawson, 15: 197-464; *New York Herald*, April 14-27, 1871, October 1-2, 1872; *Cincinnati Enquirer*, April 27, 1871, October 1, 1872; *Chicago Tribune*, April 28, 1871, October 1, 1872; *Charleston Daily Courier*, May 3, 1871; *Cincinnati Gazette*, April 27-28, 1871; *Baltimore Sun*, April 27-28, 1871; *San Francisco Examiner*, April 27, 1871; *Cleveland Plain Dealer*, April 27, 1871; *Daily Alta California*, September 8, 20, 22, 25, 27-28, October 1, 1872; *San Francisco Chronicle*, September 20, 22, 24-29, October 1-3, 7, 1872; *New York Tribune*, October 1, 1872; Kenneth Lamott, *Who Killed Mr. Crittenden?: Being a True Account of the Notorious Murder that Stunned San Francisco-The Laura D. Fair Case* (New York: D. McKay Co., 1963).

[12] Walter Morton Cocke, "Some Cases of Transitory Homicidal Mania," *Criminal Law Magazine and Reporter* 8 (September 1886): 233-255; *Official Report of the Trial of Fanny Hyde*, rep. William Hemstreet.

[13] For the Sturla case see Turner, *Sturla-Stiles Tragedy; Chicago Times*, July 11, 13, 16-18, 26, December 3, 16-17, 1882; *Chicago Tribune*, July 11, November 21-30, December 2, 16, 1882. For the Barberi case see *New York Times*, April 27-28, July 12, 16-18, 20, 23-24, 31, August 1, 3, 8, 16, 1895; April 8, 22, 29, November 18-19, 21, 24, 26, December 4-5, 8, 11, 1896; *New York Tribune*, July 12, 19, 21, 23, 25, 27, 1895; *The Woman's Journal* 26 (August 3, 1895): 241; 26 (August 10, 1895): 252.

[14] Lamott, *Who Killed Mr. Crittenden?*, 183-184; *New York Times*, August 8, 1895; *The Woman's Journal* 16 (March 7, 1885): 76; 16 (August 1, 1885): 241, 244; 17 (February 13, 1892): 49; *The Woman's Standard* 3 (March 1889): 8; 7 (February 1892): 8; 7 (May 1893): 4-5; 8 (May 1894): 3-4; *Memphis Daily Appeal*, April 1-2, 4, 1886. For studies of female and family abuse in American history see Elizabeth H. Pleck, *Domestic Tyranny: The Making of Social Policy Against Family Violence from Colonial Times to the Present* (New York: Oxford University Press, 1987); and Linda Gordon, *Heroes of Their Own Lives: The Politics and History of Family Violence: Boston, 1880-1910* (New York: Viking, 1988).

[15] *Philanthropist* 4 (September 1889): 4; *The Woman's Journal* 10 (January 11 1879): 13; 15 (August 16, 1884): 261-262, 264; 15 (August 23, 1884): 269, 272-273, 276; 15 (August 30, 1884): 278, 280-281, 284; 15 (October 4, 1884): 317, 320; Laura D. Fair, *Wolves in the Field: A Lecture. Also, A Statement of Facts, and Defence of Her Cause. With Letters from Prominent Citizens to Her, and Her Replies Thereto. In Two Parts* (San Francisco: n.p., 1873), 17-18.

[16] "Seduction as a Crime," *Criminal Law Magazine and Reporter* 3 (1882): 331-332; *New York Tribune* February 8, 16, 1844, October 10, 1851; *The Woman's Journal* 9 (August 24, 1878): 267; *Trial of Mary Moriarty*, 10.

[17] Robert M. Ireland, "Insanity and the Unwritten Law," *American Journal of Legal History* 32 (April 1988): 157-172. The plea of temporary insanity allowed defense lawyers to introduce evidence of libertinism and gave juries, who were often told by judges that the unwritten law was not a valid doctrine, a more solid legal basis for their verdicts of acquittal. *Ibid.*, 158-159; "Recognition of the Honor Defense under the Insanity Plea," *Yale Law Journal* 43 (1934): 809-814. For the Norman case and insanity see *New York Herald*, January 18-19, 1844; *New York Tribune*, January 20, 1844.

[18] *New York Tribune*, October 10-11, 1851; Francis Wharton, *A Treatise on Mental Unsoundness, Embracing a General View of Psychological Law* 4th ed. (Philadelphia: Kay, 1882), 426; George Man Burrows, "Commentaries on Insanity" and Henry Maudsley, "Body and Mind" in *Madness and Morals: Ideas on Insanity in the Nineteenth Century*, comp. Vieda Skultans (London: Routledge & Kegan Paul, 1975), 223-225, 230-232; Elaine Showalter, *The Female Malady: Women, Madness, and Culture, 1830-1980* (New York: Pantheon Books, 1985), 55-56.

[19] "Trial of Mary Harris," in *American State Trials*, ed. John D. Lawson, 17: 270, 275-276, 282, 360; [John P. Gray], "Trial of Mary Harris," *American Journal of Insanity* 22 (January 1866): 358-359.

[20] "Trial of Laura D. Fair," in *American State Trials*, ed. John D. Lawson, 15: 224-232, 250-252, 259-261, 372, 394; *San Francisco Chronicle*, September 20, 1872; *Official Report of the Trial of Fanny Hyde*, rep. William Hemstreet, 36, 40-41, 72-76, 103; Turner, *Sturla-Stiles Tragedy*, 68-69, 95, 120-121, 125-142, 178-180, 205-206.

