

“She is Without a Doubt, the Greater Sinner, and Merits the  
Greater Punishment...”  
The Regulation of Bawdy Houses and the Administration of  
Justice in Edmonton, Alberta, 1910-1930

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By

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## Abstract

Prior to the passage of the Canadian Criminal Code (CCC) in 1892, prostitution was considered a public nuisance and tolerated by many sectors of Canadian society. By the late nineteenth century, however, attitudes became more punitive, resulting in the criminalization of brothel and prostitution-related crimes. Changes in the law arguably reflect the changes in society, which can be attributed to the moral reform movements that emerged in the 1880s. The period from 1910-1930 represents the peak of the reformers' influence Canadian law and enforcement, after which the number of bawdy house (brothel) sentences in the lower court systems declined as the reformers turned their attention to temperance.

This thesis seeks to the adjudication of bawdy-house related cases and the implication of these patterns for understanding the changing attitudes toward prostitution in Edmonton, Alberta from 1910-1930. Using the monthly returns and the correspondence of Magistrates Emily Murphy and Magistrate Philip Primrose, I examine the adjudication of cases of those who worked in bawdy houses, the “inmates” and “keepers,” and those who used their services— “frequenters.” Not surprisingly, the analysis of the data found that the prosecution of bawdy house offenses was deeply gendered. The overwhelming majority of “inmates” and “keepers” were women while it was men who paid for their services. Overall, the data analysis indicates that both Murphy and Primrose preferred to impose fines for all bawdy house related crimes, income that helped to run the justice system.

Despite the establishment of a Women's Court and Magistrate Emily Murphy's professed claim that she was trying to help “fallen women, the analysis of her monthly records and those of her male colleague, Magistrate Phillip Primrose, indicate that both adhered to gender stereotypes. Both Magistrates Murphy and Primrose treated male “frequenters” more leniently than the women charged with bawdy house offenses while they were more likely to convict and impose harsher punishments on “keepers,” than “inmates.” The long-term effect of the increasing visibility of “prostitutes” was to put them at greater risk when the brothel system ended.

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## Chapter 1 “We Shall Observe This Movement with the Keenest Interest” Canadian Prostitution and the Influence of Moral Reform

*“In a word, criminals must be classified as well as crimes. It may be a tedious process, but it is surely and gradually taking place that justice as a punitive force is coming to coincide with justice as a specific and curative force in social life. This being so, we might presently consider the timeliness and propriety of amending the title of “The Criminal Code” to read “The Code of Social Justice.”*<sup>1</sup>

**-Emily F. Murphy, Judge of Magistrate’s Court, Edmonton, 1924.**

Writing in the mid-1920s, Emily Murphy, the first female magistrate appointed in the British Empire, author, and long-time advocate for women’s causes, offers her vision of justice that conflates punishment with rehabilitation. In Murphy’s view, criminality was no longer associated simply with illegal acts, but represented a type of person who, based on their classification, would be subjected to specific techniques of punishment meted out on the body (for example, the lash and imprisonment) and forms of training that would rehabilitate the individual back into civil society. The convergence of these two approaches toward criminality would seem to represent a resolution of Canadian social reformer’s (including Murphy’s) conflicting views toward individuals, but particularly women, who found themselves on the wrong side of the law, as well as to the social problems (such as immigration, prostitution, and the drug trade) facing Canadian

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<sup>1</sup> Emily Murphy, “The Administration of Criminal Justice in Canada.” In “Delinquents and Correction,” *Proceedings of the National Conference of Social Work* 51 (1924), 177.

society in the first decades of the twentieth century. In analyses of the social purity movement that examine white-slavery, prostitution, the drug menace, and feeble-mindedness, girls and women figure as both victim and victimizer.<sup>2</sup> These constructions of criminalized women, as will be seen, were both constituted by and mediated through the lenses of class, gender, race, and culture. As a result, social purists, like Emily Murphy, often held conflicting and contradictory views of the criminalized women that they purported to help.

Emily Murphy is a well-known figure in Canadian women's history. She has been celebrated for her role in the Persons Case: Murphy, along with Henrietta Edwards, Louise McKinney, Nellie McClung and Irene Parlby, successfully petitioned the Privy Council in Britain to recognize that women were indeed persons under the *British North America Act*. In more recent years, Murphy's heroine status has come under attack as knowledge of her support for eugenics has become more widely known. As a magistrate and prominent citizen, she was influential in the passage of Alberta's *Sexual Sterilization Act* (1928), which led to the forced sterilization of 2,822 women and men deemed "mentally defective."<sup>3</sup> In 1972, the law was repealed, but the full extent of Murphy's involvement (and other notable leaders) was revealed when Leilani Muir successfully

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<sup>2</sup> See, for example: Brian Donovan, *White Slave Crusades: Race, Gender, and Anti-Vice Activism, 1887-1917* (Urbana: University of Illinois Press, 2006); Richard Allen, *The Social Passion: Religion and Social Reform in Canada 1914-1928* (Toronto: University of Toronto Press, 1971); Constance Backhouse, "Nineteenth-Century Canadian Prostitution Law: Reflection of a Discriminatory Society," *Social History/Histoire sociale* 18, no. 36 (1985): 387-423, David Bright, "Loafers are not Going to Subsist on Public Credulence: Vagrancy and the Law in Calgary, 1900-1914," *Labour / Le Travail*, Vol. 36 (Fall, 1995). Dorothy E. Chunn, *From Punishment to Doing Good: Family Courts and Socialized Justice in Ontario, 1880-1940* (Toronto: University of Toronto Press, 1992); Kurt Korenski, "Reform and Empire: The Case of Winnipeg, Manitoba, 1870-1910s" *Urban History Review/Revue d'histoire urbaine*, XXXVII, no. 1 (Fall 2008).

<sup>3</sup> Erika Dyck, *Facing Eugenics: Reproduction, Sterilization, and the Politics of Choice* (Toronto: University of Toronto Press, 2013).



sued the province of Alberta in 1996 for wrongful sterilization.<sup>4</sup> The erection of a statue of the “Famous Five” in 1999 to commemorate the 70<sup>th</sup> anniversary of the Persons Case was mired in a bitter and public controversy among contemporary feminists, over how to deal with Murphy’s “dual legacy.”<sup>5</sup>

Murphy’s appointment as the first magistrate of the Women’s Court in Edmonton, which also made her the first female magistrate to be appointed in the British Empire, has been duly noted by many writers and scholars. But, her time on the bench has not been subject to any systematic study.<sup>6</sup> In part, the analysis of this period in her life (1915 to 1931) would seem to have been eclipsed first by her involvement in the Persons Case and then by the impact of her eugenics views. In the absence of any records, however, it would be difficult to make any definitive conclusions about the ways in which Murphy adjudicated the cases that came before her. That is, until now. In 2015, I had the thrill of cutting the strings to Emily Murphy’s monthly returns that had been deposited in the Alberta Archive. These records represented a monthly summary of the cases that before her, and included the names, and thereby the sex, of the defendants, the offenses of which they were accused, Murphy’s disposition of these cases, and the penalties and punishments that she assigned.

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<sup>4</sup> Dyck, *Facing Eugenics*, 170.

<sup>5</sup> Tracy Kulba, “Citizens, Consumers, Critique-al Subjects: Rethinking the “Statue Controversy” and Emily Murphy’s the Black Candle” *Tessera*, Vol. 31 (Winter 2002). <https://doi.org/10.25071/1923-9408.25267>

<sup>6</sup> Of significant note to this study are the works of Erika Dyck, *Facing Eugenics: Reproduction, Sterilization, and the Politics of Choice* (Toronto: University of Toronto Press, 2013). Joan Sangster, *Regulating Girls and Women: Sexuality, Family, and the Law in Ontario, 1920-1960* (Toronto: Oxford University Press, 2001), Constance Backhouse, “Nineteenth-Century Canadian Prostitution Law: Reflection of a Discriminatory Society,” *Social History/Histoire sociale* 18, no. 36 (1985) John McLaren and John Lowman, “Enforcing Canada’s Prostitution Laws” in *Securing Compliance: Seven Case Studies*, ed. M. L. Friedland. (Toronto: University of Toronto Press, 1990.), Amanda Glasbeek, *Feminized Justice: The Toronto Women’s Court, 1913-1934* (Vancouver: University of British Columbia Press, 2009.)

For the purpose of this thesis, I focussed on Murphy's adjudication of bawdy-house offenses (which represented 19% of her total caseload) because these crimes, compared to other crimes such as "drunk and disorderly" were (almost) strictly gendered; i.e., women were most often charged with being a "keeper" (the owner of the bawdy house) or an "inmate" women who provided sexual services while men were charged as "frequenters"—the buyer of sexual services. The analysis of this data then provides insight into the ways in which Murphy's views on maternal feminism and social purity were translated into the administration of justice in the everyday lives of women and men. Was she more or less lenient in her treatment of the female and male offenders who appeared before in her court?

It is difficult to attribute Murphy's adjudication of bawdyhouse cases to her gender or to her values without placing her within the administration of justice in Edmonton at that time. Thus a comparison with the decisions of her contemporary Magistrate Philip Primrose, who served on the bench at approximately the same time as Murphy, would provide some context to Murphy's decisions, and help answer the question as to whether the gender of the magistrate mattered in their judgements and sentencing patterns. Although they had vastly different case loads, with Murphy hearing approximately 3 800 cases to Primrose's 40 000, of which only 0.7% of his cases dealt with bawdy-house offenses, together, Magistrates Murphy and Primrose heard the majority of cases related to bawdy house offenses in Edmonton.<sup>7</sup> Thus, a comparison of

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<sup>7</sup> Within Edmonton justice was administered in three major courts—the Central Police Court (whose jurisdiction was the city of Edmonton), The Women's Court ( whose jurisdiction was the women within the city of Edmonton), and the Provincial Police Court ( whose jurisdiction was the north of the province excluding Edmonton). Magistrate Murphy was the only judge to work in the Women's Court during its duration. Other magistrates worked in the Central Police Court, but none had a comparable record to Primrose or Murphy in terms of the number of cases or years worked.

their cases will provide insight into judicial attitudes toward prostitution when Alberta was being settled in the first three decades of the twentieth century. Based on the data provided in the monthly returns, this thesis seeks to answer the following questions:

1. What was the social profile of those who worked in bawdy houses—inmates and keepers, and those who used their services—frequenters?
2. What was the dispensation of these cases in terms of conviction rates and punishments imposed?
3. Is there any relationship between the social profile and the dispensation of the cases?
4. Is there a relationship between the adjudication of cases and the gender of the magistrates?

### 1.1 Background: Canadian Prostitution Law

Before 1892, the English Common Law governed Lower and Upper Canada. These earlier laws tended to treat prostitution as a form of vagrancy and a public nuisance.<sup>8</sup> The presence of a brothel encouraged the gathering of unruly individuals, resulting in bawdy houses becoming outlawed in select provinces – namely Ontario and Quebec.<sup>9</sup> To limit the spread of venereal disease to soldiers and sailors in the Canadian military and navy, the laws promoted the regulation of prostitution and protected those who bought sex. The attitude was not to stop the practice per se, but merely to regulate and institute safety regulations.<sup>10</sup> Due to the high number of soldiers appearing before

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<sup>8</sup> Scott Cunningham and Manisha Shah, eds. *The Oxford Handbook of the Economics of Prostitution* (New York: Oxford University Press, 2016), 392.

<sup>9</sup> Cunningham and Shah, *The Oxford Handbook*, 392.

<sup>10</sup> Cunningham and Shah, *The Oxford Handbook*, 393.

medical officers with the symptoms of venereal disease, the army required soldiers to be examined regularly. However, as early as 1859, the army abandoned the practice of examining soldiers because its medical officers expressed distaste for performing the examinations. In her analysis of the 1856 *Contagious Diseases Act*, which was based on an almost identical piece of British legislation, legal historian Constance Backhouse found that only the women who worked as prostitutes were targeted by this legislation and not to their male customers.<sup>11</sup> Although Backhouse found that Canadian judges imposed much harsher punishments on prostitutes than their British counterparts, generally the Act was unenforceable. While the legislation made it compulsory for those found who were found to be infected to be hospitalized,<sup>12</sup> no hospital spaces were designated for treatment and confinement.<sup>13</sup> Not only was it difficult to apply, but Backhouse reports that neither the police nor the public were particularly concerned about prostitution.

At the time, the prosecution of criminal acts was guided by a patchwork of legislation, but many prominent Canadians, including Sir John A. Macdonald supported the creation of a federal law—the *Canadian Criminal Code (CCC)*, believing that it would unify the country by offering uniform regulation across the provinces.<sup>14</sup> In 1892, the *CCC* was passed, and inter alia, it outlawed bawdy houses, prostitution, and streetwalking.<sup>15</sup> The charge of keeping a common bawdy house by the owner or proprietor of a brothel became an indictable offense under the *CCC*. “Inmates” (those

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<sup>11</sup> Constance Backhouse, “Nineteenth-Century Canadian Prostitution Law: Reflection of a Discriminatory Society,” *Social History/Histoire sociale* 18, no. 36 (1985), 388.

<sup>12</sup> Backhouse, “Nineteenth-Century Canadian Prostitution Law,” 390.

<sup>13</sup> Backhouse, “Nineteenth-Century Canadian Prostitution Law,” 392.

<sup>14</sup> Cunningham and Shah, *The Oxford Handbook*, 393; Desmond H. Brown, *The Genesis of the Canadian Criminal Code of 1892*. (Toronto: University of Toronto Press, 1989), 12-13.

<sup>15</sup> Streetwalking was considered a form of vagrancy under the Canadian Criminal Code (*CCC*).

who were employed by brothel owners) and “frequenters” (those who used the services of a brothel) were charged with summary conviction offenses, which resulted in less jail time and lower fines, and were not as harsh as indictable offenses. The maximum fine for a summary conviction charge of being an “inmate” or a “frequenter” could not exceed \$50 or six months in prison with hard labour.<sup>16</sup> For the first time in Canadian history, prostitution was criminalized.

The CCC was amended to expand the definition of a bawdy house in 1907 and again in 1917.

*1892: “A common bawdy house is a room, set of rooms, or place of any kind kept for the purpose of prostitution.”<sup>17</sup>*

*1907: “A common bawdy house is a house, room, set of rooms, or place of any kind kept for the purpose of prostitution **or occupied or resorted to by one or more persons for such purposes.**”<sup>18</sup>*

*1917: “A common bawdy house is a house, room, set of rooms, or place of any kind kept for the purpose of prostitution **or for the practice of acts of indecency,** or occupied or resorted to by one or more persons for such purposes.”<sup>19</sup>*

The 1907 amendment expanded the number of people found within a bawdy house that could be charged with this offense. Presumably under the 1892 definition, if only one person occupied a building, it might not be deemed a common bawdy house. The inclusion of “acts of indecency” in the 1917 amendment would seem to extend the definition of prostitution from a heterosexual interaction to one that included same-sex

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<sup>16</sup> Cunningham and Shah, *The Oxford Handbook*, 394.

<sup>17</sup> *Canadian Criminal Code*. The Revised Statutes of Canada, (1907); Proclaimed and Published under the Authority of the Act 3 of Edward VII., R.S.C. (1906), c.146, s.225.

<sup>18</sup> *Canadian Criminal Code*. The Revised Statutes of Canada, 1907; Proclaimed and Published under the Authority of the Act 3 Edward VII., Chap. 146 (1903) 2478 (1907).

<sup>19</sup> *Canadian Criminal Code*. “Disorderly Houses” An Act respecting the Criminal Law. Chapter 36, 225. (1917).

encounters. The 1917 definition remained largely unchanged until 1972 when the solicitation law was reviewed and eventually revised.<sup>20</sup>

In their analysis of the impact of these changes in the law, John McLaren and John Lowman found that prostitution in Canada was just as much condoned as it was condemned.<sup>21</sup> McLaren and Lowman argue that prostitution legislation (significantly the CCC) served as a catch-all device to maintain control over the streets.<sup>22</sup> Through the enforcement of prostitution laws, the police could exploit information regarding other vices (such as drug trafficking which was considered a worse crime than prostitution) from prostitutes who had a varied clientele.<sup>23</sup> McLaren and Lowman found that the expansion of the bawdy house laws in the early 1900s cast a wider net on those taking advantage of legal loopholes.<sup>24</sup> At the same time, the new amendments to the procurement laws provided new protection to “innocent” women, not just those under the age of twenty-one.<sup>25</sup>

The interpretation and administration of the law under the CCC was left to the police magistrates, who presided over the police courts and women’s courts. Magistrates, also known as Justices of the Peace, an office carried over from English legal practice, administered justice at the provincial level. They were appointed, on the counsel of the

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<sup>20</sup> This would be the first time the bawdy house and procuring laws would be revised – whereas laws regarding vagrancy were adapted regularly to fit the times. In 1970, the Status of Women commission deemed that the laws needed to be repealed to address the issue of street prostitution. <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=2599932&Language=&Mode=1&Parl=39&Ses=1&File=117>

<sup>21</sup> John McLaren and John Lowman, “Enforcing Canada’s Prostitution Laws” in *Securing Compliance: Seven Case Studies*, ed. M. L. Friedland. (Toronto: University of Toronto Press, 1990), 21.

<sup>22</sup> McLaren and Lowman, “Enforcing Canada’s Prostitution Laws,”24.

<sup>23</sup> McLaren and Lowman, “Enforcing Canada’s Prostitution Laws,”24.

<sup>24</sup> McLaren and Lowman provide examples of the law expanding to “acts of indecency” – which emerged in response to the rise of “massage parlours”

<sup>25</sup> McLaren and Lowman, “Enforcing Canada’s Prostitution Laws,”39.

