

Women's Agency in Upper Canada: Prescott's Board of Police Record, 1834–1850

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The Prescott Board of Police was established in 1834 to resolve disputes brought forward by local citizens under the town's bylaws. The cases recorded in the Minute Book of the Board of Police for Prescott thus constitute an unparalleled source of information on many aspects of Upper Canadian life, recording standards for acceptable community behaviour on such matters as control of livestock, health regulations, road maintenance, keeping the sabbath, licensing alcohol and entertainment, and the type of language permitted in public space. In the early years, since only small fines resulted from charges brought to the Board, it was commonly used by lower-class women for settling personal disputes or avenging insults to their reputation. By 1850 fines had become severe and prosecutions for sexual immorality and drunkenness more common, and the Prescott Board of Police transformed from a forum for lower-class women's agency into an institution used by the town fathers to enforce a new, middle-class, gendered moral code.

Le bureau des dossiers judiciaires de Prescott a vu le jour en 1834 pour résoudre les différends dont les citoyens de l'endroit le saisissaient en vertu des arrêtés municipaux. Les affaires inscrites au registre d'audience du bureau de police de Prescott sont de ce fait une source inégalée d'information sur une foule d'aspects de la vie au Haut-Canada puisqu'on y a consigné les normes pour un comportement collectif acceptable sur des choses telles que le contrôle du bétail, les règles d'hygiène, l'entretien des routes, le respect du sabbat, les permis d'alcool et de divertissement ainsi que le langage permis dans les lieux publics. Les premières années, comme les accusations portées devant le bureau n'entraînaient que de petites amendes, celui-ci était communément utilisé par les femmes de la classe inférieure pour régler leurs disputes personnelles ou se venger d'insultes à leur réputation. En 1850, les amendes étaient devenues lourdes et les poursuites pour immoralité sexuelle et ivresse, plus fréquentes, et le bureau de police de Prescott s'était transformé d'une tribune pour l'agence des femmes de la classe inférieure en une institution utilisée

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par les pères de la ville pour instituer un nouveau code moral de la classe moyenne, d'application différente selon le sexe.

JUST BEFORE midnight on a dark, chilly November night in 1837 in Prescott, Upper Canada, Mary Greneau was startled out of her sleep by the sound of a mob outside her house. Male voices shouted, "Kill her" and "By God I'll fix her!" Her attackers pounded on her door, heaving against it until the hinges burst and her home was broken open. Spilling inside were six horrifying figures, dressed in grotesque imitation of Native Indians. Their faces were blackened and streaked with red and they wore blanket coats. As they whooped and hollered, they went on a destructive rampage, smashing her windows, breaking her furniture, and throwing her possessions out into the street. Mary and the two women living with her, Jane Craig and Elizabeth Brady, felt entirely defenceless and in real terror for their lives. Only when a neighbour threatened to shoot them if they did not desist did the six marauders depart.¹

Although this incident bears some resemblance to the classic charivari, there are important differences. Mary Greneau was, it is true, a well-known local figure. She was a constant nuisance to those living near her, and in particular had an ongoing feud with her neighbours across the street, John and Catharine Kelleaugh. They were fed up with her running what was then called a "disorderly house", a place of entertainment operating at all hours and outside the law. She sold liquor, employed a fiddler, and entertained drunken men with "dancing and indecent conduct".² Women of doubtful reputation were living there and going in and out at all hours, on at least one occasion fighting in the street. Catharine Kelleaugh later testified that, on one May evening, Bridget Savage and Margaret Doneghan disturbed the peace as they were coming out of Mary Greneau's house by engaging in a shouting match, calling each other "bitch", "whore", and "bastard" for all to hear.³ The Kelleaughers took to displaying their displeasure in a non-violent but pointed manner. Crossing to the drainage ditch in front of their disruptive neighbour's house, they emptied their slops and chamber pots there. When she complained to them, they replied with very "insolent answers".⁴

Earlier that November, Mary had clashed with some of her patrons as well. Late one Saturday night, she brought back three men to her home in a state of intoxication, giggling and laughing. One, William Glazier, called for four glasses of liquor, one for him, one for her, and one each for James Campbell and John Honeywell. The latter whispered to her, perhaps in jest, that because Glazier was a newcomer to Prescott from Glengarry "that she might skin him". When Mary tried to cheat William out of his change, he declared "he

1 Board of Police Records, Prescott, Ontario, November 28, 1937 [hereafter referred to by date].

2 November 6, 1837.

3 May 15, 1836.

4 November 2, 1835.

would have the change or the worth of it before he left the house". They scuffled, falling against the stovepipes with such violence that they were knocked over. She finally chased the men out of the house at gunpoint, firing a warning shot into the street in the wee hours of the morning.⁵ This was too great an insult to the pride of John Honeywell, who promptly went to the authorities and charged her with firing the gun, and on the Sabbath, too, a double bylaw violation. Mary Greneau was duly fined, but was not prepared to take this passively. She countercharged Campbell and Honeywell, perhaps angry with them for not defending her against Glazier, for having "abused her in her own house". The public testimony that resulted was not to her advantage. One witness asserted that "for some weeks past" she had "kept a very noisy house, after hours, Sunday evenings not excepted". The whole story about the evening's doings became a matter of public record. Samuel Indicott, who had been employed by Mary as "waiter and fiddler", tried to put a good face on it, testifying that he only "saw drunken people there occasionally, saw some dancing and indecent conduct sometimes, heard singing frequently". Pandering to racist sentiment, he asserted in her defence that he "never saw the coloured people use her familiarly". As for the accusation of carrying on such activities on Sunday, he assured his listeners that he had in fact seen "some say grace before drinking".⁶ This did not persuade local authorities of the justice of her case. The charges against Campbell and Honeywell were dismissed, and Greneau assessed steep costs of £1.3.6.⁷

This victory did not appease John Honeywell. A few days later, he and some others launched the attack on her house, wreaking revenge on a woman who they thought needed to be put in her place. Their intentions were well known locally. One witness had "heard it frequently said that she ought to be rid on a rail". Others had been invited to join the raiding party but had declined. Honeywell's band hatched their plot at the store of Alexander Thomas, where they met to put on their costumes. A passerby heard them say, "damn the old devil, she'll not know us." They carried the charade to the point that they "spoke in imitation of the Indians" when spoken to on the street, responding "Chip, Chip, Chuck" in a crude mimicking of Native dialect. After the raid was over, they conveniently left their disguises at Thomas's store, where they were easily found and later presented as evidence. The men then repaired to Beale the barber's for a drink to celebrate their triumph over Mary Greneau.⁸

Charivaris were a not uncommon form of "rough justice" in Upper Canada.⁹ This one deviated from the norm because it was not a political protest

5 November 6, 1837.

6 November 1837.

7 November 20, 1837.

8 November 28, 1837.

9 On charivaris, see Allan Greer, "From Folklore to Revolution: Charivaris and the Lower Canadian Rebellion of 1837", *Social History*, vol. 15 (January 1990), pp. 25-43; J. I. Little, *State and Society in*

and was less an expression of community censure than the settling of a personal quarrel.¹⁰ Even though it is clear that there were many in the Prescott community who objected to the behaviour of Mary Greneau, the raid on her premises was not accepted by her neighbours as “rough justice”. After some initial delay in recognizing that the attack was something more than just the usual carousing heard from her home, they turned out in her defence. Surprisingly, it was the short-changed Glazier who finally drove the rioters off with the threat of shooting. Other members of the community, Mr. Deneau and Mr. Cavalier, had not only refused to join the party, but testified against Honeywell’s band.¹¹ Mary Greneau herself, as we have seen, was not one to accept attack passively, and she quickly sought her own revenge through legal means, successfully prosecuting Alexander Thomas, Thomas Meredith, and John Honeywell for disturbing the peace. As an expression of community censure, they were handed exceptionally punitive fines of £2.10 with costs of 17 shillings, 3 pence each.

Such a remarkable story about a woman of the popular class is rare in Upper Canadian history. That it has survived is due to the existence of an equally remarkable document — the Minute Book of the Board of Police for Prescott, Ontario. For almost 150 years this record has sat virtually untouched in the vault of the municipal offices of Prescott.¹² What it reveals is an unparalleled source of social history on many aspects of Upper Canadian life. Standards for acceptable community behaviour on everything from control of livestock, health regulations, road maintenance, keeping the sabbath, licensing alcohol and entertainment, and even what language was permissible to use in public space are recorded in the 400 densely written pages of this Minute Book. Of particular interest are the cases brought to the Board of Police that involved woman as prosecutors or plaintiffs or were brought on their behalf by men during the 16 years it presided over Prescott life, from 1834 to 1850.