[21] "Trial of Mary Harris," in *American State Trials*, ed. John D. Lawson, 17: 302-304, 321; Dr. I. Ray, "The Insanity of Women Produced By Desertion or Seduction," *American Journal of Insanity* 23 (October 1866): 263-274. For a recent study which argues that the tendency of nineteenth-century physicians to diagnose hysteria in women contributed to the negative Victorian perception of females see Wendy Mitchinson, "Hysteria and Insanity in Women: A Nineteenth-Century Canadian Perspective," *Journal of Canadian Studies* 21 (Fall 1986): 87-105.

[22] "Trial of Mary Harris," in *American State Trials*, ed. John D. Lawson, 17: 297.

[23] *New York Tribune*, January 25, 1844, October 9-10, 1851, July 29, 1865; *Chicago Times*, July 16, 1882; "The Trial of Laura D. Fair," in *American State Trials*, ed. John D. Lawson, 15: 236-237; Lamott, *Who Killed Mr. Crittenden?*, 286-287; *Daily Memphis Avalanche*, April 1-2, 1886; *Memphis Daily Appeal*, April 4, 1886; *New York*

Times, May 25, 1878, July 17, 20, 23-24, 31, August 1, 2, 8, 16, 1895; *Boston Post*, July 21, 28, 31, 1895.

[24] Carroll Smith-Rosenberg, "Beauty, the Beast, and the Militant Woman," in *Disorderly Conduct: Visions of Gender in Victorian America*, ed. Carroll Smith-Rosenberg (New York: A. A. Knopf, 1985), 109-128; David J. Pivar, *Purity Crusade: Sexual Morality and Social Control, 1868-1900* (Westport, Conn.: Greenwood, 1973); Stansell, *City of Women*, 23-24; *New York Tribune*, January 23, 1844; *Boston Post*, July 30, 1895; *Vigilance* 25 (November 1912): 29.

[25] Fair, *Wolves in the Field*, 19; *Memphis Daily Appeal*, April 2, 1886; *Boston Post*, July 29, 1895.

[26] *Memphis Daily Appeal*, April 4, 1886; *The Woman's Journal* 9 (September 28, 1878): 309; "A Friend in Need" to Editor, *Boston Post*, July 29, 1895; Ellen Battelle Dietrick to Editor, *Boston Post*, July 31, 1895; Susan B. Anthony to Editor, *Boston Post*, July 29, 1895; Martha W. Chapman, "Equal Suffrage as related to the Purity Movement," in *The National Purity Congress*, ed. Aaron Powell (New York: The American Purity Alliance, 1896), 350-358.

[27] The Mercer-Heberton affair began in February and ended in early April 1843; the Pennsylvania legislature enacted one of the first statutes making seduction a crime on April 19, 1843. Francis Wharton, *A Treatise on the Criminal Law of the United States* 3 vols., 6th ed. (Philadelphia: Kay and brother, 1868), 3: 250. Agitation for the New York legislature to enact a similar statute accompanied many of the written expressions of outrage about the "seduction and abandonment" of Amelia Norman and the legislative committee that proposed a bill to criminalize seduction obviously had the Norman case in mind. *New York Herald*, January 20-21, 27, 1844; *New York Tribune*, January 18, 22-24, February 8, 12, 16, 1844. For the statute enacted in 1848 see *Laws of New York, 1848*, chap. 111.

[28] *The Woman's Journal* 19 (January 14, 1888): 16-18; 19 (February 18, 1888): 52-53; 20 (April 6, 1889): 106-107; *The Woman's Standard* 3 (March 1889): 8.

[29] *The Woman's Tribune* 3 (February 1886): 3; 3 (August 1886): 3; Pivar, *Purity Crusade*, 104-105, 139-146; *The Woman's Journal* 20 (March 9, 1889): 74; 20 (April 6, 1889): 106-107; *Philanthropist* 5 (July 1890): 9-10; 10 (June 1895): 5; 11 (January 1896): 8-9; 11 (February 1896): 11; 11 (March 1896), 10; *The Woman's Standard* 3 (May 1889): 3. Elizabeth L. Saxon attended Emma Norment's trial in part to demonstrate her support for raising the age of consent. Saxon to the editor, *Memphis Daily Appeal*, April 4, 1886.

[30] *New York Herald*, January 20, 1844; "Trial of Mary Harris," in *American State Trials*, ed. John D. Lawson, 17: 345-346; *Official Report of the Trial of Fanny Hyde*, rep. William Hemstreet, 38-39, 134-135, 140-141, 146-150. For the prosecution's portrayal of Laura Fair as a female libertine see "The Trial of Laura D. Fair," in *American State Trials*, ed. John D. Lawson, 15: 288, 303, 405, 433-434.

[31] *Boston Post*, July 23, 28, 31, August 8, 11, 1895.

[32] For an excellent discussion of how, between 1900 and 1920, the popular conception of working-class city women changed from that of helpless victims of male libertinism to that of strong, independent women who made voluntary decisions about sexuality, see Meyerowitz, *Women Adrift*, 117-139.

[33] Susan Estrich, *Real Rape* (Cambridge, Mass.: Harvard University Press, 1987), 68-71; Richard DiLiberto, "Premenstrual Stress Syndrome Defense: Legal, Medical, and Social Aspects," *Medical Trial Technique Quarterly* 33 (1987): 354-355; Cynthia K. Gillespie, *Justifiable Homicide: Battered Women, Self-Defense, and the Law* (Columbus: Ohio State University Press, 1989).