Attorney-General, by the Lieutenant-Governor of the province in which they resided. The magistrates reported to the Attorney-General who often served as a referee among the justices. Any inquiries regarding another magistrate, caseloads, and movement to another jurisdiction were referred to the Attorney-General. Traditionally, police magistrates were retired police officers, but they could also have been private citizens – no legal qualifications were needed to do the job. From 1913 to 1934, approximately ninety percent of the cases in Canada were adjudicated within the provincial police court systems.<sup>26</sup> The police magistrates were responsible for adjudicating all summary conviction cases, which included all bawdy-house-related crimes, as well most indictable offenses, which included keeping a bawdy house. The police magistrates did not adjudicate cases involving rape, murder, or treason.<sup>27</sup>

Eventually, the lower court systems underwent a review in each province, and the court systems were overhauled completely by the 1960s. There are no longer police magistrates. Instead, justice is administered through the Queen's Court Bench Judges while indictable offenses are heard by the provincial Supreme Courts. The Supreme Court of Canada may hear appeals. Past acts laid the foundation for future laws that still govern Canadians today. It was not until 2013 that Canada struck down existing bawdy house laws as they were deemed unconstitutional and violated the *Charter of Rights and Freedoms*.

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<sup>26</sup> Amanda Glasbeek, *Feminized Justice: The Toronto Women's Court, 1913-1934* (Vancouver: UBC Press, 2009), 5-7.

<sup>27</sup> Glasbeek, *Feminized Justice*, 6.

## 1.2 The Moral and Social Reform Movements

When writing in 1924, the moral and reform movements of which Murphy was a part were drawing their last gasp. But from the 1880s until the early 1920s, the social purity movement was in full swing.<sup>28</sup> Richard Allen's foundational book, *The Social Passion*, offers a complex picture of the social reform movement's establishment and dissolution. Confronted by the excesses of industrialization and urbanization, various Protestant sects including the Anglican, Methodist, and Presbyterian churches advocated for the betterment of society based on the principles of social gospel.<sup>29</sup> Although guided by charity and social justice, Allen argues that over time a form of "rude environmentalism" crept into social gospel ideology. Allen's reference to "rude environmentalism" refers to the changing nature of the social gospel based on the location and attitudes of those preaching. At its peak from 1890-1918, the ideas of the social gospel movement were grounded in a form of social Darwinism that accepted social inequality as part of the "natural" order.<sup>30</sup>

Although Allen focussed on class inequality, other historians such as Marianna Valverde and Joan Sangster have focussed on the gendered nature of the social reform movement. Joan Sangster's work in *Regulating Girls and Women*, examines the gendered nature of prostitution law. Rarely, (if ever) did the social reformers advocate for the decriminalization of prostitution. Rather, the social reformers focussed their attention on the unrestrained sexual activity of unmarried young women. Sangster found that many

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<sup>28</sup> Richard Allen, *The Social Passion: Religion and Social Reform in Canada, 1914-28* (Toronto: University of Toronto Press, 1971), 2-5.

<sup>29</sup> Allen, *The Social Passion*, 12.

<sup>30</sup> Allen, *The Social Passion*, 12. “.



of the social gossellers were white, middle- and upper-class women who hoped to root out social evils such as prostitution, child labour, juvenile delinquency, and other forms of moral corruption. In her book *The Age of Light, Soap, and Water*, Valverde argues persuasively that the shaping of individual and collective morality was aimed not only at eradicating vices but was part of the Canadian nation-building project.<sup>31</sup> The social reformers at the turn of the twentieth century envisioned a society that was morally and socially “pure,” one that was based on white, Protestant, middle-class values that extolled the virtues of Britishness and the imperialist values of the British Empire. Because these social purists believed that they were morally and socially superior to people who didn’t meet these standards (just about everyone else); they were horrified by the grinding poverty produced by industrialization; they worried about women’s sexual purity as the city offered single women unprecedented economic opportunities and more independence, free from their families’ prying eyes; and they feared “race” suicide as the influx of immigrants who spoke different languages, held different cultural beliefs and “foreign” traditions—whom Victorian Canadians believed would eclipse their social and moral position.

The social purity movement that emerged at the beginning of the twentieth century in Canada was not embodied in a specific organization. Instead, as Valverde has observed in her analysis, social purity work evolved out of the mandates of “already existing organizations that were devoted to moral, social, religious, and/or gender reform.”<sup>32</sup> They included: the Methodists and Presbyterian churches, the Women’s Christian Temperance Union (WCTU), the National Council of Women (NCW) the

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<sup>31</sup> Valverde, *The Age of Light, Soap and Water*, 27.

<sup>32</sup> Valverde, *The Age of Light, Soap, and Water*, 51.

Young Women's Christian Association (YWCA), and the Salvation Army.<sup>33</sup> These organizations were voluntary, but they believed that the state was responsible for correcting and encouraging proper social and moral behaviour among its citizens. These reformers worked closely with the emerging, if reluctant, state that became involved in various forms of social regulation ranging from so-called "feeble-mindedness," pure milk and water campaigns, and child and social welfare, temperance, and "sexual hygiene." Indeed, some of the early reformers such as Dr. Helen MacMurchy,<sup>34</sup> Dr. Margaret Patterson,<sup>35</sup> Dr. Peter Bryce,<sup>36</sup> and Emily Murphy, either in whole or in part, were able to build their careers on the promotion of social purity work.<sup>37</sup> Their efforts and those of

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<sup>33</sup> Valverde, *The Age of Light, Soap, and Water*, 53, 54, 58, 61, 63, 65.

<sup>34</sup>Helen MacMurchy was a Canadian doctor, public health advocate, women's rights activist and eugenicist. She was made a Commander of the Order of the British Empire (CBE) in 1934 and was named one of the 10 leading female physicians in the western world in 1949. She worked with the National Council of Women, published "The Little Blue Books," and conducted surveys of the feeble-minded for the province of Ontario c. 1915. She endorsed the sterilization of "feeble-minded" women to prevent "degenerate babies," leading to the sterilization of many immigrant women in the 1920s, MacMurchy was the first female head of the Child Welfare Division of the newly formed federal Department of Health. For more information, see, Cynthia R. Comacchio, *Nations are Built of Babies: Saving Ontario's Mothers and Children* (Québec, PQ: McGill-Queen's University Press, 1993); E. Leung (n.d.). Dr. Helen MacMurchy is Appointed Ontario's "Inspector of the Feeble-minded". Retrieved August 21, 2020, from <https://eugenicsarchive.ca/discover/timeline/517223bceed5c60000000>; James H. Marsh, "Eugenics: Pseudo-Science Based on Crude Misconceptions of Heredity." In *The Canadian Encyclopedia*. Historica Canada. Article published March 06, 2013; Last Edited March 04, 2015. <https://thecanadianencyclopedia.ca/index.php/en/article/eugenics-keeping-canada-sane-feature>. Access Date: August 20, 2020. Like Emily Murphy, MacMurchy's legacy is controversial among feminists. See, for example, Don Butler, "The Dark Side of Honouring Dr. Helen MacMurchy," *Ottawa Citizen* October 5, 2012. <http://www.ottawacitizen.com/health/dark+side+honouring+Helen+MacMurchy/7346152/story.html>. Accessed August 21, 2020.

<sup>35</sup> Margaret Patterson was the first female magistrate appointed in Ontario. She served as a junior magistrate in the Toronto Police Court. Lorraine Gordon, "Doctor Margaret Norris Patterson: First Woman Magistrate in Eastern Canada - Toronto – January 1922 to November 1938," *Atlantis* 10, no. 1 (Fall 1984): 98.

<sup>36</sup> Peter Bryce was the Chief Medical Health Officer for the Department of Immigration in Ontario from 1904-1921. Bryce is best known for drawing attention to the appalling conditions of residential schools in his report, *The Story of a National Crime* (Ottawa: James Hope & Sons, 1922). Available at: [https://archive.org/stream/storyofnationalc00brycuoft/storyofnationalc00brycuoft\\_djvu.txt](https://archive.org/stream/storyofnationalc00brycuoft/storyofnationalc00brycuoft_djvu.txt). Maximilian Smith, "Peter Henderson Bryce". In *The Canadian Encyclopedia*. Historica Canada. Article published December 12, 2007; Last Edited October 31, 2019. Accessed August 20<sup>th</sup>, 2020. <https://www.thecanadianencyclopedia.ca/en/article/peter-henderson-bryce>. Megan Sproule-Jones, "Crusading for the Forgotten; Dr. Peter Bryce, Public Health, and Prairie Native Residential Schools" *CBMH/BCHM*, vol. 13 (1996): 199-224.

<sup>37</sup> Valverde, *The Age of Light, Soap, and Water*, 49, 47-48, 52, 86, 11-112.

other social purity activists achieved prominence from 1910 to the mid-1920s. By that time, some of this work had been institutionalized into the hands of professionals and in the state apparatus (through, for example the federal and provincial departments of health) The focus of social reform shifted from prostitution to prohibition of alcohol, and many of the original cohort of reformers were getting on in their years.

Women played a significant role in social purity work. The direction in which they took, as Valverde has observed, depended upon the mandate of the organization. The WCTU, for example, linked the need for temperance with domestic violence and the impoverishment of women whose husbands/fathers spent their paycheques on alcohol. In contrast, the YWCA provided boarding homes and recreational facilities for young, respectable, working-class women. The National Council of Women (NCW) and the Canadian Women's Press Club (CWPC) sought legal equality for women and focussed on women's suffrage. In the West, the United Farm Women of Alberta advocated for the betterment of rural life – focussing on health, education, and social welfare.<sup>38</sup> As well, the Saskatchewan Women Grain Growers, the Imperial Order Daughters of the Empire and the numerous Homemaker's Clubs, also advocated for the "betterment of rural life."<sup>39</sup> The group was concerned about access to health care and education, cooperative marketing, as well as women's right to vote and property rights.

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<sup>38</sup>Nanci Langford, "United Farm Women of Alberta". In *The Canadian Encyclopedia*. Historica Canada. Article published October 10, 2006; Last Edited December 16, 2013. Accessed on: August 20, 2020. <https://www.thecanadianencyclopedia.ca/en/article/united-farm-women-of-alberta>

<sup>39</sup>Nanci Langford, "United Farm Women of Alberta," *Canadian Encyclopedia*. <https://www.thecanadianencyclopedia.ca/en/article/united-farm-women-of-alberta> A. Leger-Anderson, "Women's Organizations in Saskatchewan" Report for *Culture, Youth, Recreation, Government of Saskatchewan*, 31 March, 2005. <https://pubsaskdev.blob.core.windows.net/pubsask-prod/98075/98075-Women'sOrgs.pdf>

Despite their differences, many of these women's groups espoused what has become to be known as "maternal feminism;" they stressed the importance of family and the unique and distinct role of women as mothers and wives.<sup>40</sup> Drawing on domestic metaphors, they believed in the moral superiority of women, thus justifying women's entry into public life, as advocates for children, morality and the family. Central to this national project was physical and sexual hygiene. Individual behaviour, as Valverde has pointed out, was "microcosm of the large project of the clean nation." Clean living led to strong bodies and pure thoughts (and vice versa) while impure thoughts led to temptation and lust. Although these ideas applied to boys and men,<sup>41</sup> for the most part, maternal feminists accepted the double sexual standard that prohibited women's sexual activity outside of marriage while turning a blind eye to men having sex before marriage.

Many prominent maternal feminists made their home in western Canada. Of note are Emily Murphy, Nellie McClung, Louise McKinney, Henrietta Edwards, and Irene Parlby who, as noted above, successfully petitioned the Privy Council of Great Britain to recognize women as persons under *British North America Act* in 1929.<sup>42</sup> These women were determined reformers; they believed, like other maternal feminists, that the application of feminine virtues to social welfare issues would improve the lives of Canada's impoverished and disadvantaged women and children. In their observations, Robert Sharpe and Patricia McMahon argue that all five women were heavily influenced by their Protestant beliefs, (namely Anglican, Presbyterian, and Methodist). Sharpe and

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<sup>40</sup> Robert J Sharpe and Patricia McMahon, "Champions of Maternal Feminism," *National Post*; Don Mills, Ontario. A19. Robert J Sharpe and Patricia McMahon, *The Persons Case: The Origins and Legacy of the Fight for Legal Personhood*. (Toronto: University of Toronto Press, 2017). Kindle Version.

<sup>41</sup> See, for example, Michael Bliss, "Pure Books on Avoided Subjects": Pre-Freudian Sexual Ideas in Canada," *Historical Papers/ Communications historiques* 5, no. 1, (1970): 89-108.

<sup>42</sup> Edwards vs. The Attorney General of Canada (the Persons Case) [1930] A.C. 124, 1929 UKPC 86.

McMahon found that the focus of the “Famous Five” and other maternal feminists of the time, was one of social betterment for women, rather than equality between men and women.<sup>43</sup> Maternal feminists realized that common phrases and sayings, such as “the hand that rocks the cradle rules the world” and “a woman reigns queen in her home” made it both much harder to get women’s voices heard in the public sphere but also, ironically, gave them a reason to demand a voice in public affairs.<sup>44</sup> Henrietta Edwards was especially vocal in persuading women to make their voices heard outside their homes.<sup>45</sup>

In the West, maternal feminism took on a particular form in response to the needs of primarily white farmwomen. Agrarian feminism centred on notions of agrarian identity, social health, class, and race.<sup>46</sup> Within this space, feminine power was tied to the agrarian movement. Women on the prairies became focused on building the land, as well as building the “moral and spiritual backbone of the nation.”<sup>47</sup> Rural women struggled with traditional womanhood and the cultivation of femininity in a masculine-dominated environment. Historian Sheila Gibbons argues that the suffrage movement in Alberta would provide two services to Canada: first, the vote would recognize women as having a “moral and civilizing” influence; and second, the vote would improve the intelligence of women, who in turn would become better mothers and therefore produce “quality” children, necessary for Canada’s future.<sup>48</sup>

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<sup>43</sup> Sharpe and McMahon, “Champions of ‘Maternal Feminism,’” A19.

<sup>44</sup> Sharpe and McMahon, “Champions of Maternal Feminism,” A19.

<sup>45</sup> Sharpe and McMahon, “Champions of Maternal Feminism,” A19.

<sup>46</sup> Sheila Gibbons, “Our Power to Remodel Civilization:” The Development of Eugenic Feminism in Alberta, 1909-1921,” *CBMH/BCHM*, Vol. 31, 1 (2014), 125.

<sup>47</sup> Gibbons, “Our Power to Remodel Civilization,” 128.

<sup>48</sup> Gibbons, “Our Power to Remodel Civilization,” 129.

If interest in the original foci of the social purity movement declined by the 1920s, then Emily Murphy, Louise McKinney, and Irene Parlby (and others) reinvigorated their reform agenda by their support for the implementation of the *Sexual Sterilization Act* of 1928 in Alberta. In her book *Facing Eugenics*, historian Erika Dyck argued these “mothers of the race” linked poverty with feeble-mindedness. According to the reformers, these individuals were deemed “deficient” in terms of their morality, judgement, behaviour and intelligence, and therefore should not be allowed to reproduce.<sup>49</sup> In justifying the practise of negative eugenics, these social reformers believed that working and lower class women were responsible for “degeneracy” (including, but not limited to, delinquency, illegitimate children, poverty, prostitution, and venereal disease);” if they were prevented from reproducing, then the population of western Canada would be strengthened by the building of healthy, middle-class families. In turn this emphasis on the importance of family to the building of Alberta/Canada gave the province the legal means to interfere in the family and sexual lives of Albertans.<sup>50</sup>

In her analysis, Dyck argues through eugenics discourse, maternal feminists found ties to nativist ideology, which promoted white, middle-class, Protestant, and decidedly British values and virtues while both fuelling and promoting fears of “problematic immigrants;”<sup>51</sup> that is, non-English speaking immigrants from southern and Eastern Europe, Russian and elsewhere. Emily Murphy, as Robert Sharpe and Patricia McMahon have observed, was also attached to British culture and believed in the superiority of the “white race.” Her views are clearly documented in her book *The Black*

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<sup>49</sup> Erika Dyck, *Facing Eugenics: Reproduction, Sterilization, and the Politics of Choice*. (Toronto: University of Toronto Press, 2013), 32, 53.

<sup>50</sup> Dyck, *Facing Eugenics*, 51.

<sup>51</sup> Dyck, *Facing Eugenics*, 31.

*Candle* in which attempts to offer a comprehensive view of Canada's drug problem – wherein she explores the supply, sale, preparation, and inadequacies of existing legislation. In this book, Murphy highlights the dangers of the drug trade and its threat to the “white race”<sup>52</sup> which she believed lacked the physical and moral stamina to resist being overrun or eliminated by those other races she deemed to be “less superior” to her own. According to Murphy, “good and pure” women were being forced into becoming addicts. Murphy believed that the drug problem was introduced to Canadian communities by immigrants. She blamed in equal measure the Germans, Russians, Jews, Chinese, Africans, and other immigrants for their involvement in drug trafficking in addition to their “prolific fertility.”<sup>53</sup>

This publication was extremely influential – effecting Canada's drug laws and earning Murphy positions on national and international advisory committees.<sup>54</sup> But in more contemporary writing, this text is more often than not used to illustrate her racist views.<sup>55</sup> Literary historian Tracy Kulba, argues that *The Black Candle*, however, is riddled with contradictions about Murphy's views on race. At different points in the text, Murphy rejects the notion of “white slavery” to explain female drug use while offering a sympathetic interpretation of “educated gentlewomen's succumbing to addiction.”<sup>56</sup> Murphy pointed out that she had never adjudicated a case of a white woman being forced into prostitution by Chinese men, but she nonetheless believed that white women would

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<sup>52</sup> Tracy Kulba. “Citizens, Consumers, Critique-al Subjects: Rethinking the “Statue Controversy” and Emily Murphy's the Black Candle” (*Tessera*, 2002), 82.