In the 1830s and 1840s Prescott was at the peak of its success, a rapidly growing small town of more than 2,000 persons.¹³ Situated just above a sec-

Transition: The Politics of Institutional Reform in the Eastern Townships, 1838–1852 (Montreal and Kingston: McGill-Queen’s University Press, 1997), pp. 92–101; Bryan Palmer, “Discordant Music: Charivaris and Whitecapping in Nineteenth-Century North America”, *Labour/ Le Travailleur*, vol. 3 (1978), pp. 5–62, and *Working Class Experience: The Rise and Reconstruction of Canadian Labour, 1800–1980* (Toronto: McClelland & Stewart, 1992), pp. 66–69.

10 The attack also differed from usual Upper Canadian charivaris in the adoption of Indian dress. This suggests that one or more members of the raiding party may have come from the United States, where the assumption of Indian dress had a long tradition, dating as far back as the Boston Tea Party. See Philip J. Deloria, *Playing Indian* (New Haven: Yale University Press, 1998).

11 Deneau, Cavalier, and Greneau are names which suggest a common French-Canadian background, which may have been a reason why these men would not attack Mary Greneau.

12 I am indebted to the generosity of town officials for granting me access to this resource. In particular, I would like to thank Andrew Brown, Prescott Town Clerk. There is also now a microfilm copy of the Board of Police Record in the Queen’s University Archives in Kingston, Ontario.

13 Toronto, Archives of Ontario [hereafter AO], 1851 Prescott Census.

tion of the St. Lawrence River made unnavigable by rapids and with a natural, deep harbour, it was an important transfer point for goods and people arriving overland from Montreal en route to Ogdensburg to the south and points west such as Kingston and Toronto. This forwarding trade meant that merchants prospered, and associated activities such as shipbuilding and marine insurance developed.¹⁴ During the 1837–1838 Rebellion, the decrepit Fort Wellington was rebuilt, and from 1843 to 1854 it was garrisoned with a company of men from the Royal Canadian Rifle Regiment.¹⁵ After the Montreal-Toronto railway was built in the 1850s, Prescott subsided in importance. The time covered by the Board of Police Record, then, coincided with the town's height of prosperity and activity.¹⁶

As a centre of commerce and travel, Prescott may have had more immigration than other towns in Upper Canada. Of the 1,991 residents whose origins were recorded in the 1851 census, 720 were from Ireland and 124 from England, 52 were Scottish, and 135 were American. The remaining 960 were listed as being Canadian — either the Canadian-born children of immigrants or relocated French Canadians. Almost half of the population (1,020) was Roman Catholic, 500 Church of England or Episcopalian, 330 Presbyterian, and 306 Methodist, Baptist, or other. No one of the Jewish faith lived in Prescott in 1851, no one of First Nations heritage, and only one black — a single female servant. Almost exactly half of the population was female, but in 1848, of 323 households, only 29 were headed by women.¹⁷

By 1834 Prescott had grown to the extent that it was incorporated as a town, and at that time the Board of Police was established. Within the town limits, it replaced the Court of Quarter Sessions as the governing body of civic life. From 1793 the Court had been presided over by magistrates appointed by the Parliament of Upper Canada and handled everything to do with local government. Although this may seem to have been an autocratic system, as Donald Akenson has observed for the neighbouring counties of Leeds and Landsdowne, “it worked, chiefly because ... [it] was a system of mixed social control ... a combination of local civic management and the control of anti-social behaviour.”¹⁸ Akenson's view has been reinforced by subsequent historians. In their doctoral theses, which examine the role of justices of the peace in Upper Canada, Susan Lewthwaite and Frances Thompson agree that Upper Canada's legal system was controlled more locally than it

14 Douglas McCalla, *Planting the Province: The Economic History of Upper Canada, 1784–1870* (Toronto: University of Toronto Press, 1993), pp. 118–121, 158.

15 Katherine M. J. McKenna, *Family Life in a Military Garrison: History of the Routines and Activities of the Royal Canadian Rifle Regiment at Fort Wellington, Prescott, 1843–1854* (Ottawa: Canadian Heritage Parks Canada, Microfiche Report Series No. 533, 1995).

16 Ruth McKenzie, *Leeds and Grenville: Their First Two Hundred Years* (Toronto: McClelland & Stewart, 1967), p. 188.

17 AO, 1848 and 1851 Prescott Censuses.

18 Donald Harmon Akenson, *The Irish in Ontario: A Study in Rural History* (Montreal and Kingston: McGill-Queen's University Press, 1984), p. 91.

was centrally from York and was thus responsive to community needs and concerns.¹⁹ David Murray's study of the Niagara district prior to 1850 documents discrimination by race, class, and gender in colonial courts, but sees "little evidence of widespread corruption and partiality".²⁰

As the Upper Canadian population grew, however, the burden of work proved too great for the local magistrates. Thus in the 1830s a new governing model was implemented in eight rapidly developing communities across Upper Canada, incorporating them as towns and establishing local Boards of Police to take over the comprehensive duties of the Quarter Sessions. If the Quarter Sessions was flexible and well suited to frontier needs, so too were the Boards of Police. They were also more democratic and more closely tied to their communities. In Prescott, presiding Board members were chosen from among local male property holders of at least £60 assessed value and elected by men who were British subjects owning a dwelling house and a plot of land or paying rent of at least £5 per annum within the boundaries of the corporation. The town was divided into east and west wards, each of which elected two members. The four chosen then nominated a fifth board member. All officers of the town, such as the Surveyor of the Streets, Clerk, Tax Assessors, Treasurer, Bailiff, and Constable were then chosen. The Board was responsible for enacting and enforcing the town bylaws, written by the Board members and renewed on an annual basis. This system held sway until a new *Municipal Act* in 1849 called for the establishment of a mayor and council, with a separate Police Court.²¹ The records of Prescott's Board of Police cover the period from its establishment in 1834 up to and including 1850, when the first mayor presided over the court.

19 Susan Dawson Lewthwaite, "Law and Authority in Upper Canada: The Justices of the Peace in the Newcastle District, 1803–1840" (PhD dissertation, University of Toronto, 2001); Frances Ann Thompson, "Local Authority and District Autonomy: The Niagara Constabulary, 1828–1841" (PhD dissertation, University of Ottawa, 1996). In a similar study of justices of the peace in the District of Montreal, Donald Fyson is less certain about the community responsiveness of the legal system in Lower Canada, suggesting that it was still somewhat autocratic. Donald Fyson, "Criminal Justice, Civil Society, and the Local State: The Justices of the Peace in the District of Montreal, 1764–1830" (PhD dissertation, Université de Montréal, 1995).

20 David Murray, *Justice, Morality and Crime in the Niagara District, 1791–1849* (Toronto: University of Toronto Press for the Osgoode Society for Canadian Legal History, 2002), p. 223.

21 On the history of municipal government and policing in Upper Canada, see James H. Aitchison, "The Development of Local Government in Upper Canada, 1783–1850" (PhD thesis, University of Toronto, 1953); Paul Craven, "Law and Ideology: The Toronto Police Court", in David H. Flaherty, ed., *Essays in the History of Canadian Law*, vol. II (Toronto: University of Toronto Press, 1983), pp. 248–307; Kenneth G. Crawford, *Canadian Municipal Government* (Toronto: University of Toronto Press, 1954); Adam Shortt, "The History of Municipal Government in Ontario: An Historical Sketch", in S. Morley Wickett, ed., *University of Toronto Studies*, vol. 2, no. 2 (1903), pp. 3–29; John C. Weaver, *Crimes, Constables and Courts: Order and Transgression in a Canadian City, 1816–1970* (Montreal and Kingston: McGill-Queen's University Press, 1995). For municipal government in the Kingston context, see George M. Betts, "Municipal Government and Politics, 1800–1850", in Gerald Tulchinsky, ed., *To Preserve and Defend: Essays on Kingston in the Nineteenth Century* (Montreal and Kingston: McGill-Queen's University Press, 1976), pp. 223–372.

