

peak in the late twenties, but fall off steeply, again, only after age 40.

At the centre of this book's argument is a puzzle. Execrated by philosophers, excoriated by divines and legists, deplored by moralists, scorned by social theorists, banned by solemn decrees without number, duelling still flourished. Why? The point of honour, they answer. But, I think, that pat formula may beg the question, for it treats honour as a constant, as a force. Honour was more a rhetoric and a "practice" — as Bourdieu would call it — and a handy alibi for baser deeds than an iron law of conduct. It was, in fact, less potent than a code; a man could, and often did, find ways to duck a challenge. I suspect that, to dig out the secret cause for both the persistence and all the varieties of this sanguinary habit, and its still unexplored distribution in social space and time, the authors of this fine intellectual history should turn for help to us, their allies, the social historians.

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Patrick Brode — *Courted and Abandoned: Seduction in Canadian Law*. Toronto: University of Toronto Press for The Osgoode Society for Canadian Legal History, 2002. Pp. xi, 252.

This survey of the civil actions arising from seduction and related "heartbalm torts" in Canada ranges from an 1824 seduction case that caught the attention of William Lyon Mackenzie (p. 3), through the Brownlee scandal of the 1930s (pp. 149–173), to the debates spawned by *R v. Ewanchuk* in 1999 (pp. 201–203). Along the way Patrick Brode covers terrain that will be familiar to social historians from works by Constance Backhouse, Rosemary Cloombe, Karen Dubinsky, and Carolyn Strange. In contrast to these standard feminist interpretations, his approach in attempting to "interpret these trials in the context of their times" (p. x) can best be describe as lawyerly.

In hoping to offer "rare glimpses into the daily lives of early Canadians" (p. x), Brode is laying claim to a common rationale for a case-based approach. He states these cases "cannot be dismissed as the occasional moral lapses of the past or condemned as imposing patriarchal systems, but should be seen as indicators of how Canadians, over time, have accepted or denied sexuality" (p. x). Above all, Brode cautions against imposing "modern political judgements on an earlier period" or failing to evaluate seduction cases "by objectively viewing the lives of men and women caught up in the vagaries of the law" (p. 207). Such formulations beg the questions concerning upon what Brode roots his claim to objectivity or what he takes to be apolitical interpretations. The distinctions between how lawyers read cases and how social scientists approach the same materials to illuminate broader social themes or to put faces to theory are substantial.

The organization of the cases often exhibits tensions between an assumed teleology of precedents and the "inherent inertia of law" (p. 51). The persistence, through to the 1940s, of the judge-made rule that placed proprietary rights of a father to his

daughter's service at the heart of actions for seduction (p. 175) and the reference to criminal seduction of "women of previously chaste character" that remained in the *Criminal Code* until 1987 (p. 196) make it difficult to accept Brode's depiction of the law's handling of consensual sex as a "bellwether of how the community has controlled the rites of courtship" (p. x).

From a more technical perspective, the accumulation of case narratives through the first five chapters would have benefitted from a more systematic approach to the quantitative evidence on the number of actions, the proportion that were successful, and the range and median of the awards. The reader is left with impressionistic assertions on what constituted a significant award and very little explanation of the changes over time. The choppiness in the case-focused chronologies compounds this problem. Drift from analysis to anecdote is a hazard with this method, but the author does succeed in demonstrating what an "unwieldy tool" the law is "in the harnessing of desire" (p. 206).