<sup>53</sup> “Emily Murphy: Her Dark Side,” *The Edmonton Journal*, 07 June 1998, F2.

<sup>54</sup> Kulba. “Citizens, Consumers, Critique-al Subjects,” 84; Murphy was offered a position on the League of Nations Advisory Committee's Opium Section, and Sir Robert Borden's Canadian League of Nations committee.

<sup>55</sup> Kulba, “Citizens, Consumers, and Critique-al Subjects,” 84.

<sup>56</sup> Kulba, “Citizens, Consumers, and Critique-al Subjects,” 85.

not be willing to enter into prostitution voluntarily. Murphy's observations have been confirmed by historian Belinda Crowson's research on prostitution in Lethbridge, Alberta at the turn of the twentieth century. She too found conflicting accounts of the white slave trade in the city between the memoirs of a woman who worked as a prostitute and the *Lethbridge Herald*. The woman could not recall any white women working as prostitutes for the Chinese or Japanese brothels in the city whereas the newspaper argued that white slavery was prevalent in Lethbridge, and therefore, the young women working in Chinese businesses needed protection.<sup>57</sup>

### 1.3 The Regulation of Women's Sexuality

What united female reformers across the social purity movement then, was their concern for the sexual probity of unmarried, young women. Much of the anxiety over young women's sexuality was linked to women entering the labour force. For some single, middle-class women, the city was a place of opportunity—both social and economic. As professional jobs in the fields of teaching, medicine, nursing, and social work opened up, “the New Woman” earned money of her own and a sense of independence.<sup>58</sup> But these respectable women were not the targets of middle-class reformers, even though there is evidence that indicates some were indeed sexually active

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<sup>57</sup> Belinda Crowson, "Ethnic Diversity in Lethbridge's Red Light District 1880s to 1944," *Alberta History* 57, no. 4 (2009): 2-9. <https://link-gale-com.cyber.usask.ca/apps/doc/A233502927/EAIM?u=usaskmain&sid=EAIM&xid=95a6587d>. Accessed August 20, 2020).

<sup>58</sup> The “New Woman” was a term that gained popularity in the media and referred to women who exercised control over their personal lives. Brian Donovan, *White Slave Crusades: Race, Gender, and Anti-Vice Activism, 1887-1917* (Chicago: University of Illinois Press, 2006), 6.



before marriage.<sup>59</sup> Instead, they focused on regulating the sexual lives of working-class Indigenous, immigrant, and racialized women. In part these women became more visible as they entered the factories, performed clerical and sales work, and as will be seen below, in some cases, segregated into brothels. Although the working and “lower” classes were more restricted by finances than middle-class professionals, single, working women also were able to enjoy leisure time in public spaces in dance halls, picnic grounds, amusement parks, street corners, and pleasure clubs. Beyond the watchful eye of their families, these social spaces changed the landscape for male and female romantic and sexual interactions, offering more opportunities and experimentation outside of the confines of marriage. For the first time, the social/sexual experiences were more similar to men’s than to married women.<sup>60</sup>

At the same time, leisure activities among women became associated with indulgence and rampant individualism—a far cry from Victorian notions of sacrifice and duty. These values were tied to a strict gendered division of moral and social labour in which women remained “guardians of virtue,”<sup>61</sup> or the “angel in the house.”<sup>62</sup> Although middle-class women sought the right to vote and have a career, they still clung to the Victorian double-standard that upheld the values of women’s sexual passivity and domesticity. Thus, according to historian Elaine Tyler May, the visibility of leisure activities and their association with sexual gratification represented threats to the

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<sup>59</sup> See, for example, Elaine Tyler May, *Great Expectations: Marriage and Divorce in Post-Victorian America* (Chicago: University of Chicago Press, 1980), 94. There is no Canadian data on the premarital sexual activity of middle-class women in Canada, but we can assume that some of the same social forces were operating, and therefore, some unknown number of middle-class women engaged in sexual behavior.

<sup>60</sup> Peiss, *Cheap Amusements*, 5.

<sup>61</sup> Laura S Abrams, “Guardians of Virtue: The Social Reformers and the ‘Girl Problem,’ 1890 – 1920,” *Social Service Review* 74, no. 3 (September 2000): 436.

<sup>62</sup> Abrams, “Guardians of Virtue,” 448.

gender/sexual order and helped to fuel the anxieties about prostitution among the middle- and upper- classes.<sup>63</sup>

#### 1.4 The Regulation of Women's Sexuality in "The West"

These changes in gender and sexual relations, as well as the influx of newcomers, the grinding poverty, the dirt and the noise—amplified the anxieties of the upper and middle-classes. Reformers understood the city as a site of desire, pollution and danger; the presence of the bawdy houses provided a focus for “anxieties over disorderly sexualities”<sup>64</sup> Toronto, for example, became known as a “Modern Babylon.”<sup>65</sup> In the view of the Toronto elite, the city was a breeding ground of vice as a result of conflicting language, religion, and customs, earning the city a reputation as an ungovernable, chaotic, and dangerous location.<sup>66</sup> In 1897, social reformer Herbert Brown Ames documented the appalling slum conditions through a household survey of the working-class section of Montreal. In *The City Below the Hill*, Ames found that while urbanization was inevitable, squalor and cramped living conditions should not be a trademark of working-class homes. Ames introduced the idea of “urban ecology” – wherein the city is comparable to a living organism, influenced by social and economic changes.<sup>67</sup> The well-

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<sup>63</sup> May, *Great Expectations*, 90.

<sup>64</sup> Carroll Smith-Rosenberg, *Disorderly Conduct: Visions of Gender in Victorian America* (Oxford: University of Oxford Press, 1986), 173; Matt Houlbrook, “Cities,” in *Palgrave Advances in the Modern History of Sexuality* eds. H. G. Cocks and Matt Houlbrook (London: Palgrave MacMillan, 2006), 141.

<sup>65</sup> Carolyn Strange, “From Modern Babylon to a City upon a Hill: The Toronto Social Survey Commission of 1915 and the Search for Sexual Order in the City,” in *Queerly Canadian: An Introductory Reader in Sexuality Studies*. Eds. Maureen FitzGerald and Scott Rayter (Toronto: Canadian Scholars Press, 2012), 213-214.

<sup>66</sup> Smith-Rosenberg, *Disorderly Conduct*, 172.

<sup>67</sup> Herbert Brown Ames, *The City Below the Hill: A Sociological Study of a Portion of the City of Montreal, Canada*. (Toronto: University of Toronto Press, 1972), Ebook Version.

being of the city as a whole depends upon the well-being of all its citizens. In these narratives, the city becomes an “actor” in these dramas. Ames is one of the first in Canada to introduce the idea of advocating for social welfare and improvements to town planning.

Not surprisingly, much of the research on the history of sexuality in Canada has focussed on large, well-established cities where men and women congregated for work and pleasure.<sup>68</sup> Many of these studies have focussed, as will be discussed below, on the organization and the regulation of prostitution. Nonetheless, an emerging literature has focussed on the specificity of sexual relations in “the West” or the Canadian prairies as particular geopolitical spaces, separate from the rest of Canada.<sup>69</sup> For example, the value of taking space into account is well-illustrated by historian Valerie Korinek’s study of queer subculture in Winnipeg from 1930-1950. Korinek found that space and places within Winnipeg allowed for the growth, construction, and constraint of queer activities. Geographic, social, demographic and organizational practices, according to Korinek, were essential to creating unique prairie spaces that helped preserve difference, facilitated community-building, and encouraged shared experiences amongst, largely, queer men.<sup>70</sup> In her analysis, Korinek focused on both the constrictions on queer people and the ways in which they were able to forge their own identities in these segregated spaces.

In her book *Capturing Women*, historian Sarah Carter argued that the image of white women vacillated in the 1880s between courageous, resourceful, and “plucky”

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<sup>68</sup> Allen, *The Social Passion*, 3. Poutanen, *Beyond Brutal Passions*, 26. Strange, *Toronto’s Girl Problem*, 21. Veronica Strong-Boag, *The New Day Recalled: Lives of Girls and Women in English Canada, 1919-1939* (Markham, Ontario: Penguin Books Canada, 1988), 41.

<sup>69</sup> Sarah Carter, *Capturing Women: The Manipulation of Cultural Imagery in Canada’s Prairie West* (Montreal: McGill-Queen’s University Press, 1997), 200-203.

<sup>70</sup> Valerie J. Korinek. ““We’re the Girls of the Pansy Parade:” Historicizing Winnipeg’s Queer Subcultures, 1930s–1970.” *Histoire sociale/Social history* 45, no. 89 (2012): 117-155.

pioneers<sup>71</sup> and vulnerable wives and mothers requiring the protection of their male settlers—their fathers, husbands, and brothers.<sup>72</sup> Carter’s research indicates that these contrasting images emerged in part to highlight the differences between the “hardworking, clean, and domestic” white woman, with the “tent dwelling, dirty native women.”<sup>73</sup> At the time, white settler society required the labour of pioneering women, but it still tried to uphold the view that women were “the weaker sex,” and maintain traditional Victorian views of a gendered and sexual division of labour. These images of white women’s “pure” sexuality were juxtaposed against that of Indigenous women who were criticized for their sexual activities within and outside of marriage.<sup>74</sup> Carter found that these images of Indigenous women, particularly those on reserves, were promulgated by the national press and the Canadian government, symbolizing the negative shortcomings of Aboriginal society.<sup>75</sup> By 1900, many Indigenous groups were settled into reservations across the prairies and the west coast, and the “presumed threat” that unchaste Indigenous women posed was no longer at the forefront of white European settlers’ minds.<sup>76</sup>

Not only were white women in Western Canada pressured to conform to the values of a heterosexist and patriarchal marriage based on Protestant precepts, but in her book *The Importance of Being Monogamous*, Sarah Carter argues that settler society attempted to impose its gender and sexual norms on Indigenous women. Carter found that as more white women moved into the prairies, so too did the Victorian gender norms and

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<sup>71</sup> Carter, *Capturing Women*, 205.

<sup>72</sup> Carter, *Capturing Women*, 205.

<sup>73</sup> Carter, *Capturing Women*, 161-162.

<sup>74</sup> Carter, *Capturing Women*, 194.

<sup>75</sup> Carter, *Capturing Women*, 160.

<sup>76</sup> Carter, *Capturing Women*, 194.

expectations. Settler gender and sexual norms varied greatly from the sexual freedoms, and autonomy that most Indigenous women were used to within their cultures<sup>77</sup> Similarly, historians Jean Barman<sup>78</sup> and Adele Perry<sup>79</sup> found that settler societies in British Columbia attempted to impose European cultural and marital expectations on Indigenous women. Jean Barman's research on aboriginal sexuality in British Columbia in the mid-nineteenth century indicates that European colonizers never viewed Indigenous males as sexual threats; however, their attitudes toward Indigenous women, were possessive and controlling.<sup>80</sup> According to Barman, Indigenous women in British Columbia openly expressed their sexual agency, thus condemning them in the eyes of the colonizers – who believed their sexuality was out of control.<sup>81</sup> Adele Perry's book, *On the Edge of Empire*, explores the relationship between British Columbia's early social reformers and their work to eradicate, eliminate, or regulate inter-racial relationships between white men and Indigenous women. The reform movement and the provincial government worked to reform provincial immigration and land policy to create segregated spaces which would represent the "ideal" British Columbian society (i.e. one where a white, Protestant, heterosexual society thrived).

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<sup>77</sup> Sarah Carter, *The Importance of Being Monogamous: Marriage and Nation Building in Western Canada to 1915*. (Edmonton: University of Alberta Press, 2008), 22-27.

<sup>78</sup> Jean Barman, "Taming Aboriginal Sexuality: Gender Power and Race in British Columbia, 1850-1900." In *In the Days of Our Grandmothers: A Reader in Aboriginal Women's History in Canada*, eds. Mary-ellen Kelm and Lorna Townsend. Toronto: University of Toronto Press, (2006).

<sup>79</sup> Adele Perry, *On the Edge of Empire: Gender, Race, and the Making of British Columbia, 1849-1871*. (Toronto: University of Toronto Press, 2004). Kindle Version. Location 1841.

<sup>80</sup> Barman, "Taming Aboriginal Sexuality," 272-273.

<sup>81</sup> Barman. "Taming Aboriginal Sexuality," 278.

## 1.5 Scholarly Approaches to Prostitution/Sex Work

Most contemporary historians would reject the view that prostitutes are “immoral,” “deviant,” or “criminal.” Rather they would point to the complex and contradictory social, economic, gender, and racial politics that have shaped the lives of prostitutes and the responses to prostitution by the large society. As Alan Hunt so acutely observes “Prostitution is not just about prostitution. Rather its role as an organizing metaphor produced a context in which a whole array of social issues came under scrutiny, but also presented forms which rendered them suitable targets for moralization and regulation.”<sup>82</sup> In the scholarly literature on the history of Canadian prostitution in the Victoria, two approaches are discernible. In the materialist-feminist approaches, the emphasis is on the regulation of prostitution by the state. Although the state, through the criminal justice system, often operates in a coercive manner, as will be seen, it can be selective in the enforcement and prosecution of prostitutes. The responses of civic officials, the police, and magistrate were shaped through the lenses of normative understandings of femininity, class, race, and ethnicity. The second approach, drawing on Foucault’s ideas of surveillance and discipline, examines the ways in which the concept of the prostitute is constructed through discourses of sexual and racial purity. These methodologies are not necessarily mutually exclusive: while the materialist-feminists focus on the actions of the state, Foucauldian feminists examine who is targeted by the state.

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<sup>82</sup> Alan Hunt, “Regulating Hetero-social Space: Sexual Politics in the Early Twentieth Century” *Journal of Historical Sociology*, 15: 1–34, (2002), 2.

## 1.6 State Regulation

In this perspective, power is centered in the state, and exercised through a central authority—the criminal justice system which includes policing practices and the judicial adjudication of prostitution-related cases. One way in which the state, in its interaction with moral reformers, regulated sex work, as we have already seen, is through the criminalization of prostitution toward the end of the nineteenth century, leading to the incorporation of prostitution-related crimes under the Canadian Criminal Code.<sup>83</sup> A second way in which the state operates is in the prosecution of bawdy-house related crimes. For example, in her work on the legal regulation of women and families in Ontario, historian Joan Sangster found that at the time, many higher court judges focused on men, who they believed to be procurers and pimps and that only women could be prostitutes.<sup>84</sup> However, in her analysis of male vs. female prostitution in Ontario from 1928-1958, Sangster found that a handful of men were charged for working as prostitutes. Women were also charged with keeping a common bawdy house at a rate higher than male offenders committed for the same offense from 1928-1958.<sup>85</sup> In their analysis of charges for keeping a common bawdy-house in Calgary, Toronto, and Vancouver from 1912-1920, McLaren and Lowman found that the number of persons fined and the number of persons imprisoned varied greatly between the three cities.<sup>86</sup> For

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<sup>83</sup> Constance Backhouse, "Nineteenth-Century Canadian Prostitution Law: Reflection of a Discriminatory Society" *Social History/Histoire sociale* 18, no. 36 (1985).

<sup>84</sup> Joan Sangster, *Regulating Girls and Women: Sexuality, Family, and the Law in Ontario, 1920-1960*. (Toronto: Oxford University Press, 2001), 93.

<sup>85</sup> Sangster, *Regulating Girls and Women*, 96, 100. Sangster's chart indicated that in 1933 <5 men were charged with prostitution, in 1953 5 men were charged with prostitution, and in 1958 <5 men were charged with prostitution. All other years contain no indication of male prostitution. In the chart on p.100, Sangster indicates that there are higher commitment rates for female keepers for the years of 1928, 1933, 1938, 1943, 1953 and 1958.

<sup>86</sup> McLaren and Lowman, "Enforcing Canada's Prostitution Laws," 48.

example, Vancouver experiences a ratio of 8:1 for fines versus imprisonment whereas Calgary and Toronto had a ratio of 2:1.<sup>87</sup> In these analyses, the focus is on the coercive power of the state. If an individual was convicted of a crime, she/he literally feels the weight of the law in the deprivation of freedoms; the poor and unsanitary conditions; and the harsh, bodily punishment associated with hard labour.

The judicial system had a complex and often contradictory approach to regulating the sex trade. For example, it was selective in its enforcement of prostitution-related laws. In some cases, madams were able to negotiate with the police, providing payments and sometimes sexual services instead of being charged; or understanding that they would be charged a minimal fine and be back to work in no time.<sup>88</sup> In addition, city officials and the police in Montreal, Toronto, Saskatoon, Winnipeg, and Halifax often colluded through by-laws and policing practices to segregate prostitution into brothels in marginalized areas of the city.<sup>89</sup> Thus, prostitution was an “open secret,” tolerated by the city elites, while at the same time, prostitutes were subject to easy surveillance and apprehension when it suited the police. While most prostitutes could expect to be charged, the courts were not necessarily successful in convicting women working in the sex trade. For example, in her study of prostitution in Winnipeg, Rhonda Hinthier found that the magistrates could not get the cooperation of the “johns” to admit that they had paid for sexual services. As a result, the cases were thrown out.<sup>90</sup>

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<sup>87</sup> McLaren and Lowman, “Enforcing Canada’s Prostitution Laws,” 48.