As Paul Craven points out, “[L]ittle is known about these inferior tribunals which constituted the broad base of the judicial pyramid.”²² His own work on the Toronto Police Court from 1850 to 1880 is based on newspaper accounts rather than original court transcripts, as is Michael Katz, Michael Doucet, and Mark Stern’s discussion of the Hamilton Police Court.²³ Judith Fingard has located original Police Court records, which she puts to good use in her fascinating examination of “underclass” life in Halifax.²⁴ These studies deal with the courts in the late nineteenth century, when there was an established police force to respond to complaints and to track down criminals, imprison them, and charge them. In Prescott in the earlier part of the century, there was only a bailiff or constable who would act upon the complaints of ordinary citizens. The Board of Police, as did the Quarter Sessions, judged on matters brought to it by individuals, who, along a British model, were considered the prosecutors rather than the Crown.²⁵ All court costs were paid by either the plaintiff or the defendant, not the corporation. Even charges brought to the court by the bailiff or constable were represented as private charges brought by him. As Allan Greer has observed, early Upper Canadian justice was a “ramshackle affair” which “could not function as the instrument of an external and superior state power to anything like the degree that modern police forces later would”.²⁶ Only after the change in government in 1850 do we see a few charges brought to trial on behalf of the Board as a corporate body, despite the fact that the Board often asked town officials to perform bylaw enforcement duties.

In keeping with this personalized model of justice, cases were summarily dealt with, often the same or the next day. There were no judges, lawyers, prosecutors, or police witnesses, only the members of the Board, sometimes the bailiff or constable, the plaintiff, defendant, and the witnesses whom they had brought. The Board members themselves were not remote from those who appeared before them. Although some professionals such as lawyers and physicians served, for the most part the members were practical men of business, local merchants and manufacturers.²⁷ In their daily affairs they rubbed

22 Craven, “Law and Ideology”, p. 249.

23 Michael Katz, Michael J. Doucet, and Mark J. Stern, *The Social Organization of Early Industrial Capitalism* (Cambridge, Mass.: Harvard University Press, 1982), pp. 200–241.

24 Judith Fingard, *The Dark Side of Life in Victorian Halifax* (Porter’s Lake, N.S.: Pottersfield Press, 1991).

25 On the private nature of the system of British prosecution, see David Phillips, *Crime and Authority in Victorian England: The Black Country, 1835–1860* (London: Croom Helm, 1977), pp. 110–123; John J. Tobias, *Crime and Police in England, 1700–1900* (New York: St. Martin’s Press, 1979), pp. 117–138. In the *Brockville Recorder*, for example, cases brought before the Quarter Sessions were listed with the name of the private citizen prosecutor alongside that of the defendant. See, for example, *Brockville Recorder*, April 18, 1844, p. 3.

26 Allan Greer, “The Birth of the Police in Canada”, in Allan Greer and Ian Radforth, eds., *Colonial Leviathan: State Formation in Mid-Nineteenth-Century Canada* (Toronto: University of Toronto Press, 1992), p. 19.

27 Information on the occupations of Board members and of citizens who appeared before the Board has been obtained by checking names against the 1848 and 1851 Prescott censuses.

shoulders with those brought before them, even if they did have the authority to impose taxes and fines and to imprison defaulters for up to 30 days. Despite the fact that many of the individuals who appeared in front of this informal tribunal were not able to elect its members, it was nonetheless a community-responsive and immediate form of justice.

As a record of the public activities of ordinary women, the Board record provides us with rare insight into their transgressive behaviour, as well as the gender-based and class-linked sanctions increasingly brought to bear on them by the Prescott town fathers throughout this period. There was a rough total of 139 cases involving women between 1834 and 1850. Only 12 of these were brought on behalf of women by men. Of the 139, more than half (about 76) were independently initiated by the women themselves as prosecutors. Overwhelmingly, these were ordinary labouring women of the popular class, most of whom did not skirt the boundaries of the law in their daily lives like Mary Greneau. More often, they appeared at the court to settle everyday disputes that arose in their community. To a greater extent than the more formal Court of Quarter Sessions or the Police Courts established after 1850, the Board of Police was a practical means of dealing with community problems. Susan Lewthwaite has pointed out that both Upper Canadian rural settlers and their local justices of the peace were reluctant to take recourse to the law to settle their disputes. Community strife could be exacerbated by the time, trouble, and expense involved in court appearances.²⁸ This does not appear to hold true for Prescott's Board of Police. It was not costly; it was informal and conveniently located in the town. Nor, especially initially, was it mainly an instrument of institutional control, like the Upper Canadian church tribunals studied by Lynne Marks.²⁹ More often, it was a tool used by the local populace for their convenience, as a strategy for negotiating dissent within their neighbourhoods. As Lewthwaite has observed, "Whenever changes made the judicial system more accessible to people, they seized the opportunity to use it."³⁰

On the other hand, it is worth underlining that the Board of Police was a coercive institution, ultimately representing the interests of the wealthier male members of the Prescott community. It was no idealized, democratic, grass-roots body. Yet, since it did not always control the charges brought before it, but only sat in judgement, it was easily used by common citizens as a tool in negotiating social difficulties. Katz, Doucet, and Stern still see this occurring in the Hamilton Police Court of the 1870s. They observe, "To

28 Susan Lewthwaite, "Violence, Law and Community in Rural Upper Canada", in Jim Phillips, Tina Loo, and Susan Lewthwaite, eds., *Essays in the History of Canadian Law: Volume V* (Toronto: University of Toronto Press for The Osgoode Society for Canadian Legal History, 1994), pp. 353–386.

29 Lynne Marks, "Christian Harmony: Family, Neighbours and Community in Upper Canadian Church Discipline Records", in Franca Iacovetta and Wendy Mitchinson, eds., *On the Case: Explorations in Social History* (Toronto: University of Toronto Press, 1998), pp. 109–128, and "Railing, Tattling and General Rumour: Gossip, Gender and Church Regulation in Upper Canada", *Canadian Historical Review*, vol. 81, no. 3 (2000), pp. 380–402.

30 Lewthwaite, "Law and Authority in Upper Canada", p. 148.

Hamilton's working class the Police Court was not remote. Rather, as the assault cases in particular show, it was used to settle disputes within families or between friends and neighbours and to resolve the tensions that resulted when the strains of everyday life erupted into minor incidents of violence."³¹ Those who appeared before the court were not criminals, but were using the courts for their own private purposes.

Public records such as the Prescott Board of Police Minute Book, it has been argued, reveal at least as much about the institutions that created them as they show about the subjects whose histories are recorded in their pages. All too often the entries followed a prescribed script that undermines their value as authentic sources of information about people's lives.³² Although this problem can never be totally removed, the Board of Police for Prescott is perhaps less prone to it, due to the Board's informality and the fact that in 1834 it was a new Upper Canadian institution with little in the way of established practice to follow. Although not totally unmediated, the Board record appears to provide a summary of actual testimony recorded by the Clerk, taken verbatim from the lips of those who testified, complete with grammatical mistakes and colloquialisms. It is likely to be as close as one is going to get to hearing the real voices of women of plebeian origin for this early-nineteenth-century period. This is a record, then, that can provide us with rare insight into the public roles of ordinary Upper Canadian women.

Many of the women of Prescott who brought charges before the Board were married with their spouses still living, despite the fact that, according to British law, they were not supposed to act as legal entities apart from their husbands. Constance Backhouse's path-breaking work on women and the law in early Canada indicates that, in particular, married women were legally subjected to patriarchal control.³³ Law and custom do not always coincide, however. Women in Prescott could and did take the law into their own hands, acting as full citizens in the eyes of the Board of Police, if not in any other capacity in Upper Canadian society. Rusty Bitterman has observed similar behaviour among rural women in the 1830s in Prince Edward Island, in what she calls "the politics of direct action", which could include violent public behaviour.³⁴ In the very different context of urban New York City, Christine

31 Katz *et al.*, *The Social Organization of Early Industrial Capitalism*, pp. 228–229.

32 Karen Dubinsky, "Afterward: Telling Stories About Dead People", in Iacovetta and Mitchinson, eds., *On the Case*, pp. 359–366; Franca Iacovetta and Wendy Mitchinson, "Introduction: Social History and Case Files Research", in *On the Case*, pp. 3–21; Annalee Golz, "Uncovering and Reconstructing Family Violence: Ontario Criminal Case Files", in Iacovetta and Mitchinson, eds., *On the Case*, pp. 289–311.