Brode is sharper in his challenges of the earlier feminist interpretations of legislative changes such as the 1837 *Seduction Act* and Charlton's campaign to criminalize seduction in the 1880s. Rather than being an "extension of paternal property rights", as depicted in Backhouse's earlier work, the 1837 act is presented here as "genuinely remedial and intended to cure an obvious defect in the law whereby a seducer could escape liability when ... a young women was working outside her home" (p. 39). While in his notes Brode criticizes Backhouse because there is "no public record to substantiate the ... propositions that the act was intended to protect the property rights of fathers" (p. 221), he offers no direct public statements to support his own position. Similarly, Brode counters Dubinsky's characterization of John A. Macdonald's interventions on the criminalization of seduction as expressing "fears of the 'designing woman' ... arising from misogynist stereotypes" (p. 83–84) with a depiction of cases in which the civil tort of seduction could be "brought on the most tenuous of evidence" with confidence that women "would still be believed by a jury" (p. 84). Thus Brode claims that "Macdonald's fears had a very real basis in the cases he saw tried at every assizes" (p. 84). While in this instance Brode cites Macdonald's reference to seeing seduction used as blackmail in his own practice (p. 85), the specific *Debates* is not clearly identified in the notes. Nor does Brode provide more than a vague speculation that Macdonald's eventual about-turn to support the act represented a reflection of "the popular mood" in 1885 (p. 88). In offering a brief analysis of the implementation of Charlton's act, he observes that "criminal seduction was a formidable addition to the female arsenal that in many cases enabled them to force a hesitant suitor to the altar" (p. 93). While Dubinsky has framed these cases in terms of power relationships, Brode lapses into sentimentality when he states: "In many instances the threat of a charge under the seduction law was being used to compel a marriage or a civil settlement. This was clearly a misuse of the criminal law and it is questionable how warm and loving were those marriages that resulted from a threat of imprisonment" (p. 94).

Perhaps the most provocative section is that in which Brode brings the narrative to present-day concerns. He posits that there has been a resurgence in attempts to regulate seduction: "under the guise of harassment and zero tolerance, the wheel has

turned again and women are presumed unable to give free consent and men are presumed to be the antagonists” (p. 205). Unfortunately, the issues imbedded in both the legal and the public debates over recent cases are given short shrift. Drawing a parallel from the early feminists’ support of a conservative purity movement to speculate that “the second wave of feminism may be evolving into a new puritanism” (p. 204) seems to have its own political agenda.

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Martin Bruegel — *Farm, Shop, Landing: The Rise of a Market Society in the Hudson Valley, 1780–1860*. Durham, N.C.: Duke University Press, 2002.

Martin Bruegel’s study of the emergence of a market economy and its social and political consequences in early-nineteenth-century upstate New York brings fresh insight into what has become an old, if not tired, debate in American historiography.

The rural economies of the Northeastern United States experienced dramatic changes between the end of the colonial period and the Civil War. Increased population density, followed by urbanization and industrialization, expanded infrastructure, accrued specie and paper money circulation, and technological innovations ranging from new machinery to improved seeds all contributed to enlarging the markets for agricultural commodities and enabling farmers to take advantage of this expansion. It also made markets more competitive. For instance, the prevalence of western wheat made growing this grain in the seaboard states unprofitable. Farm communities responded positively to these incentives: they left behind the local self-sufficiency of the late colonial period and steadily increased their market participation. By mid-century, farmers had become specialized producers of commodities for the market and buyers of goods they had once made, grown, or raised themselves.

There is nary a disagreement over the broad outlines of this transformation, and Bruegel’s book will not force us to reconsider the process. But American historians have sharply disagreed over the social and cultural impact of this “transition to capitalism”, and this has led to a protracted debate over the past 30 years. Did the structural changes of the early nineteenth century unleash the farmers’ innate acquisitive instincts, and did they embrace these with enthusiasm? Or, as the “household economists” believe, did a non-capitalist “moral economy” dominate the countryside until the beginning of the nineteenth century? According to those historians, easy access to land preserved older communitarian and family values antithetical to those prevailing in a market economy. Rural communities regrouped egalitarian, interdependent, and patriarchal farmers and artisans, who primarily sought long-term stability and security for their families.

Lately, this debate has led to another over the nature of the “Market Revolution”, stimulated by the publication of Charles Sellers’s monumental study of the same title (*The Market Revolution: Jacksonian America, 1815–1846* [New York: Oxford University Press, 1991]). Sellers linked the discussion of the “transition to capitalism”