<sup>88</sup> McLaren and Lowman, “Enforcing Canada’s Prostitution Laws,” 24.

<sup>89</sup> For the Montreal experience, see Poutanen, *Beyond Brutal Passions*, 219; for Toronto, see Strange, *Toronto’s Girl Problem*, 214; for Saskatoon, see Sarah York, “We Have Never Allowed Such a Thing Here: Social Responses to Saskatchewan’s Early Sex trade, 1880-1920” M.A. Thesis, University of Saskatchewan, Department of History, (2013).

<sup>90</sup> Rhonda Hinthier, “The Oldest Profession in Winnipeg: The Culture of Prostitution in the Point Douglas Segregated District, 1909-1912,” *Manitoba History*, 41, (Spring/Summer 2001): 4.



In other cases, the justice system was not friendly to women who were charged with crimes. As primarily a masculinized space with the police, prosecutors, lawyers, judges, and most of the accused being men, the women who appeared before the magistrates were often subjected to the taunts of male spectators. In order to preserve the dignity of the female accused, women's courts were established in several cities including Edmonton.<sup>91</sup> In her study of the Toronto Women's Court, historian Amanda Glasbeek found that the Toronto Local Council of Women, led by Dr. Margaret Patterson, and along with social clubs and religious groups, organized extensive sit-in style demonstrations at the Central Police Court. In 1913, the Toronto Board of Police Commissioners relented and created the first ever women's court in Canada.<sup>92</sup> Its goal, according to Glasbeek, was to "provide maternal guidance, a woman-friendly environment, and a protective (i.e. man free) ethic of caring for those who were *not* criminals."<sup>93</sup>

For those who were convicted of prostitution offenses, Valverde found that Patterson favoured a law and order approach (harsher sentences, longer reformatory sentences instead of fines, and compulsory sterilization).<sup>94</sup> Patterson's approach in the Women's Court led to harsher treatment of female offenders than her male counterparts.<sup>95</sup> In addition, contrary to the reformers' well-publicized concerns that female criminality was increasing, Glasbeek found in her examination of the court records for the twenty-year period that the Women's Court was in session (1913-1934)

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<sup>91</sup> Glasbeek, *Feminized Justice*, 4-5.

<sup>92</sup> Glasbeek, *Feminized Justice*, 3.

<sup>93</sup> Glasbeek, *Feminized Justice*, 11.

<sup>94</sup> Valverde, *The Age of Light, Soap, and Water*, 48.

<sup>95</sup> Valverde, *The Age of Light, Soap, and Water*, 48-49. Sangster, *Regulating Girls and Women*, 100-101.

that the statistics did not substantiate these claims.<sup>96</sup> Instead, Glasbeek concluded that anxieties and fears over supposed “female criminality” by women’s groups represented a moral panic, and that they used this issue to promote their own interests.

Not all women charged and convicted on prostitution offenses were treated equally under and before the law. The scholarly literature has revealed that Indigenous and newcomer women were more likely to be subjected to surveillance and prosecution. For example, Joan Sangster’s article, “Native Women, Sexuality, and the Law,” found that by the 1930s Indigenous women’s rate of incarceration was steadily increasing in local and provincial facilities.<sup>97</sup> This increase in incarceration is often attributed to “sexual offenses” however, Sangster found that many of these women were at conflict with the law because of social and material deprivation, cultural alienation, systematic racism, and “escalating social stresses on reserves and the increased urbanization of Native peoples.”<sup>98</sup> In their studies of treatment of Indigenous women in British Columbia before and under the law, both Jean Barman and Adele Perry found that Indigenous women experienced greater discrimination than white women. Barman’s research indicated that Indigenous women made up a disproportionate number of the women charged with prostitution-related crimes, such as vagrancy and streetwalking.<sup>99</sup> Moreover, Perry found that little evidence was needed to charge Indigenous men and women; that Indigenous women were subjected to harsher punishments, including head-shaving. Not only did this practice physically stigmatize these women, it was meant as

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<sup>96</sup> Glasbeek, *Feminized Justice*, 6-7.

<sup>97</sup> Joan Sangster, “Native Women, Sexuality, and the Law,” in *In the Days of Our Grandmothers: A Reader in Aboriginal Women’s History in Canada*, ed. Mary-Ellen Kelm and Lorna Townsend (Toronto: University of Toronto Press, 2006.): 301-302.

<sup>98</sup> Sangster, “Native Women, Sexuality, and the Law,” 301.

<sup>99</sup> Barman, “Taming Aboriginal sexuality,” 281.

reminder of the Haida and Tsimshian practice of shaving the heads of slaves.<sup>100</sup> Barman found that Indigenous women's agency, not just their bodies were sexualized in the eyes of the white colonists. Their every act became perceived as sexual; thus, they were equated to prostitutes or concubines merely by being out in public.<sup>101</sup> Consequently, it was believed that they had so much power over the men around them, that the men could not be held accountable for their actions.<sup>102</sup>

While not discounting the importance of the state in the regulation of prostitution because it had real-life consequences for the women in the sex trade, the state did not necessarily initiate efforts to eradicate prostitution. Indeed, in her book *The Age of Light, Soap, and Water*, Marianna Valverde argued that the state often lagged behind the social reformers' efforts to eliminate the sex trade.<sup>103</sup> Valverde pointed out that the state did not pass legislation in the form of the CCC's bawdy house revisions—one of the social purity movement's main goals of eliminating vice—until the second decade of the twentieth century. Drawing on the insights of Michel Foucault, historians have focussed on the ways in which the figure of the prostitute is produced through the intersection of state actors, the criminal justice system, reform movements, and disciplines such as psychiatry.<sup>104</sup> In their analyses of the moral reform movements, historians such as Marianna Valverde and Joan Sangster demonstrate the ways in which social reforms movements mobilized sexual and racial purity discourses to distinguish between

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<sup>100</sup> Adele Perry, *On the Edge of Empire: Gender, Race, and the Making of British Columbia, 1849-1871* (Toronto: University of Toronto Press, 2001), location 1850 of 6322. Kindle Version.

<sup>101</sup> Barman, "Taming Aboriginal Sexuality," 289. Here, Barman is quoted as saying "at best, concubines" though does not explain how this could be much better than the perception of prostitute

<sup>102</sup> Barman, "Taming Aboriginal Sexuality," 289.

<sup>103</sup> Mariana Valverde, *The Age of Light Soap and Water* (McClelland and Stewart, 1991), 25.

<sup>104</sup> Michel Foucault, *The History of Sexuality: An Introduction* (New York: Vintage Books, 1990), 13-20.

prostitutes and “good” women.<sup>105</sup> As a result, women who did not conform to conventional white, Anglo, middle-class, norms about femininity were variously described as “fallen women,” “the problem girl” or “deviants.” In the cases of Indigenous and immigrant women, the reformers draw on racist discourses that highlighted their “animal appetites.”

Although marginalized women were heavily targeted by these discourses, white, middle-class women were also disciplined by sexual and racial purity discourses. In her book *Unruly Women*, historian Karlene Faith examined the production of the categories of “unruly woman” and “ruly woman” discourses. According to Faith, an “unruly woman” in western society was a woman who did not fit conventional notions of femininity. She represented an ideal product of the “bourgeois imagination” and the “politics of patriarchal relations,” a white, heterosexual, virtuous, married woman.<sup>106</sup> Ironically, as activists in these social reform movements, middle- and upper class women transgressed the boundaries between the so-called “public” and “private spheres. In their attempts to impose conventional standards on marginalized women, they were able to justify their own bid for social and economic independence since they were caring for the nation. The upper- and middle-class woman, however, was also regulated by these norms since she was subject to forms of internal and external surveillance (by family, friends,

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<sup>105</sup> Sangster, *Regulating Girls and Women*, 9. In addition to these Canadian authors, American historians have also explored this topic. For further reading please see Brian Donovan, *White Slave Crusades: Race, Gender, and Anti-Vice Activism, 1887-1917* (Urbana: University of Illinois Press, 2006), Elaine Tyler May, *Great Expectations: Marriage and Divorce in Post-Victorian America*. Chicago: University of Chicago Press, 1980, Mary E. Odem, *Delinquent Daughters: Protecting and Policing Adolescent Female Sexuality in the United States, 1885-1920*, (Chappell Hill: University of North Carolina Press, 1995), Kathy Peiss, *Cheap Amusements: Working Women and Leisure in Turn of the Century New York* (Philadelphia: Temple University Press, 2011), Penny A. Peterson, *Minneapolis Madams: The Lost History of Prostitution on the Riverfront* (Minneapolis: University of Minnesota Press, 2013).

<sup>106</sup> Karlene Faith, *Unruly Women: The Politics of Confinement and Resistance* (Vancouver: Press Gang Publishers, 1993), 1.

and other associates) that produce conformity to being a “good” girl. Thus, the distinction between the “unruly” and the “ruled” was blurred as both groups of women sought their independence while simultaneously experiencing the constraints of normative femininity.

Historians are well aware that marginalized women represented the majority of prostitutes in Victorian Canada, that they were subjected to violence and coercion, and that their economic and social vulnerability often led them into the sex trade.

Increasingly, however, historians have focussed on the daily lives of prostitutes and their place in working-class culture.<sup>107</sup> These analyses have moved away from narratives of victimhood and crime to the examination of the ways in which these women expressed what limited agency they had – often making rational choices in desperate situations.<sup>108</sup>

Like many contemporary observers of prostitution, historians understand it as a form of paid labour and that the brothel is a worksite that bridges the domestic and public worlds. For those women (and occasionally men), the brothel offered some control over the terms and conditions of work—the madams especially so—particularly when compared to women who worked the streets. Moreover, those who worked in brothels as “inmates” were awarded more protection from the elements, dangerous clients, and security compared to women who worked the streets.

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<sup>107</sup> See sources: Mary Ann Poutanen, *Beyond Brutal Passions: Prostitution in Early Nineteenth-Century Montreal* (Montreal: McGill-Queen’s University Press, 2015), Tamara Myers, *Caught: Montreal’s Modern Girls and the Law, 1869-1945* (Toronto: University of Toronto Press, 2006), Carolyn Strange, *Toronto’s Girl Problem: The Perils and Pleasures of the City, 1880-1930* (Toronto: University of Toronto Press, 1995). Kurt Korenski, “Reform and Empire: The Case of Winnipeg, Manitoba, 1870-1910s.” *Urban History Review/ Revue d’histoire urbaine*, Vol. XXXVII, No. 1, (Fall 2008).

<sup>108</sup> Timothy J. Gilfoyle, “Prostitutes in History: From Parables of Pornography to Metaphors of Modernity,” *American Historical Review*, (February 1999): 120.

The literature on prostitution occasionally highlights the feistiness of some of the madams. For example, drawing on James Gray's chapter "The Madam who Shot the Mountie," Laurie Bertram recalls the story of "Big Nellie" Webb, a madam who enjoyed a good reputation among Edmonton city officials and the police in the 1880s. Webb shot a Mountie, referred to as "Cairney" by Gray, for breaking down her front door in a fit of drunken anger, and received no jail time, although she was fined for running a house of ill-repute. Like Gray, Bertram argues that brothels and prostitutes were welcomed, and even cherished members of settler society because they were essential to maintaining order in overwhelmingly male-dominated towns.

In some cases, prostitution was not always a last-ditch attempt to make money, but rather a choice (within a limited set of parameters) in a market which offered limited job opportunities and low-paying work for young, single, working-class women. For example, in her study of prostitution in Montreal, historian Mary Anne Poutanen argues that the draw of money enticed many young women to turn to prostitution as their occupation (either full- or part-time), rather than working for meagre wages on a factory or shop floor.<sup>109</sup> Like Poutanen, Carolyn Strange has argued that with increasing urbanization in the late nineteenth century, many single, working class women became economic and social actors in varying aspects of urban life including when they entered into prostitution.<sup>110</sup> Strange concluded that single, wage earning women of Toronto experienced a unique form of oppression, wherein city officials were obsessed with their

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<sup>109</sup> Mary Anne Poutanen, *Beyond Brutal Passions: Prostitution in Early Nineteenth-Century Montreal*. (Montreal: McGill-Queen's University Press, 2015).

<sup>110</sup> Carolyn Strange, *Toronto's Girl Problem: The Perils and Pleasures of the City, 1880-1930* (Toronto: University of Toronto Press, 1995), 3-4.

morality , which they feared was being compromised by their sexual activity.<sup>111</sup> The authorities believed that working girls were being sexually exploited, but were still expected to remain virtuous (to the extent of preferring death over violation).

For some women—either as a financial choice or out of desperation, prostitution offered an alternative form of work. Making the choice to sell their bodies, many women turned to work in bawdy houses – having the safety of a madam and protection from law enforcement and customer assault was appealing. Poutanen and Strange found that the women working in brothels found camaraderie and intimacy.<sup>112</sup> Not all women were so lucky and turned to streetwalking. Although this form of prostitution enabled some women to set their own prices, control how often they worked, and were afforded support by other prostitutes, the street offered little protection from law enforcement or violent customers.

### 1.7 The Organization of Prostitution in Social and Physical Spaces

At times, prostitution was highly visible, organized into brothels, and generally tolerated with the occasional police raids when the brothel participants were perceived to be a nuisance. These segregated places were social and economic spaces where sex and commerce converged. At other times, prostitution was subjected to heavy policing and was forced underground. Much of the organization can be explained by a community's development. Newly established towns, particularly in resource-based towns where men greatly outnumbered women were more likely to tolerate the presence of brothels. As

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<sup>111</sup> Strange, *Toronto's Girl Problem*, 213.

<sup>112</sup> Poutanen, *Beyond Brutal Passions*, 118-119. Strange, *Toronto's Girl Problem*, 177-178.

these urban spaces grew, the brothels were situated on the margins of urban spaces and/or overlapped with working-class neighbourhoods. Once, however, as a white middle-class became established, city leaders were more concerned about their civic image, often seeking to promote their respectability and being “civilized.”

The city of Halifax is a case in point. According to historian Katherine Crooks, prostitution in Halifax was carried out in red light districts from 1898 to 1912.<sup>113</sup> As civic leaders sought to present Halifax as a “respectable” city, they became increasingly embarrassed by the visibility of brothels in the city center. Much of the reform and boosterism at the turn of the twentieth century was aimed at eliminating those women who worked in these spaces, resulting in their further marginalization of those who already did not fit in the modern urban landscape. In comparison, Toronto was a well-established city at the turn of the twentieth century, and its leaders wanted to present an image of “Toronto-the Good.” As a result, they sought to eradicate prostitution through strict law enforcement, and the city established one of the first morality squads in Canada.<sup>114</sup> Although very few brothels operated in Toronto, prostitution was not eliminated; historian Laurie Bertram and twelve of her students documented the “hidden” pockets of Toronto’s sex trade, as well as the policing and surveillance on “non-normative”<sup>115</sup> sexualities, in the exhibition *Canada's Oldest Profession: Sex Work and*

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<sup>113</sup> Katherine Crooks, “Profits, Savings, Health, Peace, Order: Prostitution, Urban Planning and Imperial Identity in Halifax, Nova Scotia, 1898-1912” *Journal of Imperial Commonwealth History*, 46, no. 3 (2018): 458; Crofts, Hubbard, and Prior, “Policing, Planning and Sex: Governing Bodies Spacially,” *Australian & New Zealand Journal of Criminology* 46, no. 1 (2013), 55; Phil Hubbard, “Cleansing the Metropolis: Sex Work and the Politics of Zero Tolerance.” *Urban Studies* 41, no. 9 (2004): 1687-702.

<sup>114</sup> Valverde, *Age of Light, Soap, and Water*, 82.

<sup>115</sup> Laurie Bertram, *Brothel Culture, Sex Workers and Johns in 19th-century Toronto* (University of Toronto Library.) <https://exhibits.library.utoronto.ca/exhibits/show/bawdy/mapping-torontos-sex-trade/19th-century-toronto>. Accessed February 28, 2020. Non-normative sexualities refer to non-heterosexual sexualities found in burlesque and strip clubs.



*Bawdy House Legislation*.<sup>116</sup> In contrast, Montreal did not have a designated red-light district in Montreal in the early nineteenth century. In her book *Beyond Brutal Passions*, Mary Anne Poutanen found that prostitution in Montreal took the form of streetwalking,<sup>117</sup> but brothels and “illicit boarding houses”<sup>118</sup> popped up wherever there was an abundance of ready customers.<sup>119</sup> As the city’s population rose in the mid-nineteenth century, demands for increased surveillance of public spaces pushed prostitutes away from the more “respectable” neighborhoods of Montreal.<sup>120</sup>

The organization of prostitution in the West, however, was quite different. According to historian Marianna Valverde, “The new cities of the Prairies presented a very different moral picture.”<sup>121</sup> Due to the expansion of the railroad, towns appeared “overnight, often without planning or without municipalities common in eastern Canada”<sup>122</sup> In his book *Red Lights on the Prairies*, James Gray argued that the lure of work in agriculture, mining, and the building of regional, prairie, town centers, brought a disproportionate number of single-men, and a number of women willing to provide sexual services followed, establishing brothels in “red-light districts” (although he lets his readership know that there were in fact, no red lights used to mark the cities).<sup>123</sup> Rather than attempt to eradicate prostitution, civic officials and the police in Winnipeg, Saskatoon, Regina, Edmonton, Calgary, and Lethbridge, often acted through by-laws and

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<sup>116</sup> Bertram, *Brothel Culture, Sex Workers and Johns in 19th-century Toronto*.

<sup>117</sup> Poutanen, *Beyond Brutal Passions*, 35-36.