33 Constance Backhouse, *Petticoats and Prejudice: Women and the Law in Nineteenth-Century Canada* (Toronto: Osgoode Society, 1991), and "Pure Patriarchy: Nineteenth-Century Canadian Marriage", *McGill Law Journal*, vol. 31 (1984), pp. 264–312.

34 Rusty Bitterman, "Women and the Escheat Movement: The Politics of Everyday Life on Prince Edward Island", in Janet Guildford and Suzanne Morton, eds., *Separate Spheres: Women's Worlds in the Nineteenth-Century Maritimes* (Fredericton, N.B.: Acadiensis Press, 1994), p. 38.

Stansell describes a vibrant street life with urban labouring women taking very vocal and active roles in their communities. She contends that this street theatre of loud contention had its roots in Irish culture brought by immigrants.³⁵ Perhaps this characteristic was shared by Prescott in this period. Women of Prescott of the popular class, the record shows, were publicly vocal not only on the street, but also in front of the Board. There is even at least one recorded instance of a woman successfully charging her own husband with disturbing the public peace by striking her.³⁶ Married as well as single women in Prescott could and did have their day in court, acting independently of their husbands despite the fact that law might dictate otherwise.

In this public role, women of the popular class of Prescott differed from their bourgeois sisters. Throughout the nineteenth century in Upper Canada, a new consensus was emerging about middle-class gendered social and moral values.³⁷ “The Cult of True Womanhood” prescribed that women’s role was in the private domestic sphere. Purity, chastity, delicacy, and retirement from the male world of politics, law, and business were requisite to this ideal of femininity.³⁸

The chasm that separated the classes in Upper Canada is dramatically revealed in the pages of the Board of Police record. Middle-class ladies were not to appear in public unescorted and were never to raise their voices. Compare this to the behaviour of Mrs. Hannah Ahern and Mrs. Catharine Murphy, screaming insults at each other in the street in a dispute over a pig. This fracas was concluded by Hannah’s employment of a favourite contemporary insult, placing, as the record shows, “her hand upon her hind parts” and inviting her neighbour to kiss her there.³⁹ Contrast the ideal of the “domestic angel” with the behaviour of Mrs. Thursbay and Mrs. Chamber toward Mr.

35 Christine Stansell, *City of Women: Sex and Class in New York, 1789–1860* (Urbana and Chicago: University of Illinois Press, 1986), p. 59.

36 September 7, 1841.

37 On the development of these new ideas about the gendered public and private spheres propagated by the middle class, see Andrew C. Holman, *A Sense of Their Duty: Middle-Class Formation in Victorian Ontario Towns* (Montreal and Kingston: McGill-Queen’s University Press, 2000); Lynne Marks, *Revivals and Roller Rinks: Religion, Leisure, and Identity in Late-Nineteenth-Century Small-town Ontario* (Toronto: University of Toronto Press, 1996); Katherine M. J. McKenna, *A Life of Propriety: Anne Murray Powell and Her Family, 1755–1849* (Montreal and Kingston: McGill-Queen’s University Press, 1994), and “‘The Union Between Faith and Good Works’: The Life of Harriet Dobbs Cartwright, 1808–1887”, in Elizabeth G. Muir and Marilyn F. Whitely eds, *Changing Roles of Women Within the Christian Church in Canada* (Toronto: University of Toronto Press, 1995), pp. 284–298; Cecilia Morgan, *Public Men and Virtuous Women: The Gendered Languages of Religion and Politics in Upper Canada, 1791–1850* (Toronto: University of Toronto Press, 1996).

38 On the genesis of the new ideal of middle-class womanhood in eighteenth- and early nineteenth-century England, see Leonore Davidoff and Catherine Hall, *Family Fortunes: Men and Women of the English Middle Class, 1780–1850* (London: Croom Helm, 1987). For similar developments in the United States, see Mary P. Ryan, *Cradle of the Middle Class: The Family in Oneida County, New York, 1790–1865* (Cambridge, Mass.: Cambridge University Press, 1981); Stansell, *City of Women*.

39 June 12, 1840.

Reynolds, Mrs. Chamber's former landlord. Mrs. Chamber had departed without paying her rent, so Reynolds was holding as security a box of her possessions. The two women arrived at his door one day, in the company of "one or two" soldiers, to reclaim her property. According to the court record, "Chamber pretended to offer him 3/ — being the balance due ... but would not let him see the money. He refused to give up the box without the same." The two women then left the house and "commenced breaking his Windows" with their umbrellas. "Both then made great confusion in the street cheering as they broke the glass crying out whores thieves and villains." Not many women behaved as outrageously as these two, and the stiff fines of 25 shillings each with costs of 2 shillings, 6 pence ensured that they would most likely have been sent to jail for 30 days in default of payment.⁴⁰ Still, their case and those of other women in the Board of Police record of Prescott show the striking differences between the genteel ideal to which the colony's social leaders aspired and the rough and ready nature of small-town street life. It is rare to locate such information about women of the popular class for this early period of Canada's history.⁴¹

The records of the Board of Police may have been dominated by the lower-class citizens of Prescott, but it was not a criminal court. It merely tried bylaw infractions, however broadly defined. Those brought before it were not at the extreme end of society, as were, for example, Judith Fingard's subjects in Victorian Halifax.⁴² Nor were they involved in a serious criminal prosecution as plaintiffs, as were the subjects of Karen Dubinsky's noteworthy study on rape in late eighteenth- and early nineteenth-century Ontario.⁴³ Although the behaviour that brought individuals to the Board of Police was deviant, it was not deviant enough to lead to exclusion from society. There are even accounts of prominent male citizens who appeared before the Board without seriously damaging their social position.

Butcher Joseph Cowan's wife Jane, for example, was charged in connection with a former servant, Margaret Fitzgerald. Margaret had returned to the Cowans' house to pick up some of her belongings, perhaps hoping that her former mistress would not be at home. Fellow servant Peggy Wilson testi-

40 February 8, 1841.

41 One exception is the information on women's work that Jane Errington has gleaned from newspaper sources in her book, *Wives and Mothers, School Mistresses and Scullery Maids: Working Women in Upper Canada, 1790–1840* (Montreal and Kingston: McGill-Queen's University Press, 1995). Another is the work on prostitutes in Montreal by Mary Anne Poutanen, "The Geography of Prostitution in an Early Nineteenth-Century Urban Centre: Montreal, 1810–1842", in Tamara Myers, Kate Boyer, Mary Anne Poutanen, and Steven Watt, eds., *Power, Place and Identity: Historical Studies of Social and Legal Regulation in Quebec* (Montreal: Montreal Public History Group, 1998), pp. 101–128, and " 'To Indulge Their Carnal Appetities': Prostitution in Early Nineteenth-Century Montreal, 1810–1842" (PhD dissertation, Université de Montréal, 1996).

42 Fingard, *The Dark Side of Life*.

43 Karen Dubinsky, *Improper Advances: Rape and Heterosexual Conflict in Ontario, 1880–1929* (Chicago: University of Chicago Press, 1993).

fied that, when Jane Cowan saw Margaret, she “took up a Broomstick and beat her with it striking her over the head and arms”. Jane was found guilty and given the usual fine of 5 shillings plus costs of 8 shillings, 3 pence. Jane was furious and accused Margaret in the open court of being a whore. Thus, three days later, Margaret had Jane before the Board again, this time defending her reputation. Witnesses asserted that Jane Cowan had told them that she had found a man in bed with Margaret and had caught her stealing, but something had happened between the first and second trials to change Jane’s opinion. Perhaps the violence of Jane’s attack on Margaret had been caused by Jane’s belief that the sexual transgressions of the former servant had been committed with Jane’s husband. Possibly to prevent this information from becoming public, Jane now did a complete about-face, saying that Margaret was a good girl, that Jane had never had cause to complain of her, and that she was honest. This still did not prevent Jane from being fined £1.3.3 including costs.⁴⁴ Nor was this the only time that the Cowans had been accused of violent offences. Three years earlier, Joseph had been charged but not convicted of assaulting Catherine Collins, and in 1840 Jane was also unsuccessfully charged with treating a small girl roughly.⁴⁵ None of this prevented Joseph from being elected three times to the Board, in 1841, 1842, and 1848.