<sup>118</sup> These were spaces where street walkers would bring their customers.

<sup>119</sup> Poutanen, *Beyond Brutal Passions*, 36. The Montreal army barracks was a popular location for prostitutes to advertise and co-exist with the soldiers.

<sup>120</sup> Poutanen, *Beyond Brutal Passions*, 43.

<sup>121</sup> Valverde, *The Age of Light, Soap, and Water*, 84.

<sup>122</sup> Valverde *The Age of Light, Soap, and Water*, 84.

<sup>123</sup> James Gray, *Red Lights on the Prairies: The Bonanza Years When the Wide Open Frontier was a Hooker’s Happy Hunting Ground*. (Saskatoon: Western Producer Prairie Books, 1986), ix.

policing practices to segregate prostitution in specific areas of the city. Most of the opposition to prostitution, according to Gray, came from clergy, who lamented the degradation of the population.

Gray's analysis is a more light-hearted account of the "nudge-nudge-wink-wink" variety, which was subjected to a resounding critique by historian John Herd at the time of publication.<sup>124</sup> Gray's book, according to Herd, does not address the seamier side of prostitution, the problem of venereal diseases, overemphasizes the autonomy of the women who worked in the brothels, and portrays the social reformers unfairly. Nor does Gray examine to any significant degree the issue of racial and ethnic segregation within the brothels.<sup>125</sup> Other scholars, however, have examined the ways in which race and class relations in the city intersected in the production of "red light districts." For example, in her article, "The Oldest Profession in Winnipeg," historian Rhonda Hinthier adopted the concept of "spatial governmentality" to examine the methods used by the city's civic officials of Winnipeg and the police worked together to segregate prostitution in working-class areas.<sup>126</sup> These tactics included: enforcing a "code of behaviour" that the women were expected to follow (for example, not playing the piano too loud, not soliciting men from window or doors, and not hiring a white female cook, etc.); and

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<sup>124</sup> John Herd Thompson, Review of "Red Lights on the Prairies by James Gray," *Canadian Historical Review* 53, no. 4 (December 1972): 457-458.

<sup>125</sup> Gray uses outdated and racist language to refer to a group of Black women arrested in a café in Regina in 1911. Gray, *Red Lights on the Prairies*, 92.

<sup>126</sup> Hinthier, "The Oldest Profession in Winnipeg," 5-6. In a more modern context, drawing on Phil Hubbard's work, historian Becki Ross applied the concept of "spatial governmentality" to late-twentieth century Vancouver. Ross found that similar methods of spatial regulation and control were evident in Vancouver's West End. According to Ross, these efforts to segregate prostitution were made by civic-interest groups who wished to "remove" or "relocate" sex workers from the area to make it more "hospitable to capitalism and residential occupation." Becki L. Ross, "Outdoor Brothel Culture: The Un/Making of a Transsexual Stroll in Vancouver's West End, 1975-1984," *Journal of Historical Sociology* 25, no. 1 (2012): 126-50.

summoning the women to court every couple of months to remind them that they were still subject to the law.<sup>127</sup> This situation was a bit of a “win-win” for everyone involved. Since prostitution was confined to a geographical area, it remained “invisible” to the respectable citizenry while the men who worked in nearby factories could easily “avail” themselves of these sexual services.<sup>128</sup> At the same time, Hinthier argued that the organization of prostitution into brothels within red-light districts offered relatively safe spaces for the women to work and live.

Although Winnipeg’s prostitutes were charged with crimes associated with prostitution, as noted above, they were rarely convicted. Since they were not fined, the “inmates” saved their pay, and bought property in the red light district, becoming “madams” who owned and ran their bawdy houses.<sup>129</sup> The demand for housing, mostly driven by local and immigrant women, led to a housing boom from 1909 to 1912.<sup>130</sup> Women wishing to participate in sex work, or own their own brothel, learned that Winnipeg’s red light district was a “safe haven” from police raids. As a result, housing prices and rents shot up to ten times as much as comparable homes in other parts of the city. By 1910, fifty bawdy houses were operating on Rachel Street and McFarlane Street, employing an estimated 150-250 women. The number peaked at fifty-eight in 1912, after which Winnipeg’s red-light district underwent a significant change; the city’s moral reformers won out, and prostitution, was no longer tolerated. Many of the women chose

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<sup>127</sup> Hinthier, “The Oldest Profession in Winnipeg,” 6.

<sup>128</sup> Hinthier, “The Oldest Profession in Winnipeg,” 3.

<sup>129</sup> Hinthier, “The Oldest Profession in Winnipeg,” 4.

<sup>130</sup> Hinthier, “The Oldest Profession in Winnipeg,” 4.

to leave Winnipeg rather than face the imposition of stiff fines, police raids, and sentences of three to six months.<sup>131</sup>

In his analysis of red-light districts in Victoria, BC, historian Patrick Dunae examined the construction of these “prostitutional spaces” based on race.<sup>132</sup> Dunae argues that the earliest forms of prostitution on the west coast took place between Indigenous women and non-Indigenous men. Initially, the men who participated in this “illicit contact” became social outcasts. Trapped within this system of European law, many Indigenous women were at the mercy of patriarchal ideology and racial bias. The Victoria’s newspapers condemned the Indigenous prostitutes and the non-Indigenous men who “consorted” with them because the owner of the newspaper *The British Colonist*, Amor de Cosmos, did not like to see “the mixing of races”<sup>133</sup> But since many residents in Victoria were unattached men, city officials treated prostitution as unavoidable.<sup>134</sup> According to Dunae, dance houses became sites of interracial mixing.<sup>135</sup> Without these legitimate entertainment places, many of the men would have left and found entertainment elsewhere in the ports of San Francisco or Puget Sound.<sup>136</sup> In order to keep the men working and spending their money in Victoria, the dance halls remained

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<sup>131</sup> Hinthner, “The Oldest Profession in Winnipeg,” 15.

<sup>132</sup> Patrick A. Dunae, “Geographies of Sexual Commerce and the Production of Prostituting Space: Victoria, British Columbia, 1860-1914.” *Journal of the Canadian Historical Association* 19.1, (2008): 116-117. Dunae uses the term “prostitutional space” to refer to areas within urban environments that were deemed acceptable for the sex trade to operate.

<sup>133</sup> Dunae, “Geographies of Sexual Commerce,” 118.

<sup>134</sup> Dunae, “Geographies of Sexual Commerce,” 116-117.

<sup>135</sup> Dunae, “Geographies of Sexual Commerce,” 117-118. Both Dunae and Perry use the *British Colonist* newspaper to examine the discriminatory attitudes to white-Indigenous marriages and relationships. Amor de Cosmos would eventually become the second premier of British Columbia in 1872, after the resignation of Jon McCreight. de Cosmos would resign in 1874, before the general election due to controversy over a railway terminal in Victoria. de Cosmos’ attitudes toward inter-racial mixing would affect the attitudes of *The British Colonists’* readership. Leanna Fong, and Nathan Coschi, and George Woodcock, “Amor de Cosmos”. In *The Canadian Encyclopedia*. Historica Canada. Article published October 31, 2010; Last Edited October 28, 2015. <https://www.thecanadianencyclopedia.ca/en/article/amor-de-cosmos>

<sup>136</sup> Dunae, “Geographies of Sexual Commerce,” 118.

open—although . as historian Jean Barman found, self-styled “moral-reformers” enjoyed chastising and belittling Indigenous women who attended dance halls.<sup>137</sup>

By the 1870s, prostitution in Victoria moved from dance halls to bawdy houses, which were organized along racial lines:<sup>138</sup> American-born women (of European origin) and women of European origin (from Europe) conducted their business on Broad Street in the business district;<sup>139</sup> and non-white<sup>140</sup> women worked on Fisgard Street in the Chinese district of Victoria. Generally, Dunae found that brothels in Victoria were able to operate without much interference from local law enforcement if they remained in their designated areas, away from “respectable” establishments.<sup>141</sup> Still, white prostitution was less stigmatized than non-white prostitution. Based on newspaper reports, Dunae found that women working in the business district were described in “a bemusing tone,” and the men’s patronage of these establishments were indulged. In contrast, the newspapers expressed moral outrage at the prostitutes who worked in the Chinese district.<sup>142</sup>

Much like Dunae’s work on Victoria’s segregation of brothels, the research of Belinda Crowson, a member of the Alberta Historical Society, discovered that “white” prostitution in Lethbridge was more or less accepted, but the presence of “ethnic” brothels was a source of anxiety for city elites. Crowson found that Lethbridge’s city elites pushed for the Japanese and Indigenous brothels to be re-located to the edge of the city near the river valley. However, Crowson found that in the 1906 census, three single

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<sup>137</sup> Jean Barman, “Taming Aboriginal Sexuality,” 251.

<sup>138</sup> Dunae, “Geographies of Sexual Commerce,” 120.

<sup>139</sup> Dunae, “Geographies of Sexual Commerce,” 121. In 1884, there were 100 working Chinese prostitutes in Victoria. The overall population of Chinese immigrants within the city was 2000 – the majority of which were men.

<sup>140</sup> “Non-white” women could include women of Asian, Black, or Indigenous ethnicity.

<sup>141</sup> Dunae, “Geographies of Sexual Commerce,” 120.

<sup>142</sup> Dunae, “Geographies of Sexual Commerce,” 122-123.

Japanese women sharing a household listed one as the Head of the Household, and the other two women as maids. Crowson does not believe that this is enough evidence to designate their house as a brothel – despite rumor and press reporting that there was more than one Japanese brothel in the small city.<sup>143</sup> Crowson references Gray’s Red Light on the Prairies when referencing the segregation of “ethnic” brothels from “white” brothels. Like Gray, Crowson believes there was some level of acceptance, as long as the “ethnic” brothels remained physically apart from the others.<sup>144</sup>

Most of the studies of prostitution have focussed on the experiences of a single city, but Sarah York’s M.A. thesis “‘We Have Never Allowed Such a Thing Here:’ Social Responses to Saskatchewan’s Early Sex trade, 1880-1920” illustrates the diversity of responses to prostitution in one province.<sup>145</sup> As was true in other prairie jurisdictions, men were drawn to Saskatchewan in search of work in the resource industries, and according to York, hundreds of women followed. Like other prostitutes across the country, these women appeared to be organized into brothels which, following Gray were racially segregated, but York found that some women regardless of their backgrounds worked together for protection.

As was true elsewhere in Canada, Saskatchewan’s moral reformers believed that prostitution represented a “menace to Anglo-Canadian society” and the Christian foundation on which it was based. Nonetheless, York found that some communities were “whore friendly” while others were not. Overall, York found that the police generally were tolerant of prostitution; the women struck deals with the local police so that they

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<sup>143</sup> Crowson, “Ethnic Diversity,” 3.

<sup>144</sup> Crowson, “Ethnic Diversity,” 3.

<sup>145</sup> Sarah York, “We Have Never Allowed Such a Thing Here: Social Responses to Saskatchewan’s Early Sex Trade, 1880-1920” M.A. Thesis, University of Saskatchewan, Department of History, (2013), ii.

could operate their businesses without being charged. The response to prostitution, however, varied dramatically between the two major urban areas in the Province. Drawing on articles in the *Saskatoon Phoenix* and *Saskatoon Star*, York found that Saskatoon citizenry were quite tolerant of the sex trade.<sup>146</sup> In contrast, the *Regina Leader* took a no-tolerance approach and supported radical reform and the elimination of prostitution in the province. As the cities became more established and fears of “white slavery” were promoted by the moral reformers, the police became less tolerant of prostitution. By the First World War, efforts to eliminate the sex trade had subsided as reformers attempted to deal with the scourge of venereal disease.

In summation, the research on prostitution in the West indicates that it was a unique space where prostitution could co-exist with the “mainstream” in prairie society. There existed few municipal regulations to prohibit prostitution in prairie spaces. Thus, prostitution flourished in male-dominated resource towns. The brothels that emerged became a begrudgingly tolerated “necessary evil” – as long as they kept the peace and very not visible to the “respectable” members of society (who most likely bought their services after hours). Because of this segregation, brothels became regulated by race and class. Brothels where non-white women worked were pushed to the margins of municipalities, whereas white brothels with women of European descent in their employ, could remain in the male dominated downtown spaces.

This thesis aims to add to the cohort of historians who write about prairie prostitution in the early twentieth century. An examination of Magistrate Emily Murphy and Magistrate Philip Primrose’s cases will provide insight into judicial attitudes toward

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<sup>146</sup> York, “We Have Never Allowed Such a Thing Here,” ii.

prostitution in Alberta during its first three decades of settlement. The creation of the first Women's Court in the West is significant, because it allowed female offenders a unique place to have their cases heard by another woman. However, Magistrate Murphy's attitudes toward eugenics and social reform often caused her to impose harsher sentences on the female offenders in comparison to her male colleague.

### 1.8 Methodology

Emily Murphy was the first female magistrate in the British Empire, and her Women's Court in Edmonton established the first Women's Court in Western Canada. Her tenure as magistrate is relatively unknown in women's history in comparison to her activities outside of her magisterial appointment. In order to assess whether or not Murphy was more or less lenient in the adjudication of the (mostly) female offenders who appeared before her, I compared her outcomes to those of Philip Primrose who was the most prominent male magistrate in Edmonton based on the size of his caseload.<sup>147</sup> These two magistrates are an ideal comparison. Both were notable members of Edmonton's elite; both of their appointments were in Edmonton and started and ended within months of one another. Emily Murphy began her appointment in 1916 and retired in 1932. Philip Primrose began his appointment to the Central Police Court in 1915 and retired in 1931. Between Murphy and Primrose, they adjudicated most of the bawdy house cases in Edmonton. Therefore, how they adjudicated cases will provide important about the

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<sup>147</sup> Col. McLeod also worked as a magistrate during this time; however, his appointment was in the Provincial Court.



changes in the regulation of prostitution in Edmonton during the period when the city was moving from a frontier, male-dominated, resource-based town to a respectable city.

The Provincial Archives of Alberta houses, what seems to be, a complete set of monthly returns and records for most of the police magistrates including Magistrate Murphy's<sup>148</sup> The Provincial Archives, however, only houses Primrose's monthly returns from 1915-1926.<sup>149</sup> Thus a comparison of the two magistrates' records is limited to this period. The monthly records include the names of the accused (and by inference their gender and sometimes their marital status), the crimes of which they were accused, the conviction rate, and the punishments imposed. The records were coded and inputted into Excel. For example, the "name of the accused" in the returns were coded to indicate gender in three categories: male, female, and unknown gender. Through this process I was able to identify the total number of male and female offenders for both magistrates based on their names. Sentencing outcomes, crimes, informants, and fine amounts were coded in a similar fashion. Because I had every case Magistrate Murphy oversaw in the Women's Court, the next step was to isolate the offenses related to bawdy houses. The collection of Magistrate Primrose's data was limited to his bawdy house cases. Nonetheless, the data analysis was able to compare the disposition of Murphy's and Primrose's cases and to determine if their gender made a difference in the adjudication of their cases. The data was presented in a series of graphs to best illustrate the findings.

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<sup>148</sup> The strings holding the documents together were cut when I asked to see the reports. From which I conclude that I was the first researcher to examine these documents.

<sup>149</sup> It is unclear why, but the remaining five years of his returns were not available at the Alberta Archives. During this period, Primrose only took three months of vacation.

## 1.9 Thesis Structure

Chapter 2 will focus on the founding of Edmonton and the creation of the Women's Court. The chapter will introduce the professional lives of Magistrates Murphy and Primrose, who over saw many prostitution-related cases in Edmonton. The social reform movement pushed officials at all levels of government to create legislation aimed at creating an "ideal" Canada – many prominent women, including Magistrate Murphy, belonged to these social reform groups. The Edmonton Women's Court was created to protect women from the "nastiness" of the Central Police Court. As Edmonton experienced an unprecedented amount of growth due to the railroad and sale of Hudson's Bay Company land, demand for brothels and prostitutes increased. The city, with its new judicial systems in place, was ideally set up to make a profit from the fines collected from bawdy houses.

Chapter 3 introduces the challenges Magistrate Emily Murphy faced in Edmonton's Women's Court in establishing and setting up the court. This chapter also examines the jurisdictional disputes among Edmonton magistrates who jostled for cases. Since the fines accrued from these cases helped fund the magistrates' courts, the resolution of these issues greatly impacted the ability of the magistrates, including Murphy, to run their courts. In addition, Magistrate Murphy faced heavy opposition from the members of the Edmonton Police Force who sent females accused of bawdy-house and prostitution-related offenses to Magistrate Primrose even though they were supposed to go to the Women's Court.

Chapter 4 examines the monthly returns data, highlighting key adjudication decisions made by the magistrates. In this chapter, the data from the monthly returns is

analyzed by gender, offense, and sentencing outcome. Magistrate Murphy's caseload was dominated by prostitution related crimes – making it the largest single category of cases she heard (19.26%). Magistrate Primrose's caseload contains a much smaller percentage of prostitution related crimes (0.71%) – which is not surprising considering he adjudicated more than ten times as many cases as Magistrate Murphy. Overall, these data show few differences between the two magistrates in their adjudication of bawdy-house related offenses. Moreover, Magistrate Murphy dealt less and less with bawdy-house offenses over her tenure as the number of alcohol-related offenses increased. Fines from these cases were much higher than those for bawdy-houses offenses, suggesting that the fees accrued by the magistrate courts were important source of funds for the city of Edmonton's coffers.