Board member Moses Murphy also crossed the line from judge to miscreant. He was a member of the first Board and served for five terms in 1834–1835, 1838–1839, and 1843. During his last term, he was called up by John Wilson, whose neighbour Mrs. Jane McLean had been annoying him with noise for several nights in succession. Wilson charged her with a breach of the public peace. He claimed that her house was a real nuisance and that “persons reside there at all hours and frequently stop there all night”. Jane was fined 5 shillings and costs, but, unsatisfied, Wilson pressed on to make further charges. When he had gone to her door to request the revellers “to keep quiet [that] it was time to be at home and be in their beds” because he “wished to sleep”, Murphy, who was inside, came forward. He belligerently replied that Jane Wilson “had a right to make as much noise as she pleased and told complainant to kiss his arse and go to hell”. Wilson’s wife heard Murphy say “that he paid rent for the house and they might do as they pleased”. A witness heard Murphy go back into the house and say “to some other men let us go in again and make more noise”.⁴⁶ Murphy was accordingly fined the standard 5 shillings and served out his term on the Board, but was never re-elected. Still, his behaviour was not considered so scandalous that his resignation was demanded.

Murphy was not the only local notable who paid rent for a house that was not his principal residence. The illustrious Jessup family, staunch Loyalists

⁴⁴ May 8 and 11, 1838.

⁴⁵ September 22, 1835; December 7, 1840.

⁴⁶ September 6, 1843.

and founders of Prescott, were represented locally by two male descendants in the 1830s and 1840s. One, Hamilton D. Jessup, was a local physician who was a respectable pillar of his community and elected to the Board in 1837, 1843–1845, and 1848. The other headed a decaying branch of the family tree. Henry James Jessup came up before the Board on many occasions, caused by either his hot temper or by his predilection for frequenting houses of “disorder”. In 1844 Jessup was rumoured to be “keeping a bad woman” at the house of Mrs. Black, by the name of Mary Delany.⁴⁷ Two years later he had tired of her, but Mary was not taking his abandonment without protest. She took to following him around, accosting him in public barrooms, and calling him a “damned whoremaster”. This got to be too much for him, and he charged her with “annoying, insulting and abusing” him. The members of the Board were all too aware of the pair’s former relationship, and they sought to mediate the dispute. The matter was finally concluded when “defendant agreed with Prosecutor that if he would give two pounds ten shillings and give up her cloths and she to give up his they were to part. He gave up her cloths, gave her the money. She gave up his cloths, they appeared to be satisfied at parting.” This settlement did not prevent the Board from fining Mary Delany 15 shillings plus court costs, however, which made a substantial dent in her £2 from Jessup.⁴⁸

Henry Jessup may have already taken up with a new woman by this time, by the name of Marian or Mary Lang or Lane. She was living in Mrs. McLean’s house, which earlier that summer of 1846 had been such a nuisance to the neighbourhood. Jane McLean, Mary Lane, Mary Keating, and Bridget Wood were “brought before the Board for a violation of the By-Laws” by their neighbour and later Board member, merchant Robert Headlam, for a “Breach of Public Decency and good order and for intoxication”. Witnesses testified that they had been “annoyed by these prisoners for a long time”, but, on one particular night, “a large party of drunken men [were] in and about the house creating a riot and disturbance in the door of the house where the prisoners live”. One “saw men passing and repassing with Bottles in their hands, drunk ..., saw one man pulling Mrs. Lane by the arm outside the house”.⁴⁹ This may have been the same woman who, like Mary Delany, began shouting abusive names at Jessup in the street a year later. The first time Jessup charged her, the case was dismissed, but a month later, when she added threats to throw stones through his window to her insults, she was fined 5 shillings plus costs.⁵⁰ The comparatively light fine that she received may have been an acknowledgement by the Board of Jessup’s role in provoking such behaviour from two different women.

Perhaps Jessup should have followed the lead of railway engineer Walter

47 April 29, 1844.

48 August 4, 1846.

49 May 26, 1846.

50 June 30 and July 6, 1847.

Shanley, who was always on the lookout for sexual prey, but concluded that Prescott was a dead loss in this respect.⁵¹ “There is a sad deficiency of anything *safe* in these diggings,” he complained to his brother in 1851.⁵² Shanley had a highly tuned sense of what was appropriate to what he considered his station as an educated professional man. For example, he was shocked when he heard that his brother had entered a public bar frequented by some railway labourers. “Nothing I had heard for some time ‘put me out’ so much as your confession of swilling porter in a public bar with my serfs,” he complained. “I keep all my staff at an immeasurable distance. How they must have laughed in their sleeves at the porter drinking and in what utter contempt ... must hold you..., but the subject is an unpleasant one to dwell on.”⁵³ Shanley preferred not to “slum it” with woman like Mary Delany and Marian Lang, but sought out the more respectable elements of the popular class. He particularly was attracted to innkeepers’ daughters. When he stayed for a while at Gilman’s Hotel in Prescott, he complained that he was not allowed access to “those sisters-in-law of Gilman’s” who were “really very fine girls — but so ‘severely proper’ you can scarcely approach them.... Mrs Gilman, who is as fine a looking woman as I ever saw, keeps strict watch & ward over them, & it is not easy even to see them.”⁵⁴ Shanley found the company of a widow who gave him “a very pressing invitation to keep continually going there” more agreeable. Mrs. Weir was “just the sort of woman who would mix your grog for you”, Shanley speculated, “but in return would expect you to marry her”. Still, he determined to “lay siege”.⁵⁵ Yet, for all his frequent preoccupation with sexual adventure in his letters to his brother, Shanley scorned the society of women who kept and frequented disorderly houses. After renting a room in Prescott at Torr the baker’s, he found it to be “a most Bawdy-house place” and determined to move at the first opportunity.⁵⁶ Although some men were able to get away with crossing the class barrier, for the most part the women who turned up in the Board records for disturbing the public peace were consorting with men of their own class or nearly so. They most certainly did not aspire to be middle-class angels of domesticity.

Still, in the earlier years of the Board of Police records, even if disorderly houses were not appreciated, neither were they especially condemned. Mary Anne Poutanen has observed a similar tolerance in Montreal neighbourhoods, provided the peace was not disturbed.⁵⁷ The line between them

51 A recent book on the Shanley brothers discusses their professional careers and their class status as “gentlemen” in some detail, but not their views on women. Richard White, *Gentlemen Engineers: The Working Lives of Frank and Walter Shanley* (Toronto: University of Toronto Press, 1999).

52 AO, Shanley Papers, Box 68, Walter Shanley to Frank Shanley, Prescott, June 23, 1851.

53 *Ibid.*, October 6, 1851.

54 *Ibid.*, June 16, 1851.

55 *Ibid.*, July 8, 1849.

56 *Ibid.*, November 23, 1851.

57 Poutanen, “The Geography of Prostitution”, p. 102.

and houses of prostitution was not sharply delineated. Katz, Doucet, and Stern note this later in the century as well. "In fact," they observe, "little distinction was made between houses in which prostitution took place and ones where loud, uninhibited behaviour annoyed the neighbours or attracted the attention of the police."⁵⁸ Selling a little bit of sex on the side was rarely a speciality for most popular-class woman, who adopted a number of strategies of survival, which in Prescott included, as Bettina Bradbury has noted for Montreal, keeping pigs and other livestock and taking in boarders.⁵⁹ Selling liquor and providing entertainment, as did Mrs. Greneau, was an easy way of augmenting one's income. Certainly a ready clientele would be found among the soldiers at Fort Wellington and the sailors and traders who passed through Prescott. Such women did not consider themselves to be prostitutes and might even have had other occupations such as needlework or laundering that did not pay them enough to survive.⁶⁰ Catherine Curry, for example, who appeared before the Board on three occasions on charges related to keeping a disorderly house, was listed on the 1851 census as a dressmaker, with two female "servants" living with her.⁶¹ Mary Keating, Mary Lane, Bridget Wood, and Jane McLean, when charged with public drunkenness, were all women on their own who had combined their households to stretch their limited means. Although they may very well have been providing sexual services to their patrons, they were not charged with prostitution.

In fact, there was no bylaw that specifically referred to prostitution, only a vaguely worded general ordinance that called for penalties for any breach of public decency or order, which included, among other things, breaking the sabbath, cutting down shade trees, and defacing buildings.⁶² Most of the charges against disorderly houses came under this bylaw. Although in testimony it was often mentioned that the defendants were keeping disorderly houses, on only three occasions before 1848 were women actually charged with this offence, and one of these charges was dismissed. In 1841, perhaps alarmed by the military presence of British soldiers at Fort Wellington after the Upper Canadian Rebellion, the Board for the first time brought in two bylaws dealing specifically with keeping bawdy houses and "vagrant public Prostitutes loitering about the streets".⁶³ No charges were ever brought under these new bylaws, however, and they were not renewed the following year.

Indeed, although almost all of the charges involving women included some element of public disorder, most were not for offences related to providing

58 Katz *et al.*, *The Social Organization of Early Industrial Capitalism*, p. 231.

59 Bettina Bradbury, "Pigs, Cows and Boarders: Non-Wage Forms of Survival among Montreal Families, 1861-91", *Labour/Le Travail*, vol. 14 (1984), pp. 9-46.

60 Judith Fingard has also seen this type of practice of prostitution in Halifax; see *The Dark Side of Life*, pp. 95-113.

61 February 24, 1848; January 29, 1849; May 8, 1850.

62 See bylaws for April 1834.

63 June 7, 1841.

entertainment. A significant number — about 32 cases of the 139 involving women — were related to violence against women committed by men, in particular between husbands and wives. A much smaller number — about nine — involved violence against women committed by women. Often alcohol abuse was implicated, as when Henry Hughes disturbed the public peace by striking Mrs. Anne Crowthers in the street outside the Dog and Duck tavern.⁶⁴ When labourer Jonathan Houlihan was charged by Constable Cavalier “for being drunk on Sunday night and for abusing his wife” Teresa, he admitted his guilt, but blamed it on the drink.⁶⁵ One case of wife assault complicated by racial discrimination involved a black man, Lewis Beale, the local barber. He first appears in the record when involved in a barroom brawl. Witnesses said that he had “ushered himself into some company he had no business with” and was accordingly refused service. Beale asserted in response “that he was a Gentleman & would flog all the englishmen in the place” along with a number of other threats. When Joseph Wood called him “a fool and a drunkard”, Beale responded that “if he could have the chance to shave him he would cut his throat”, hardly a statement that would be good for business. He was evidently a large man, too strong to be removed by those present. Later Beale’s wife and child took the brunt of his anger and fled to the home of Obadiah Dixon and his wife in fear for their lives. When Dixon refused to deliver up Beale’s wife, Beale drew a dagger. In the process of disarming him, Dixon suffered a bite on his thumb and a fight ensued. Although only charged 5 shillings for the first offence, this second time Beale was given a fine of £2.10 with costs, a serious deterrent. He did not appear on charges again, although he was living in Prescott until at least 1842, when a reference in another case was made to the “nigger barber”.⁶⁶

Sometimes violent cases involved some element of sexual coercion, as when Charles Gray and Joseph Webb were charged in 1848 “for disturbing the public peace, and abusing Mrs. Webb this day and previously and for keeping a house of ill fame”.⁶⁷ One particularly disturbing case involved William Lee, who had been charged before for public intoxication and using profane language, and the young daughter of Mrs. Keating. Lee was charged by Alexander MacMillan, a well-off farmer who had been a Board member for 10 years, “for committing a breach of public decency”. Witnesses testified that, although “Mrs. Keating’s daughter desired Lee to leave her Mother’s residence”, he refused. Passersby heard the “child cry murder” and call Lee “a blackguard”. The record implies that perhaps she had resisted Lee’s sexual advances. Apparently he beat her severely; others heard “screeches from Mrs K’s child, went there and saw the child almost breathless and in a state of suf-

64 July 26, 1839.

65 July 1, 1850.

66 July 6 and October 7, 1837; September 26, 1842. Beale, as noted earlier, does not appear in the 1848 and 1851 censuses.

67 September 15, 1848.

focation from the ill treatment of Lee, and her face was covered with blood". Lee was given a heavier fine than normal, 15 shillings, but it was still nothing close to what Beale had been fined for biting a white man's thumb.⁶⁸

Popular-class women were not simply passive victims as these cases of assault have implied. More typical was the behaviour of Dorothy Erringy toward her husband Thomas, a local hotelkeeper. Their marriage was in crisis in the summer of 1850. Thomas had moved into the home of Minerva Coons (alias Finley, according to the record), who was considered to be keeping a house of ill fame. Rather than accept this abandonment, Dorothy went to the house, broke the windows, and "called Mrs Finley a whore". She then publicly berated her husband, calling him a "whoremaster", and ended up in a violent argument which ended with him hitting her. Even though Dorothy had started the altercation, the neighbours charged Thomas and Minerva with disturbing the peace, and they were fined 25 and 20 shillings respectively. Thomas launched his own complaint against his wife for her role in disturbing the peace, but such was the community censure of his behaviour that, when the Board convened, he did not show up and was charged costs. In the 1851 census, Dorothy and Thomas were listed as occupying the same premises and Minerva Coons/Finley had evidently moved out of town, so it appears that Dorothy's aggressive action had reclaimed her husband.⁶⁹

Such violent cases were not typical of the charges brought to the Board, however. By far the greatest number, about 78 of the 139 cases involving women, had to do with name-calling. In any public dispute involving women, such as with Minerva and Dorothy, far and away the favourite insult was some variant of whore. Men, in contrast, were called a variety of names such as scoundrel, thief, villain, or blackguard, which more generally reflected on their character or integrity rather than their sexual behaviour.⁷⁰ Ethnic insults were relatively rare, according to the Board record. Cases of name-calling often involved women from the "respectable" part of the popular classes, as well as the obvious easy targets of such insults. Anna Clark has studied defamation cases involving women from 1770 to 1825 in the Church of England London Consistory Court. She argues that the frequency of cases involving insults to the sexual reputation of lower- and middle-class woman reveals tensions and anxieties surrounding changing social values about women's honour. Prior to the development of a middle-class ideology of female domestic purity, being seen in public did not automatically mean that a

68 September 5, 1844.

69 July 1, 1850.

70 S. M. Waddams observes the same gendered pattern in name-calling in English ecclesiastical courts in his book, *Sexual Slander in Nineteenth-Century England: Defamation in the Ecclesiastical Courts, 1815–1855* (Toronto: University of Toronto Press, 2000). Cecilia Morgan looks at another aspect of honour for men of the upper classes during this period in her article, " 'In Search of the Phantom Misnamed Honour': Dueling in Upper Canada", *Canadian Historical Review*, vol. 76 (1995), pp. 529–562.

woman was suspected of being a prostitute. Defamation charges were both examples of conformity and resistance to a new moral standard. The insult of whore served to restrict a woman's public life, for to be truly respectable a woman had to remain in the home. Clark argues that, when women called each other whore, "they were succumbing to the reality of the importance of sexual reputation in women's lives, drawing upon the moral vocabulary of the dominant class to carry out their own vendettas. But they were also defying the linguistic constraints of ladyhood by being loud and aggressive and by refusing to accept the newly defined private domestic sphere."⁷¹ This was, then, a discourse of both repression and resistance. In Prescott of the 1830s and 1840s, we can see the same pattern that Clark does in London from 1770 to 1825.

Insults which called into question a woman's moral honour could be used to put her in her place, as when Mr. Desordie responded to Hannah Ahern's attempt to collect payment for bread by calling her a "drunken woman".⁷² They could also be a way in which a woman whose reputation had been maligned might counterattack, by discrediting her critics. When William Dove accused Christina Brogan of keeping a disorderly house, she replied by calling his wife a whore and a bitch.⁷³ Another noteworthy case involved Mrs. Elizabeth Gillard, who found some letters "as she supposed very suspicious" between her husband and Mrs. Girnash, the wife of a local bar owner. Mrs. Gillard went to the bar to confront the other woman, who, as soon as she realized who Gillard was, called Gillard "a streetwalker" and pushed her out of the room and outside, where she fell on some bushes. Clearly Mrs. Girnash was trying to keep her husband from finding out about her and Mr. Gillard, and at least for the moment it worked. John Girnash joined in the abuse, yelling at Mrs. Gillard that "if one man was not enough he had two more in the barroom".⁷⁴ Both Girnashes received hefty fines, perhaps out of sympathy with the injured wife. Most often insults to a woman's reputation took place in the context of disputes over other issues. A number of these were provoked by irritations caused by town life. Pigs running at large were a particular problem. A whole neighbourhood erupted on one June day when a particularly vicious pig owned by Mrs. Ahern tried to bite the child of Mr. and Mrs. Parsons. They threw hot water on the pig to chase it away and apparently scalded it. When Mrs. Ahern came over to complain, the dispute escalated with the result that the two women accused each other of a number

71 Anna Clark, "Whores and Gossips: Sexual Reputation in London, 1770–1825", in Arina Angerman, Geerta Binnema, Annemieke Keunen, Vefie Poels, and Jacqueline Zirkzee, eds., *Current Issues in Women's History* (London and New York: Routledge, 1989), pp. 238–239. Christine Stansell in *City of Women* has observed the same behaviour among urban labouring women in New York, who took their private disputes to the public streets.