Chapter 5 provides a summary of the major findings and a discussion of their implications in terms of the regulation of prostitution in Edmonton from 1915 to 1932. Edmonton's civic officials seemed more concerned with following current trends, rather than completely adopting a new court system. Emily Murphy met resistance throughout her tenure as magistrate in the Women's Court, and the court ceases to be discussed after her retirement. Edmonton adopted a "boutique" Women's Court to please the female social reformers pushing for the male-dominated frontier town to become a modern city, comparable to Toronto.

## Chapter 2 Morality and Crime in the West

*“In some cases, the underlying causative factors responsible for a prisoner’s delinquent career are feeble-mindedness, venereal disease, and drug addiction, a trinity of evils greater than any scourge that ever afflicted mankind.”<sup>150</sup>*

-Emily Murphy, Judge of Magistrate’s Court, Edmonton, 1924.

“Do not be deceived!” cried moral reformers in Canadian cities at the turn of the, twentieth century. In the 1880s the anxieties of middle and upper-class men and women grew over the “dangers of the city” and the young impressionable girls who were flocking there to work in factories and shops. Reformist anxieties found their roots in new female freedoms and the risk of poverty and reliance on “strange men;” i.e. men outside the family circle who hired women to work in their shops, factories, etc. Gone were the worries over the seduced and innocent young women, the “fallen” women of the previous generation. In her place stood the “Good Time Girl” who worked a legitimate job during the day but deceived those around her by engaging in part-time prostitution on her hours off.<sup>151</sup>

At the turn of the twentieth century, public officials, business leaders, physicians, social scientists, and female reformers both in the United States and Canada expressed anxiety over female morality.<sup>152</sup> The social environment that they advocated for did not

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<sup>150</sup> Emily Murphy, “The Administration of Criminal Justice in Canada.” In “Delinquents and Correction,” *Proceedings of the National Conference of Social Work* 51 (1924),178. This quote highlights Murphy’s eugenic ideologies – influencing her opinion of the women who appear before her in the Women’s Court.

<sup>151</sup> Carolyn Strange, “From Modern Babylon to a City upon a Hill: The Toronto Social Survey Commission of 1915 and the Search for Sexual Order in the City” in *Queerly Canadian: An Introductory Reader in Sexuality Studies*, eds. Maureen Fitzgerald and Scott Rayter (Toronto: Canadian Scholar’s Press, 2012), 219.

<sup>152</sup> Mary E. Odem, *Delinquent Daughters: Protecting and Policing Adolescent Female Sexuality in the United States, 1885-1920*, (Chappell Hill: University of North Carolina Press, 1995), 96. Carolyn Strange,

punish male seducers or impose harsher punishment or restraints on men. Instead, the reformers advocated for policies that aimed to control young women and their social surroundings.<sup>153</sup> Reformers believed that working-class parents pushed their daughters into the workforce “too early” in an effort to provide additional income for the household. Working for a wage provided too much freedom and exposed young women to the dangers of the workplace.<sup>154</sup> Progressive reformers in the US and social and moral reformers in Canada maintained that the State should become a “substitute mother” for delinquent working-class girls if the State could get older women appointed as police officers, Juvenile and Women’s Court judges, probation officers, and superintendents of correctional facilities for women.<sup>155</sup> Reformers in Canada began advocating for “feminized justice.”<sup>156</sup>

This approach toward prostitution was relatively new. In pre-Confederation Canada, prostitution was regarded as a “necessary evil” and a “nuisance;” government officials and the citizenry often turned a blind eye to “ladies of the night” except when they and/or their clients created a public disturbance; then they were subject to the arm of the law, but even then, many “madams”, “inmates”, or “frequenters” received only minor fines or sentences.<sup>157</sup> After Confederation, various moral reform movements converged, leading to the increasing criminalization of prostitution as signalled by changes to the

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“From Modern Babylon to a City upon a Hill: the Toronto Social Survey Commission of 1915 and the Search for Sexual Order in the City” in *Queerly Canadian: An Introductory Reader in Sexuality Studies*, eds. Maureen Fitzgerald and Scott Rayter (Toronto: Canadian Scholar’s Press, 2012), 213-227.

<sup>153</sup> Odem, *Delinquent Daughters*, 108.

<sup>154</sup> Odem, *Delinquent Daughters*, 106.

<sup>155</sup> Odem, *Delinquent Daughters*, 109.

<sup>156</sup> Amanda Glasbeek, *Feminized Justice: The Toronto Women’s Court, 1913-1934*. (Vancouver: University of British Columbia Press, 2009), 1.

<sup>157</sup> Scott Cunningham and Manisha Shah, eds. *The Oxford Handbook of the Economics of Prostitution*. (New York, NY: Oxford University Press, 2016), 392-393.

*Canadian Criminal Code (CCC)* in 1892.<sup>158</sup> Enforcement of the provisions in the *CCC* regulating prostitution however varied significantly. In Ontario, where the influence of maternal feminism created a greater focus on “improving” and “reforming” the lives of women involved in criminal sexual activity, many maternal feminists encouraged the imprisonment and placement of women within socially acceptable houses and working environments monitored by older women.<sup>159</sup> In comparison, the police magistrates in both the Women’s and Central Police Courts in Western Canada adopted non-coercive methods of compliance.<sup>160</sup> Instead of locking up the women and harshly punishing those who owned or operated brothels within the city limits, routine police raids would be held, and fines would be extracted rather than gaol time if the case was brought before a magistrate. Public officials were willing to accept prostitution as a “necessary evil” in city spaces where men far outnumbered women.

In their study of prostitution in Canada from 1892 to 1920, John McLaren and John Lowman identified four dominant approaches to enforcement. First, a “moral discourse” was used to alter provisions under the *CCC*; second, the police adopted a “public order discourse” to reinforce their authority within the prostitute community. The police’s intention was not to eliminate the practice of prostitution per se. Rather, they wanted to demonstrate to those involved in prostitution that they were at the mercy of the police, who could just as easily prosecute as turn a blind eye.<sup>161</sup> McLaren and Lowman also argue that the public order discourse was invoked to provide information about other

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<sup>158</sup> John McLaren and John Lowman, “Enforcing Canada’s Prostitution Laws” in *Securing Compliance: Seven Case Studies*, ed. M. L. Friedland (Toronto: University of Toronto Press, 1990), 25.

<sup>159</sup> McLaren and Lowman, “Enforcing Canada’s Prostitution Laws,” 4.

<sup>160</sup> Magistrates Monthly Returns for Emily Murphy and Philip Primrose. 1916-1926. *Provincial Archives of Alberta*. Although this thesis looks only at Edmonton, similar data exists for Calgary as well, suggesting that this city also adopted a non-coercive method of tolerance.

<sup>161</sup> McLaren and Lowman, “Enforcing Canada’s Prostitution Laws,” 4.

forms of criminal conduct that were deemed to be more “dangerous” than prostitution, such as drug trafficking. The collection of this information served to maintain general order on the street.<sup>162</sup> Out of this practice, emerged a “pragmatic tolerance discourse,” which created an undisturbed “red-light” district where prostitution was allowed to flourish as long as it kept within the designated boundaries. Finally, a “public health discourse” highlighted the dangers associated with the sex trade since venereal disease posed a public health risk.

In the case of Alberta’s capital city Edmonton, the police magistrate, and police force(s) that enforced prostitution law adopted a “public order discourse,” which was illustrated in the correspondence between Magistrate Emily Murphy and the Attorney-General and led to a “pragmatic tolerance discourse.” A “red light district” began to develop in Edmonton north of Jasper Avenue<sup>163</sup> Rather than enforcing imprisonment for all convicted “inmates”, “madams”, and “frequenters” who were convicted under the CCC, Edmonton’s police and judiciary collected fines for providing information. In return, the police conducted fewer raids on the brothels, which was good for business. This review reveals that the state was not a monolithic entity; rather, social, political, and economic interests and techniques of surveillance were independently adopted and selectively enforced by government agencies and different regions throughout Canada.<sup>164</sup> In Edmonton, the rapid expansion of the city which attracted predominantly men led

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<sup>162</sup>McLaren and Lowman, “Enforcing Canada’s Prostitution Laws,” 4.

<sup>163</sup> James Gray, *Red Lights on the Prairies: The Bonanza Years When the Wide-Open Frontier was a Hooker’s Happy Hunting Ground*. (Scarborough, Ontario: The New American Library of Canada Limited, 1973), 128. In his book, Gray provides a map of Edmonton and indicates that much of the city existed on the north side of the river with Jasper Ave.

<sup>164</sup> McLaren and Lowman, “Enforcing Canada’s Prostitution Laws,” 5.

Edmonton city officials to turn a blind eye to prostitution, as long as it was confined to the “red light district.”

## 2.1 Prostitution in the Western Provinces

Alberta’s population boom took off shortly after the province was formally announced on September 1<sup>st</sup>, 1905. Edmonton went from a population of 8,350 in 1904 to 14,088 in the 1906 census.<sup>165</sup> The arrival of the Canadian Northern Railway in 1905 and the announcement of the Grand Trunk Pacific arriving in 1911 sparked a rush of railway construction workers to Alberta. However, once the railway reached Edmonton, men abandoned the railway in droves,<sup>166</sup> but they did not abandon Edmonton since the city was expanding and it need men with skills and physical stamina. Male workers were needed for coal mining, digging and gravelling roads, building basements in residential areas, laying pipe and trenches for sewer and water lines to name a few.<sup>167</sup> In turn, steady employment offered these men the opportunity to settle down and build a home.

Edmonton continued to expand its infrastructure to meet the rapid increase of immigration into the province. The city’s population jumped from a population of 24,900 in 1911 to 53,611 people in 1912, as result of the land rush created by the Hudson’s Bay Company (HBC) selling lots of land in the area surrounding Edmonton.<sup>168</sup> In anticipation of a land sale, more than 1600 people stood in line all night on date July 1912 for the

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<sup>165</sup> City of Edmonton Planning and Development. “City of Edmonton Population, Historical” <https://web.archive.org/web/20060304070934/http://www.edmonton.ca/infraplan/demographic/Edmonton%20Population%20Historical.pdf>. Accessed on October 17<sup>th</sup>, 2018.

<sup>166</sup> Gray, *Red Light on the Prairies*, 124.

<sup>167</sup> Gray, *Red Light on the Prairies*, 127.

<sup>168</sup> City of Edmonton Planning and Development. “City of Edmonton Population, Historical” <https://web.archive.org/web/20060304070934/http://www.edmonton.ca/infraplan/demographic/Edmonton%20Population%20Historical.pdf>. Accessed August 15<sup>th</sup>, 2018.



chance to purchase land around Edmonton on July 1912; reportedly, the line-up extended from the HBC's headquarters for six or seven blocks.<sup>169</sup> In order to attract potential settlers to Edmonton, city's government and real estate firms launched an advertising campaign that presented the Edmonton landscape as idyllic, and argued that Edmonton was more scenic than any "Tacoma" and was "the St. Louis of the North."<sup>170</sup> The Medical Health Officer's report, however, contradicted this edenic view. Many men resorted to living in tented ghettos at the edge of the city after they had purchased their land.<sup>171</sup>

The demand for infrastructure and a new population dominated by men seeking opportunity, land, and employment, created ideal conditions for prostitution to prosper. At the turn of the twentieth century, given the large population of single-working class men and few "marriageable" women, the city and the police adopted a "pragmatic tolerance" toward prostitution. The Edmonton Police Force and the North West Mounted Police, which enforced federal and provincial laws turned a blind eye to the women and men who ran and operated the brothels in and around the city. Fines were the preferred response for dealing with those involved in "criminal" activities rather than imposing prison terms or attempting to reform those convicted of misdemeanours.<sup>172</sup> Fines had the ability to generate revenue to cover the city's mounting debt problem. Thus, the police would annually charge small fines to those who worked in the profession, if there was no

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<sup>169</sup> Sanderson, "Hudson's Bay Co. Sale of Lots – The Lineup for the Drawing of Tickets." *City of Edmonton Archives*. MS-56 Northern Alberta Pioneers and Old Timers' Association Fonds. Image No. EA-10-785a, (Summer 1912).

<sup>170</sup> John C. Weaver, "Edmonton's Perilous Course, 1904-1929" *Urban History Review* vol. 6 no. 2 (October 1977): 20.

<sup>171</sup> Weaver, "Edmonton's Perilous Course," 20.

<sup>172</sup> For additional information of caseloads and a breakdown of fines by crime, see *Figure 4* in Chapter 3. The chart above details the number of cases brought before Emily Murphy. The number of cases charged with fines, sent to prison, and those that contained other circumstances.

trouble.<sup>173</sup> In comparison, Edmonton's rival city, Calgary, also experienced unprecedented growth. Due to the rising crime rates and lack of available prison space, many offenders were simply turned away – earning Calgary a reputation for loose justice until a boom in infrastructure led to the expansion of the prison system.<sup>174</sup>



Figure 2.1: *The lineup for the Hudson's Bay land sale on July 11th, 1912.*

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<sup>173</sup> Gray, *Red Light on the Prairies*, 122-23.

<sup>174</sup> Thomas Thorner and Neil B. Watson, "Keeper of the King's Peace: Colonel G. E. Sanders and the Calgary Police Magistrate's Court, 1911-1932." *Urban History Review* vol. 12, no. 3 (February 1984): 46.

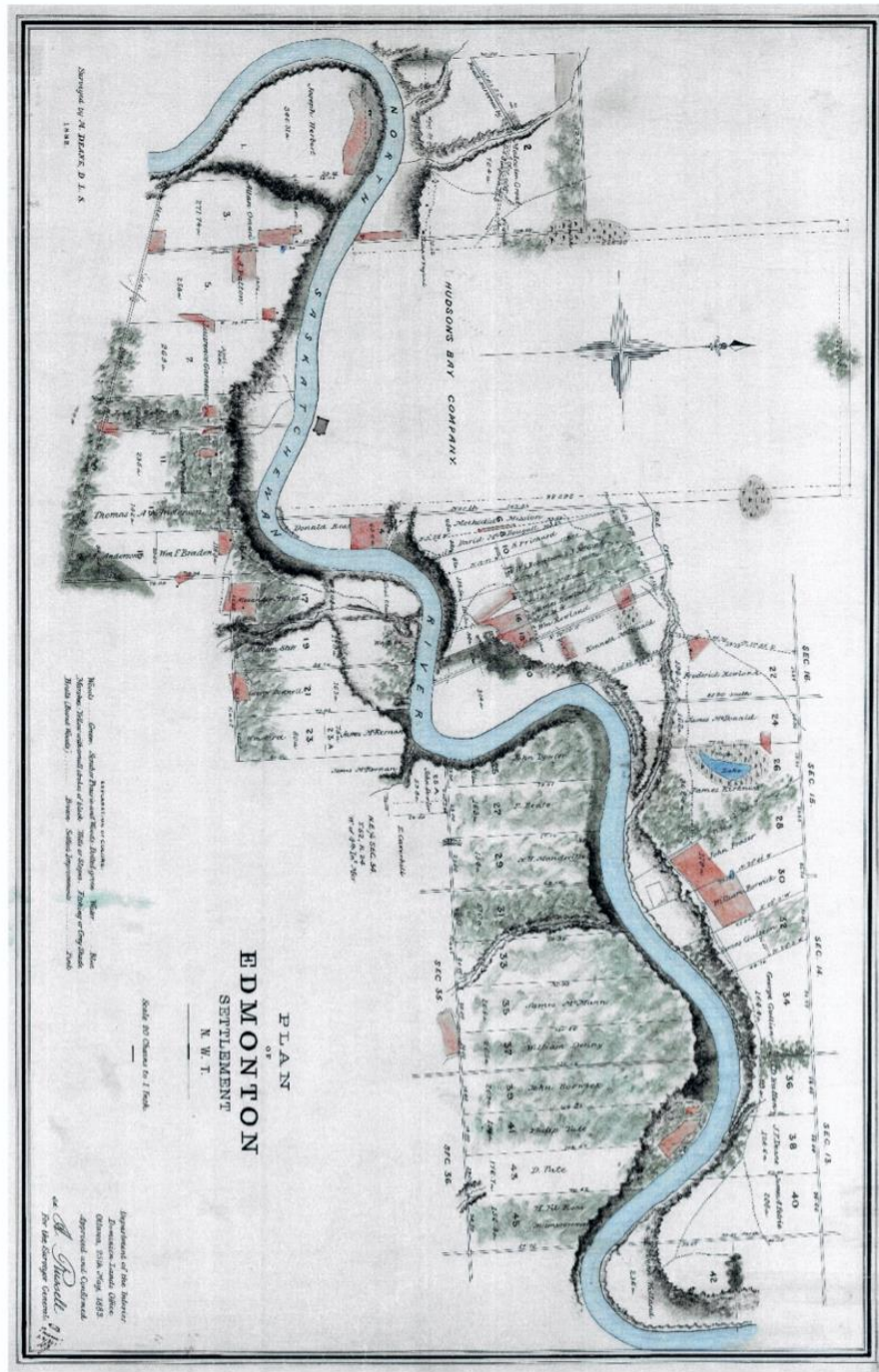


Figure 2.2: A. Russell, “Plan of Edmonton Settlement N.W.T.” Department of the Interior (Ottawa: Dominion Lands Office, May 25th, 1883). This map illustrates the areas of land that belong to the Hudson’s Bay Company; its dimensions were 262.88a by 226.30a by 122.00a. This map also illustrates where permanent settlements or “settler’s improvements” have been set up in the city (as indicated by the pink blocks on the map). The men who settled into the city were set to work clearing the areas marked in green on the map, as well as the building of roads, sewers, and other essential infrastructure to make Edmonton a city.