72 July 12, 1837.

73 August 26, 1850.

74 June 12, 1840.

of things, including being whores, being drunkards, and stealing the cloak of Mrs. Spiller, a local schoolteacher.⁷⁵

It is important to note that these cases were not defamation charges, but usually complaints brought under the bylaws for disturbing the peace. It was a matter of utmost indifference to the Board whether the charges were justified or not, simply whether or not the breach to the public peace had occurred. Just calling a woman a whore in public was considered inappropriate, whether or not she actually was one. It was very likely that the size of the fines given reflected the Board's opinion of the woman's respectability, but only in exceptional circumstances was more than 5 shillings assessed for public insults. Although the many women who brought charges for name-calling obviously must have felt they were defending their honour, they did not have to prove it. Thus Catherine Curry was able, for example, immediately following a conviction for keeping a house of ill fame, to charge Henry James Jessup successfully with using insulting and improper language to her.⁷⁶

Since it was so easy to obtain convictions, and the consequences for being found guilty were usually so minor, the women of Prescott came to use the Board more and more for settling personal disputes. This peaked in 1840–1841, when about twice as many cases involving insults against a woman's reputation were heard by the Board than in the previous five years; this number was about the same as that of similar cases heard over the next eight years. Anxiety about the increased complaints may have been another reason that motivated the Board to enact the bylaws concerning streetwalking and keeping bawdy houses in 1841. It may have also been behind a stern warning issued in June 1840 reminding citizens "that anyone after the date hereof entering complaint" should be aware that "the Board will not hold themselves responsible for whatever costs the said complaint may incur to the Clerk or constable for said complaint."⁷⁷ Although after this the frequency of charges dropped, the use of the Board had become part of an individual's personal arsenal in disputes between women in Prescott. In 1843, for example, when Elizabeth Fineman and Ann Grey were fighting over the use of their shared porch, Elizabeth taunted Ann, looking in her window and rattling her shutters, crying, "Old Mother Gray have you paid your fine yet, I have not done with you yet!"⁷⁸ In 1850 there was even a case of a minor, 13-year-old Ally McGregory, a baker's daughter, charging Sall Laraby for calling her a whore.⁷⁹

Particularly after 1848, however, the use of the Board changed. The steady drop in charges brought to it by women may have had to do with a growing sense that such public displays were damaging to female reputation. From a

75 August 24, 1840.

76 May 9, 1850.

77 June 15, 1840.

78 August 21, 1843.

79 November 2, 1850.

peak of 25 cases involving women in 1840, the number steadily dropped to only three by 1844. Then the numbers slowly began to rise, hitting a smaller peak of 13 by 1850. The cause of the second rise, however, was not more women themselves bringing charges, but rather more aggressive action by the town fathers, particularly aimed at reducing the incidence of disorderly houses.

In the mid-nineteenth century, a wave of Evangelical reform was sweeping over North America as well as Britain. Historians such as Jan Noel, in her study of temperance movements, documented a striking change in social values in Upper Canada in the 1840s and 1850s.⁸⁰ In Prescott, this may have also been fueled by concern over the number of destitute Irish immigrants who were arriving after 1847. In the summer of that year, the Board had been ordered by the Governor-General to take steps to prepare to deal with an expected onslaught of the ill and the desperate.⁸¹ Nonetheless, although such steps were taken, in 1849 the Board responded to complaints about “the occupation of a dilapidated house in the main street by emigrants, that said house being in a filthy state”. Orders were given to “abate the aforesaid nuisance by ejecting the parties living in said premises and cleaning and securing the same from further annoyance to the Neighbourhood”.⁸²

The same urge to clean up was directed toward alcohol consumption and public morality. After 1848 there are cases of applications for liquor permits being turned down, something that was unheard of before this time. Certainly a very large amount of alcohol was manufactured in Prescott. According to the 1851 Census, 30,937 gallons of spirits, wine, and fortified wine were sold annually, as well as 1,500 gallons of beer. Although some of this was surely sold away, it still is a remarkable amount produced in a town of 2,156 persons. J. O’Sullivan, who took the census, was a stonemason and a temperance man. He could not resist editorializing about this amount of alcohol. “The Enumerator begs leave”, he wrote in an extraordinary notation concerning this use of grain products, “to draw the Hon. Inspector General’s attention to this large amount of the people’s food [being] consumed into poison and prays that his noble efforts may be employ[ed] either in Council or in the legislature to suppress the crying evil of intemperance.”⁸³

80 Jan Noel, *Canada Dry: Temperance Crusades Before Confederation* (Toronto: University of Toronto Press, 1995), pp. 123–139. On the influence of evangelical reform in Upper Canada, see also M. A. Garland and J. J. Talman, “Pioneer Drinking Habits and the Rise of Temperance Agitation in Upper Canada Prior to 1840”, in F. H. Armstrong, H. A. Stevenson, and J. D. Wilson, eds., *Aspects of Nineteenth-Century Ontario: Essays Presented to J. J. Talman* (Toronto: University of Toronto Press, 1974), pp. 171–193; McKenna, “‘The Union Between Faith and Good Works’”; W. Thomas Matthews, “Social Order in Upper Canada”, in J. M. Bumsted, ed., *Interpreting Canada’s Past Vol. I: Pre-Confederation* (Toronto: University of Toronto Press, 1993), p. 407. Judith Fingard in *The Dark Side of Life* sees the same evangelically inspired reform taking place after 1850 (see especially pp. 117–133).

81 June 7, 1847.

82 June 4, 1849.

83 AO, 1851 Prescott Census, p. 75.

The Board was equally concerned about the "crying evil" of female immorality and the public disorder it caused. In 1848 a new bylaw specifically prohibited prostitution and houses of ill fame occupied by "loose" women.⁸⁴ The first three charges brought under this bylaw, however, were dismissed for lack of evidence. It is not clear who brought the charges, but obviously people were not willing to testify against their neighbours under the new law.⁸⁵ The local authorities then became increasingly involved in pressing charges, as when Constable Benjamin Cavalier charged Bridget Agar with "riotous conduct", "scolding", and keeping a "bad house". He actually entered her home and, when he "saw part of a man's pantaloons stuck out of a hole", he pulled out the half-undressed Patrick Griffin. Fines also became stiffer, and thus imprisonment more likely. Bridget Agar was fined 20 shillings and sent to Brockville jail in default of payment for 21 days, although Griffin was not charged.⁸⁶ A local lock-up was also built, so that miscreants such as Mary Hutton could be imprisoned locally while they awaited trial. Both she and her husband were found drunk and arguing in the street, but only Mary was locked up until the Board assembled on Monday.⁸⁷ Obviously this would send a strong message to women who were fond of drinking. Increasingly, women of the popular class stopped laying charges, and several charges before the court were delayed and then quietly died. Accordingly, the Board stepped up its role in prosecution. In late 1849 the Corporation took it upon itself to charge William Sanders with keeping a bawdy house. Even though he confessed, he was fined 10 shillings and had his liquor licence revoked.⁸⁸ Half a dozen other successful charges were brought after 1848 against women for keeping disorderly houses, the most notable of which was that against Catherine Curry, brought by none other than Henry James Jessup. Her neighbours turned out in force to defend her, asserting that they never saw men there, that the house was always quiet by 9:00 p.m., and that she did not allow gambling. Jessup, they said, was having a quarrel with her and had said publicly that "he would perjure himself to have Mrs. Curry turned out of town". Jessup alone testified against her, and on that basis she was convicted. This was quite a departure from the judgements of earlier boards.⁸⁹ Still, as we have already noted, Catherine Curry successfully countercharged Jessup the following day and was not run out of town. She was still in Prescott the next year and shows up on the census as a dressmaker.

In conclusion, it is illustrative to look at the career of one particularly notable user of the Board's services, Mrs. Ann Black. She appeared before

84 Mary Anne Poutanen also sees a sharp rise in the number of women arrested for prostitution in the 1840s in Montreal ("To Indulge Their Carnal Appetites", p. 233).

85 February 28, 1848.

86 July 13, 1850.

87 April 28, 1849.

88 December 3, 1849.

89 May 8, 1850.

the Board for many different reasons a total of 15 times between 1839 and 1850. Her story opens in the store of Farrow and Scott, where she had come to buy brandy, assuring the clerk “that she was able to pay for it”. Hotel proprietor J. S. Gilman was also there and passed some derogatory comment about her ability to pay. She retaliated by insinuating something nasty about his family, and he concluded by calling her a “damned Irish thing” and “told her to kiss his backside”. Ann had the last word by successfully charging him with a bylaw violation.⁹⁰ A month later she also charged William Manes for calling her a bitch and whore and accusing her of keeping a bawdy house. Even though she had retaliated by calling him a whoremaster, rebel, and informant, he was fined 10 shillings plus costs.⁹¹ In 1841 Ann’s husband James turns up in the record for the one and only time, when she charged him with striking her. Sergeant Smith testified that James, perhaps enraged by some of her activities with soldiers at Fort Wellington, “wanted to go into the Barracks to fight some of the men. Called Mrs. Black unbecoming names struck her several times.” James was fined 25 shillings and seems to have disappeared from that day onward. Undaunted, Ann continued her feisty independent career.⁹²

In 1843 Ann charged Mary McMannus with accusing her of “bringing up bastards for Bill Johnston”. This had occurred in the context of an argument over whether Mary was entitled to stay in the room she was renting from Ann. Ann told her “that two women had been looking at the house”, and Mary replied that “she would keep the key until her month was up ... that no one should come in as long as she paid the rent”. During the course of this dispute, Ann had also insulted Mary by alleging that she lay in bed all day drunk. The board fined them each 5 shillings and split the costs between them.⁹³ Obviously, Ann could give as good as she got, and in 1844 she was charged by Louisa Fortier, as one witness attested, for saying “that Mrs. Fortier was taken out of a whore house in Quebec and was a whore to all the Canadians in Quebec” and for “throwing stones into her house”. Although Ann was charged with using abusive language, her neighbours volunteered much more evidence. One witness said that she had heard “noise throughout the night” from Ann’s house, “which from all circumstances the Witness considers ... an indecent house.... [T]he defendant keeps a woman who is not a decent woman in her opinion, her house is open at all hours of the night.” The woman who was not decent was none other than Mary Delany, at that time the kept mistress of Henry James Jessup. Jane Wilson even alleged that she had “lived in Mrs. Black’s house five months and caught a man in bed with Mrs. Black”. Ann was given double the usual fine, 10 shillings plus costs.⁹⁴

90 October 14, 1839.

91 November 11, 1839.

92 September 17, 1841.

93 May 12, 1843.

94 April 29, 1844.

Between 1843 and 1850, Ann was involved in seven other cases in the record, one as witness, two as complainant, and four as defendant. She won both her cases, one in which the defendant had called her a "poxed bitch" and the other in which the defendant had spit on her in the street.⁹⁵ Two of the charges against her were dismissed, and she was convicted and fined the standard 5 shillings on two others involving abusive language.⁹⁶

Finally, in 1850 the respectable men of Prescott decided that Ann Black had troubled them enough. Thomas Gainford, MD, took it upon himself to charge her with keeping a house of ill fame. His testimony was recorded in detail:

Dr. Gainford sworn, Says that ever since she came to the neighbourhood, that her conduct was a specimen of depravity a little short of Murder. Debauched females are harboured in said house and incendiary conduct carried on therein. Says that Mrs. Black did curse & swear on the night & morning as aforesaid & continued so doing for about the space of two hours — calling out infernal liars, Damn liars, and it would be impossible to repeat all that she said in the way of Cursing and Swearing, even said God Damn liars to some persons outside the door....⁹⁷

This language actually sounds fairly tame for Ann, but perhaps Gainford could not bring himself to repeat the full extent of her profanities. She was fined the incredible sum of 50 shillings, which of course she could not pay, and so was sent to Brockville prison for 30 days. But this was not the end of her career. She was barely out of jail when she appeared with a charge against Mark McMannus for treating her violently. He was convicted and fined 30 shillings for his abuse of her and an additional 10 for being rude to the Mayor.⁹⁸ The most remarkable case, however, was the last recorded about her. In 1850 John Bodry assaulted Ann. She testified that "she was in her house and [he] asked her if he would be allowed to lye down awhile, she would not allow him to lye down in her house then he commenced breaking several articles in said house and insisted that Complainant should go to bed with him, witness says that he used violence to effect his purpose."⁹⁹ Bodry did not succeed in subduing the indomitable Ann Black. She fought him off, and, even though he offered to settle with her by paying \$1 in damages, she insisted on her day in court. He was fined 20 shillings and costs of 7 shillings, 6 pence. The mayor was paid 2 shillings, 6 pence; the court 8 shillings, 9 pence; and 8 shillings, 9 pence went to Mrs. Black. This was a truly incredible result since, as a convicted keeper of a house of ill repute, she could not

⁹⁵ March 23, 1846; November 30, 1848.

⁹⁶ July 20, 1849; November 9, 1849; September 8, 1846; August 12, 1848.

⁹⁷ June 25, 1850.

⁹⁸ August 7, 1850.

⁹⁹ October 3, 1850.

possibly have obtained a judgement against Bodry for attempted rape in a higher court.¹⁰⁰

Although women like Catherine Curry and Ann Black could still have their day in court, by 1850 the Board of Police was playing a very different role in the Prescott community than it had in 1834. From a peak of cases brought by women in 1841, women's use of the Board declined as it became increasingly the instrument for a gendered and class-based agenda of social control and moral reform, led by professional men of the bourgeois class. The character of the record changes as well, and we no longer hear as much from the voices of the women themselves as we do from their accusers.¹⁰¹ From 1850, municipal enforcement bodies such as the police and police courts were established, which were much more effective in asserting the power of local authorities. Throughout the latter part of the nineteenth century, the process of establishing the hegemony of gendered middle-class values of appropriate female behaviour was well advanced. By the late nineteenth and early twentieth century, if a women was raped or assaulted, she was the one on trial, and her male attacker's crime was mitigated by any failure on her part to live up to the domestic and moral ideal of "True Womanhood".¹⁰² We still struggle with this legacy today.

What Ann Black's story, and those of the other women who used the Board of Police, can tell us today is that, despite the dictates of law, class status, and convention, they were publicly active in the pursuit of their interests. The Board of Police record gives us a glimpse of women's transgressive behaviour and shows that they could choose not to be compliant with the restrictive ideology of "True Womanhood". Women of the popular class of Prescott in this early period could and did take the law into their own hands and use institutions run by male community leaders for their own purposes, as agents in their own lives.

100 On the difficulty of getting convictions related to rape, see Constance Backhouse, "Nineteenth-Century Canadian Rape Law, 1800–92", in Flaherty, ed., *Essays in the History of Canadian Law*, Vol II, pp. 200–247; Dubinsky, *Improper Advances*.

101 Lykke de La Cour, Cecilia Morgan, and Mariana Valverde see this trend more generally in what they call a "masculinization of public power" after the rebellions in Upper Canada. See "Gender Regulation and State Formation in Nineteenth-Century Canada", in Greer and Radforth, eds., *Colonial Leviathan*, p. 163. Bitterman refers to the same process in Prince Edward Island after 1830 ("Women and the Escheat Movement"), as do Stansell (*City of Women*) and Mary Ryan, *Women in Public: Between Banners and Ballots, 1825–1880* (Baltimore: Johns Hopkins University Press, 1990), in the mid-century United States.

102 On women's supposed responsibility for crimes committed against them, see especially Dubinsky, *Improper Advances*; Golz, "Uncovering and Reconstructing Family Violence".