As became the pattern for many Canadian prairie cities, Edmonton experienced periods of boom and bust. Throughout the first decade of the twentieth century, Edmonton's civic leaders pushed for public ownership of utilities, telephone lines, and public transport; their goal was to cultivate a high moral tone of public service and greater civic accountability.<sup>175</sup> Despite its progressive outlook, the city began to fall behind in bond sales by the end of 1912 and experienced a massive loss in the expected returns from the shares in the telephone lines built between Edmonton and Fort Saskatchewan. In 1913, a large windstorm knocked all the poles down, and the rates went up to cover the cost of the damage. Many abandoned the service due to the higher rate charged to cover the damage. The housing boom that began in 1906 had slowed to a slump by the end of 1913 due to the rising cost of land and utilities imposed by the city. The rapid transition from "boom" to "bust" was also the result of the city's financial future being tainted by an international tightening of credit brought about by the Balkan War and the looming fear of war in Europe.<sup>176</sup> By the end of 1913, deficits in these publicly-owned enterprises caused a financial crisis that lingered until the 1920s. As a result, Edmonton began to abandon unnecessary infrastructure and building projects, causing many men to become unemployed. Correspondingly, crime rates began to spike in the city.

Drawing on Martin J. Weiner's work, historian Lesley Erickson found that in social surveys of Western Canada during the inter-war periods, the image of "the criminal" shifted from fear centred on "Indians" and "tramps" to one that emphasized the

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<sup>175</sup> Weaver, "Edmonton's Perilous Course," 24-26.

<sup>176</sup> Weaver, "Edmonton's Perilous Course," 26.

dangers of the “hired-hand” and the “immigrant.”<sup>177</sup> Initially, these latter groups were welcomed because they provided much needed labour; but as the homesteading period was ending, many of the region’s “elites” who were predominantly Anglo-Canadian, white, middle-class, and Protestant watched with fear as the West began to fill with thousands of “non-preferred” immigrants from central and eastern Europe.<sup>178</sup> Many of these “non-preferred” men and women arrived to work as farm labourers during the harvest season. When work dried up, they began to seek refuge in the “bulging slums” of prairie cities and joined the other, unemployed male workers<sup>179</sup>

## 2.2 The Administration of Justice in The West

Traditionally, the administration of justice in the Western provinces fell to the Justices of the Peace (JP) and the North West Mounted Police from 1870-1905. With few exceptions, these administrative officials did not receive any formal legal training. Rather, the territorial government ruled that legally trained, salaried professionals for the lower courts, should be excluded, presumably, because the government could not fund all the JPs needed in the territory at professional prices. The JPs, or magistrates as they also were called, were appointed based on patronage, and on their willingness to which could carry out their duties with conviction.<sup>180</sup> Police magistrates worked under the territorial government, but they were regulated differently across cities. For example, since its

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<sup>177</sup> Lesley Erickson, “Murdered Women and Mythic Villains: The Criminal Case and the Imaginary Criminal in the Canadian West, 1886-1930” in *People and Place: Historical Influences on Legal Culture* ed. Jonathan Swainger and Constance Backhouse (Vancouver: UBC Press, 2003) 96-97.

<sup>178</sup> Erickson, “Murdered Women and Mythic Villains,” 96.

<sup>179</sup> Erickson, “Murdered Women and Mythic Villains,” 96.

<sup>180</sup> Thorner and Watson, “Keeper of the King’s Peace,” 46. Steven Van De Walle, “Confidence in the Criminal Justice System: Does Experience Count?” *The British Journal of Criminology* 49, no. 3 (2009), 384-98.

police magistrates lacked formal training, the City of Calgary introduced regulations as early as 1894 that defined the role and responsibilities of Police Magistrates; Edmonton—located in “the wilder regions” of Alberta—did not introduce any such regulations until after the turn of the century.<sup>181</sup>

After the creation of the province of Alberta in 1905, a capital city needed to be named in order to establish the seat of the provincial government and the site for the administration of provincial justice system. Municipalities—including Edmonton, Calgary, Medicine Hat, Red Deer, and smaller locations such as Banff lobbied for this honour (and the attendant business associated with a capital city).<sup>182</sup> As the historian Alexander Bruce Kilpatrick has observed, Edmonton’s advocates had a unique and aggressive form of boosterism compared to the cities they were competing against for the provincial capital.<sup>183</sup> The fight for capital was not a matter of strategic geographical location, but rather who could gain the most influence and lobby the hardest for the funding and the title. Edmonton’s toughest contender was Calgary, which had been campaigning, rather unsuccessfully, since the 1880s to become the capital of the North-West Territories.<sup>184</sup> Edmonton was the winning contender in this struggle because their civic leaders led an aggressive campaign from 1883 to 1904, which was facilitated by their connections to the federal and territorial levels of government.

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<sup>181</sup> Thorner and Watson, “Keeper of the King’s Peace,” 46-47.

<sup>182</sup> Alexander Bruce Kilpatrick, “A Lesson in Boosterism: The Contest for the Alberta Provincial Capital, 1904-1906” *Urban History Review* 8 no.3 (February 1980): 47-49.

<sup>183</sup> Kilpatrick, “A Lesson in Boosterism,” 47. A “booster” is essentially a person who considers themselves to be an enthusiastic supporter. Indeed, those in Edmonton, according to Kilpatrick took the competition very seriously, and won the title of capital due to aggressive campaigning and the lack of effort put forth by other cities and their own boosterism campaigns.

<sup>184</sup> Kilpatrick, “A Lesson in Boosterism,” 49. The competition between the two cities began when the Canadian Northern Railway launched a bid to travel to the West coast in 1880. Calgary’s civic leaders then launched their campaign to move the capital of the Territorial government to Calgary rather than Regina, which remained the capital until the disablement of the territory in 1905.

After the appointment of Edmonton as the capital, the province was cut in half politically, creating a divide between North and South, and leaving the smaller municipalities to be absorbed into the regions dominated by either Calgary or Edmonton. As a result, the courts and government were based in Edmonton. Three police magistrate courts were created; the Central Police Court (cases involving men and some women from within city limits); the Provincial Police Court (cases from outside the city limits, brought in by the RCMP); and the Women's Court (cases involving women from within the city limits).<sup>185</sup> Because the Edmonton police magistrates had easy access to the Attorney-General, they had a number of advantages over magistrates in other cities in the province; they were more easily able to campaign for favours and received quick replies to their correspondence with the Attorney-General.

### 2.3 The Appointment of The Magistrates

Attorney-General Charles Cross was appointed as the first Attorney-General in 1905 by Alberta's first Premier Alexander Rutherford. Cross was an extremely influential member of the Liberal Party and was noted for his efforts for bringing the railway to Alberta.<sup>186</sup> In 1910, Alberta's Rutherford administration was accused of guaranteeing loans to the Alberta and Great Waterways Railway. In addition, the guaranteed loans were substantially higher than the actual project cost. When the news broke to the press, it led to a scandal that would tarnish the reputations of those within the Liberal Party. A federal investigation was called by Rutherford to placate the legislature, and the result of

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<sup>185</sup> The Women's Court was created in 1916, decade(s) after the creation of the central police court and the provincial court.

<sup>186</sup> Alvin Finkel, "Cross, Charles Wilson" in *Dictionary of Canadian Biography*. [http://www.biographi.ca/en/bio.php?id\\_nbr=7802](http://www.biographi.ca/en/bio.php?id_nbr=7802) Accessed on August 27, 2018.

the investigation forced his resignation and saw him replaced by Arthur Sifton as Premier. As a result, Cross had a rocky re-election campaign in 1912 that won him hard fought support for the Liberal Party<sup>187</sup> and resulted in Cross winning a seat in two ridings (one in Edmonton, Alberta and one in Edson, Alberta).<sup>188</sup> Cross was tasked with appointing new Justices of the Peace in the province.<sup>189</sup>

## 2.4 The Appointment of Philip Primrose

In the last years of his appointment<sup>190</sup> Cross, amid a huge political debate over conscription within the Liberal Party, invited Philip Primrose to hold the position of Justice of the Peace in Edmonton. Primrose was an ideal candidate; he graduated from the Royal Military College of Canada, worked as an inspector for the North West Mounted Police for fourteen years in the towns of Wood Mountain, Calgary, and Macleod before being promoted to the rank of Superintendent.<sup>191</sup> Upon his appointment, Primrose was relocated to the Klondike where he spent four years policing during the Yukon Gold Rush. In 1904 Primrose returned to Macleod as Commanding Officer and remained there until 1913. In that year, he was moved to the North West Mounted Police Headquarters in Regina to organize the Criminal Investigations Branch. Primrose retired

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<sup>187</sup> Cross's appointment continued under Sifton's government. Cross won 48% of the vote in the 1912 by-election, his opponent Ewing following close behind with 46% of the vote. "Past by-election results," *Elections Alberta*. Accessed on August 27<sup>th</sup>, 2018.

<sup>188</sup> Cross is one of the first men in Alberta's history to run in two ridings and win them both. Edmonton and Edson are 202.6 km away from one another.

<sup>189</sup> Alvin Finkel, "Cross, Charles Wilson" in *Dictionary of Canadian Biography*. [http://www.biographi.ca/en/bio.php?id\\_nbr=7802](http://www.biographi.ca/en/bio.php?id_nbr=7802) Accessed on August 27, 2018.

<sup>190</sup> Cross was fired by the Premier on August 23<sup>rd</sup> 1918 for refusing to accept a position as the province's agent general in London, England. [http://www.biographi.ca/en/bio.php?id\\_nbr=7802](http://www.biographi.ca/en/bio.php?id_nbr=7802)

<sup>191</sup> "The Honourable Colonel" Internet Archive Way-back Machine. <https://web.archive.org/web/20100913144313/http://www.assembly.ab.ca/lao/library/lt-gov/primrose.htm> Accessed August 27<sup>th</sup>, 2018.



from that position on April 15<sup>th</sup> 1915, and moved his wife and three children to Edmonton where he had been appointed as the Police Magistrate for the Central Police Court of Edmonton.<sup>192</sup> In addition to his Magistrate duties, Primrose also was the Commanding Officer of the Edmonton Reserve Battalion of the Canadian Military from 1915 until the end of the war. Primrose served twenty years as police magistrate until 1935. He was then appointed to be the Lieutenant-Governor of Alberta from October 1, 1936 to March 17, 1937, when he died while holding the office.

## 2.5 The Appointment of Emily Murphy

Until the establishment of the Women's Court system in 1916, provincial magistrates in the Western Canada were men. But, in 1916, the Edmonton civic leaders instituted a Women's Court. Since the appointment of a male magistrate to oversee the administration of the Toronto Women's Courts was roundly criticized by the media,<sup>193</sup> Alberta's Attorney-General Charles Cross of Alberta appointed a female magistrate, Emily Murphy, to preside over the new Women's Court in Edmonton. In 1917, Calgary followed suit, appointing Alice Jane Jamieson, to preside over the Women's Police Court.<sup>194</sup> As was true with his appointment of Primrose, Cross choose Emily Murphy based on her experience and notability. Emily Murphy, who had moved to Edmonton

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<sup>192</sup> J. Price, Clerk of Court on October 18, 1924. A note in file 112 lists the addresses and dependents for each magistrate within the City of Edmonton. Primrose lived at 10048 118<sup>th</sup> Street with his wife, Lily Deane Primrose, and three children, Phyllis, Neil, and Sybil. GR1969.210, Box 18, File 112. Provincial Archives of Alberta. "The Honourable Colonel Philip C.H. Primrose, 1936-37" Internet Archive Way-back Machine. Legislative Assembly of Alberta. Web Archive. Accessed August 24<sup>th</sup>, 2018. <https://web.archive.org/web/20100913144313/http://www.assembly.ab.ca/lao/library/lt-gov/primrose.htm>.

<sup>193</sup> Glasbeek, *Feminized Justice*, 23.

<sup>194</sup> Jamieson was appointed in 1916 to administer justice in the Juvenile Court – technically making her the first female magistrate. However, many scholars award the title to Murphy because she is a given the title "Justice of the Peace" or "Police Magistrate."

with her husband in 1907, was well known throughout Canada. Her book series, *Janey Canuck*, which chronicled the struggles of a pioneer woman and her husband who had travelled to Western Canada, earned her a national reputation.<sup>195</sup> Murphy was greatly involved in women's affairs locally, nationally and internationally; she was a board member for the Edmonton Municipal Hospital, Vice-President of the Tuberculosis Board of Canada, President of the Canadian Women's Press Club, Secretary for Canada in the Society of Women Journalists of England, and Honourable President of the Women's Canadian Club of Canada.<sup>196</sup> Before her appointment as the first female police magistrate in the British Empire, Murphy was decorated by King George V and admitted into the Order of St. John of Jerusalem as a Lady of Grace in 1914 for her service as a "charitable minded woman of philanthropy."<sup>197</sup> Who better to appoint than someone who was an executive member of the National Council of Women in Canada and the Canadian Women's Patriotic Fund? If anyone could dispense feminized justice for the misguided young women of the West, it would be Emily Murphy.

Murphy's appointment was created after an incident in March 1916 involving the Edmonton Local Council of Women (ELCW) who were concerned about the treatment of accused women, including prostitutes. The ELCW attempted to attend the trial of several women who were arrested by the City Police for prostitution. The ELCW were removed from the courtroom on the grounds that the testimony was "not fit for mixed company."<sup>198</sup> Murphy, a member of ELCW, wrote to the Attorney-General Charles

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<sup>195</sup> "Mrs. Murphy is Appointed Police Magistrate for City," *Edmonton Bulletin*, June 14, 1916.

<sup>196</sup> "Mrs. Murphy is Appointed Police Magistrate for City," *Edmonton Bulletin*, June 14, 1916.

<sup>197</sup> "Order of St. John of Jerusalem" Accessed August 27, 2018.

<http://www.gg.ca/document.aspx?lan=eng&id=14952>

<sup>198</sup> Susan Jackel, "Emily Murphy," *The Canadian Encyclopedia*. Historica Canada. Article published April 01, 2008; last modified October 02, 2018.

Wilson Cross outraged by the exclusion of the ELCW: "if the evidence is not fit to be heard in mixed company," she argued, "then ... the government ... [must] set up a special court presided over by women, to try other women."<sup>199</sup> Much to her surprise, Cross agreed with her and offered her the opportunity to run such a court in Edmonton. Because she was a woman and seen as "deficient," Murphy had an uphill battle to prove that she was up to the task of administering justice. Immediately following the first sentence that she passed in her court, the prisoner's lawyer stood up and challenged her right to pass sentence at all because she was not "a person" before and under the law.<sup>200</sup> According to the lawyer, being a magistrate was a privilege, and because women were not entitled to matters of right and privilege under the English Common Law (1876), she could therefore not be employed as a magistrate.<sup>201</sup> The Alberta Supreme Court, however, ruled in 1917 that Murphy, and other female magistrates, were "through reason and good sense" were entitled to hold office.<sup>202</sup>

Although Murphy's appointment was contested, she remained a police magistrate until she retired. But in the eyes of the Canadian government, women were only fit to administer justice over their own kind. Women across the country tried throughout the 1920s to be appointed to the Senate, and were refused on the grounds that they did not meet the definition of "qualified persons" under the British North America Act.<sup>203</sup> Following this incident, Murphy, along with Irene Parlby, Nellie McClung, Louis McKinney, and Henrietta Edward, fought to have women recognized as persons under

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<sup>199</sup> Jackel, "Emily Murphy"

<sup>200</sup> Janice M. Horowitz, "Women in Law and the Justice System." In *The Women's Book of World Records and Achievements*. Ed. Lois Decker O'Neill, (Anchor Press, 1979), 352.

<sup>201</sup> Belinda Crowson, "A Hundred Years of Women Having the Vote--Well, Some Women." *Alberta History* 64, no. 2 (2016): 2-7.

<sup>202</sup> Crowson, "A Hundred Years," 6.

<sup>203</sup> Crowson, "A Hundred Years," 6.

Canadian law, with the right to serve on the Senate and hold government office.<sup>204</sup> The “Famous Five” succeed in 1929 when the Judicial Committee for the British Privy Council ruled that women were legally eligible for appointment in the Senate of Canada.<sup>205</sup> Emily Murphy retired from her position as police magistrate in 1931. Upon her retirement she committed herself to running for a seat in Parliament, but never was elected to a position. She died in 1933.

## 2.6 Conclusion

With growing concern over the young women moving into city spaces seeking employment, progressive movements and women’s groups pushed the state and its administrators into becoming “second parents” to the unruly young women. But, in prairie cities like Edmonton, which were dominated by men who gathered there to work on the railway and infrastructure, prostitution was considered a necessary evil; the police and courts had their work cut out for them. Edmonton adopted a pragmatic tolerance approach to prostitution, and offenders were encouraged to pay, rather than serve time in prison. Moreover, the sex trade provided a steady income to the city through the fines collected, a welcome revenue stream for a city in debt. At the same time, as Edmonton became established, particularly as the seat of the provincial government, its leaders set up the judicial system. The importance of the administration of justice to the community was marked by the appointments of Police Magistrates Phillip Primrose and Emily Murphy, both notable individuals in their own right.

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<sup>204</sup> Frances W. Kaye, "Persons Case." In Wishart, David J. *Encyclopedia of the Great Plains*. University of Nebraska Press, (2004), 320.

<sup>205</sup> Robert J Sharpe, "The Persons Case and the Living Tree Theory of Constitutional Interpretation," *University of New Brunswick Law Journal*, (January 2013): 1.

### Chapter 3 The Administration of Justice for Prostitution-Related Crimes: A Comparison of the Cases Heard before the Women's and Central Police, 1916-1931

*"It appears that some time ago Col. Primrose drew up a schedule of the amount of bail required in certain offences of frequent occurrence. This he did to save time and trouble and in order that the Police might know when any such cases arose and bail was requested what in the judgment of Col Primrose the amount of that bail should be and might be able to so inform the justice taking the bail.*

*Mrs. Murphy on the other hand is of the opinion apparently that she has co-ordinate jurisdiction even in the case of male prisoners, with Col. Primrose, and is not in any way bound by his judgment or any schedule or amount of bail which he may fix or which he may have fixed, and has the right at her own absolute discretion to fix the bail she herself thinks proper.*"<sup>206</sup>

-A. U. G. Bury, Mayor of Edmonton, February 15<sup>th</sup>, 1928

The establishment of the Women's Court was not without controversy. First, Magistrate Murphy had to secure a space where the court proceedings could be heard. This issue was resolved relatively quickly. More problematic, however, was the distribution of cases involving female offenders. Despite Murphy's insistence that all cases involving female offenders should be heard in the Women's Court, many were being diverted to other police magistrates, as well as the Provincial Court. Although Murphy believed that female offenders were entitled to a form of gender justice (i.e. women's cases should be adjudicated in the Women's Court,) the more compelling

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<sup>206</sup> PAA, Justice of the Peace Files, Letter to the Attorney General from A. U. G. Bury Mayor of Edmonton, on 15 February 1928. GR 1966.166, File #283.

reason was, as was true for the other magistrates, Murphy was dependent upon the income accrued from the Magistrate's fees. Fines and a small fee designated as a "magistrate's fee" were sent to the Attorney-General's office and then deposited into a communal fund for the magistrates to draw upon in order to maintain their offices and provide a salary for their staff. Thus, the size of a police magistrate's caseload and the nature of their cases directly impacted the "income" accrued from the fines assessed on offenders. As a result, the diversion of cases involving female offenders to other police courts was an ongoing concern for Murphy from 1916-1931. The issue of "income" was particularly problematic for Murphy because her caseload was considerably smaller than Justice Primrose's. Although they started and ended their appointments within months of one another, Murphy saw no more than 3832 cases during her time as police magistrate in Edmonton.<sup>207</sup> In comparison, Philip Primrose dealt with an estimated 40 000 cases during his term.<sup>208</sup>

Murphy was not the only magistrate, however, who was disgruntled with the distribution of cases. Magistrate Primrose, who supported Murphy's bid to have all cases involving women heard in her court, also found that the cases that were supposed to be heard in his courtroom were being redirected to Magistrate McLeod of the Provincial

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<sup>207</sup> Unpublished archives notes and data collection from the Magistrates Monthly Returns collected by Dr. Melanie Methot's HIST 467 class and her five research assistants. The purpose of the class was to prepare 3<sup>rd</sup> and 4<sup>th</sup> year students for doing primary archival research and writing in a graduate setting. During the data collection, we were encouraged to pick a file or set of crimes from the Monthly Returns and write a paper. I was one of the research assistants collecting data from magistrates in Calgary and Edmonton and chose to look at the sentencing differences for prostitution between Edmonton and Calgary. All data was collected and entered into a shared Google Sheets document. PAA, Justice of the Peace Files, GR1969.210.

<sup>208</sup> "The Honourable Colonel Philip C.H. Primrose, 1936-37" Internet Archive Way-back Machine. *Legislative Assembly of Alberta*. Web address. Accessed August 27 2018. <https://web.archive.org/web/20100913144313/http://www.assembly.ab.ca/lao/library/lt-gov/primrose.htm>. Due to the volume of returns, it would have been difficult to record all of Primrose's cases and their information in the time required to finish this project. As a result, only cases that dealt with bawdy houses were analyzed.

Court. In part, the problem lay with the jurisdictional status of the arresting police officers; if the provincial police laid charges within the boundaries of the city (Edmonton or Calgary), then those cases were sent often to the Provincial Police court for adjudication; if the city police, however, made the arrest, those cases were sent to the local (city) police magistrate. The situation was compounded by the increase in charges made under the *Liquor Act*, which had bigger fines and were far more lucrative than other “moral” (non-property) offenses. Thus, magistrates wanted to adjudicate cases pertaining to the *Liquor Act*.

These jurisdictional disputes provide some insight into the role that fines played in the running of the Police Courts and the Women’s Court in Edmonton. Each month, the magistrates provided a summary of all the cases that appeared before in their courts. The monthly returns provide a rich data source on the number of men and women who passed through the Central Police Courts and the Women’s Court, the categories of informants who reported the crimes, the nature of the crimes, and their disposition. At the end of the month, the magistrates tallied the fines, extracted their fee for administering the case, and forwarded the amounts to the Attorney-General, where they would be held in trust to cover office costs (such as pens, paper, and envelopes) and any costs associated with the administration of their office.

### 3.1 The Early Years of the Women’s Court, 1915-1919

Throughout her appointment as magistrate, Murphy had to fight for women’s cases to be heard in the Women’s Court. Initially, Murphy had difficulty securing a physical space for the Women’s Court. In June 1915, Murphy informed the Attorney-

General that there were vacant rooms in the Civic Building and that she would like to use them. In response, Attorney-General Charles Cross wrote to the Acting Mayor of the City requesting that the rooms be made available to Murphy for the Women's Court. In making his request, Cross noted the importance of separate jurisdictions based on gender: "I feel sure you feel the importance to the community of having a police magistrate to preside exclusively over a women's court and that the room in which such hearings are held should be in keeping with the importance and dignity of the position."<sup>209</sup> But two days later on 5 July 1915, the Mayor indicated, "no suitable rooms are available."<sup>210</sup> The mayor's office suggested that the "Delinquent Court" make its home in the Court House on McDougall Avenue, which Murphy got three months later.<sup>211</sup>

Finding a space for the Women's Court proved to be the least of Murphy's problems in operating the court; it took her over a year to convince Attorney-General Charles Cross, who in turn had to persuade the Chief Constable Hill of the Edmonton Police to send all of the female cases to Murphy. In her correspondence with the Attorney-General's office, Murphy regularly pointed out that her male colleagues had higher caseloads of both women and men than she did.<sup>212</sup> She demanded that all cases involving women rightfully belonged to the Women's Court. On several occasions, the Attorney-General supported Murphy's efforts to increase her caseload. After her appointment as Magistrate, Deputy Attorney-General Arthur Brownlee sent a letter to the

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<sup>209</sup> Letter to Acting Mayor of Edmonton from Attorney-General Charles Cross on 3 July 1915. *Provincial Archives of Alberta*. GR1983.00, Box 63.

<sup>210</sup> Letter to Attorney-General Charles Cross from Acting Mayor of Edmonton on 5 July 1915. *Provincial Archives of Alberta*. GR1983.00, Box 63.

<sup>211</sup> It is unclear what the mayor's office meant by "delinquent court," but based on the nature of the letter, I am assuming that they are referring to Magistrate Murphy's Women's Court.

<sup>212</sup> Magistrates Monthly Returns folders include correspondence to and from the Attorney-General's office; Murphy's files included a number of letters addressing caseload and her relationship with the City Police. *Provincial Archives of Alberta*. GR1969.210.



Chairman (sic) of the Police Commission on 23 June, 1915 indicating that Murphy was “to have charge of the trials of girls and women.”<sup>213</sup> Even though Magistrate Primrose, of Edmonton’s Central Police Court, would have to divide his caseloads with Murphy, he supported Murphy’s efforts to set clear jurisdictional boundaries. According to Murphy, “Magistrate Primrose has been most kind and painstaking in giving me help whensoever [sic] I wished, for which consideration I am deeply obliged.”<sup>214</sup> Despite Murphy indicating in her letter to Brownlee that she had support from the Central Court, her caseload remained relatively low.

Murphy raised the issue of assigning female offenders to her court a year later. On 12 August 1916, Deputy Attorney-General Brownlee once again instructed Chief Constable Hill to send cases to Murphy: “so far as possible women who are being charged separately from men shall be tried by her.”<sup>215</sup> On 6 September 1916, she wrote to Deputy Attorney-General Brownlee about the disposition of a warrant for the arrest of a “madam” of a brothel who had been sent to Magistrate Primrose. Although Murphy had no quibble with Chief Constable Hill assigning cases involving male “keepers” to Magistrate Primrose, Murphy strongly objected to Hill assigning “keepers” who were women to Primrose. In addition, she believed that the “inmates” (presumably female) and the “frequenters” (presumably male) should also be sent to the Women’s Court since they were associated with a female “keeper”.<sup>216</sup> Murphy insisted that the women belonged in

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<sup>213</sup> Letter to Chairman of the Police Commission (name unknown currently) from Deputy Attorney-General Arthur Brownlee on 23 June 1915. *Provincial Archives of Alberta*. GR1983.00, Box 63.

<sup>214</sup> Letter to Deputy Attorney-General Arthur Brownlee from Emily Murphy on 6 September 1916. *Provincial Archives of Alberta*. GR1983.00, Box 63.

<sup>215</sup> Letter to Chief Constable Hill from Deputy Attorney-General Brownlee on 12 August 1916. *Provincial Archives of Alberta*. GR1983.00, Box 63.

<sup>216</sup> Letter to Deputy Attorney-General Arthur Brownlee from Police Magistrate Emily Murphy 6 September 1916. *Provincial Archives of Alberta*. GR1983.00, Box 63.

the Women's Court, stating that, "this is an unfair an unwarranted distinction. If it be advisable that male "inmates" be heard in the men's court, it is equally advisable that females be heard in the Women's Court."<sup>217</sup>

In support of her right to oversee all cases involving women, Murphy referred to the practices of the Toronto Women's Court. She pointed out that not only were all male "frequenters" tried in the Women's Court, but no woman was tried in the Central Police Court.<sup>218</sup> According to historian Amanda Glasbeek, the Toronto Women's Court was successful in not only in claiming women under its jurisdiction, but the men who were accused of "moral crimes" (public order offences as opposed to property crimes and crimes against the person),<sup>219</sup> as well as male "frequenters" of a bawdy house, were all tried in the Toronto Women's Court between 1913 and 1934.

Within a month of writing to the Deputy Attorney-General, Murphy was successful in having more female cases assigned to her court. The Attorney-General indicated that he would be directing the police force to refer female cases to Murphy:

"I am to-day definitively asking Mr. Morris to instruct members of his Force to lay information in cases in which women are interested before Mrs. Murphy and am also writing to Chief Constable Hill to do the same do far as possible. In case Chief Constable Hill disregards this request, the matter will be brought to the attention of the Police Commission."<sup>220</sup>

The Attorney-General's directive must have had the desired effect since Murphy's caseload increased and maintained a steady level until the last six months of her career.

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<sup>217</sup> Letter to Deputy Attorney-General Brownlee from Emily Murphy on 6 September 1916. *Provincial Archives of Alberta*, GR1983.00, Box 63.

<sup>218</sup> Melanie Methot. Unpublished Archive Notes. November 28, 2014.

<sup>219</sup> Glasbeek, *Feminized Justice*, 31-32.

<sup>220</sup> Murphy's total caseload, however, was 3949. On 36 occasions, two or more individuals were brought before Murphy and charged with a single crime, thus making the total number of appearances more than the reported caseload. Memo to Charles Cross from the Attorney-General on 25 September 1916. *Provincial Archives of Alberta*, GR1983.00, Box 63.

Murphy was victorious and proved herself to be a persistent and formidable advocate for hearing cases involving women in the Women's (her) Court. However, once she had established women that women should tried in her court, Murphy sought to expand her jurisdiction to include women who had committed offenses under the *Liquor Act*.

### 3.2 The Assignment of Cases Under the *Liquor Act*, 1920-1926

As was the case with assigning female offenders to the Women's Court more generally, Murphy also complained that women charged with offenses under the *Liquor Act* were not being sent to the Women's Court. On 3 March 1920, Murphy wrote to Deputy Attorney-General Browning objecting to Magistrate McLeod sending cases to the Provincial Court rather than the Women's Court, particularly since these women committed these crimes independently of men.<sup>221</sup> Murphy highlighted two cases that she believed should have been rightfully sent to her court. In the first case, Mrs. Kolyuk, a resident of Edmonton, who was charged with selling liquor, was sent to the Provincial Court by city policemen rather than by Magistrate McLeod. Apparently, the policemen had no authority to send the case to the Provincial Court; nor did it seem that anybody else, as Murphy's complaint was referred from one official to another. Ultimately, the Liquor Act Inspector agreed that this case belonged to Murphy.<sup>222</sup>

I knew nothing of the case, but these witnesses produced an envelope on the back of which was written an order for them to appear at the Provincial Police Court. This order was signed by two policemen and not by Colonel McLeod. I directed them to the Provincial Court but called up Inspector Piper about the matter. He said he had nothing to do with these liquor cases, which were in the hands of the Provincial detectives. I then called up Colonel McLeod's Department and got a

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<sup>221</sup> Letter to Deputy Attorney-General Browning from Magistrate Emily Murphy on 3 March 1920. *Provincial Archives of Alberta*, GR 1969.210. Box # 21, File # 59.

<sup>222</sup> Letter to Deputy Attorney-General Browning from Magistrate Emily Murphy on 3 March 1920. *Provincial Archives of Alberta*, GR 1969.210. Box # 21, File # 59.

gentleman who said he was the Liquor Inspector for Calgary, and that he would give my message to Colonel McLeod to the effect that these cases should come to the Women's Court.<sup>223</sup>

A Miss Craighill also informed magistrate Murphy that women were being tried in the Central Police Court for crimes that were committed without a man/men being involved. Moreover, Murphy received complaints from the friends of women appearing in Magistrate McLeod's Provincial Court because they were being tried in the men's court. According to Murphy, these complaints fell on deaf ears because McLeod treated the female defendants as a rarity rather than the norm. Three years later, despite these complaints, cases involving female offenders charged under the *Liquor Act* still were not being sent to the Women's Court. On 24 November 1923, Murphy wrote to the new Deputy Attorney-General Andrew Smith complaining that Magistrate McLeod had not sent another two women to the Women's Court. In this letter, Murphy claimed not only jurisdiction for the adjudication of cases involving women who were charged by the city, but for the entire province:

I would like to draw your attention to the fact that previously where any woman in the province was brought to Edmonton for trial she came to the Women's Court. By degrees this work was assumed by Colonel McLeod, although I have Provincial jurisdiction. If the city cases are to be likewise diverted, it is readily apparent the work of the Women's Court must be very seriously interfered with.<sup>224</sup>

In his letters, Attorney-General Smith promised that he would investigate the matter, as well as requesting that McLeod "call upon [him] as soon as possible."<sup>225</sup>

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<sup>223</sup> Letter to Deputy Attorney-General Browning from Magistrate Emily Murphy on 3 March 1920. *Provincial Archives of Alberta*, GR 1969.210. Box # 21, File # 59.

<sup>224</sup> Letter to Deputy Attorney-General Andrew Smith from Magistrate Emily Murphy on 24 November 1923. *Provincial Archives of Alberta*, GR 1969.210.

<sup>225</sup> Memo to Magistrate McLeod from Deputy Attorney-General Andrew Smith on 26 November 1923. *Provincial Archives of Alberta*, GR 1969.210.

Murphy was not the only magistrate who was having problems with the Provincial Court scooping up *Liquor Act* cases. On 20 December 1923, Magistrate Primrose sent a letter to the acting Deputy Attorney-General Smith, arguing that cases under his jurisdiction were being sent to Magistrate McLeod. In Primrose's view, these cases belonged to him because the offenses took place in Edmonton; the problem was that the offenders had been arrested by the provincial police (rather than the city police), who sent them to the provincial magistrate for adjudication rather than the city magistrate.

In his letter to the Attorney-General, Primrose argued that each city court appointee had specific duties and that when the magistrates worked independently (without communication), the adjudication of cases was disrupted.<sup>226</sup> Primrose sought to re-establish clear boundaries among the Women's, the Police, and the Provincial Courts, which had previously been set by the Attorney-General. Primrose wanted cases where the defendant was arrested within the city to be sent to the Edmonton Police Court (his) and those that occurred outside of the city were to be sent to the provincial Police Magistrate McLeod.

In part, Primrose was concerned about his reputation; the rechanneling of these cases might suggest that he couldn't or was unable to carry his share of the caseload.

In Calgary, I understand, that all informations [sic] are laid before Col. Sanders<sup>227</sup> who apportions and lays out all the work. Of course, having the other magistrates here setting cases which should be brought before me for hearing, gives me less to do, to which of course, I could have no possible objection, but the reason I bring the matter to your notice is

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<sup>226</sup> Letter to Acting Deputy Attorney-General R. Andrew Smith, Esq. from Police Magistrate P.C.H. Primrose on 20 December 1923. *Provincial Archives of Alberta*, GR 1969.210 Box #18 File #112.

<sup>227</sup> Col. Sanders was the head of the Central Police Court in Calgary; he oversaw a significant number of cases per year, much like Primrose does. However, Calgary has a different system for case allocation.

that my not handling all of the City cases or apportioning them, may be the cause of unfavourable comment to my detriment. To conclude I would say that whatever the plan may be that the Department desires, it is quite agreeable to me, the only point being that it is understood.<sup>228</sup>

The other, but not explicitly stated, reason for Primrose's concern with the Provincial Court handling of "his" cases was that the fines from the *Liquor Act* were lucrative.

These *Liquor Act* fines were so significant that in August 1926, Primrose began keeping a separate handwritten column on his returns to indicate the fees and fines collected solely from *Liquor Act* cases.<sup>229</sup> As well, Primrose began to keep track of his colleagues and the amounts they remitted to the Attorney-General from the fines collected in their courts. After his Clerk of the Court was re-designated as Clerk of Courts for all three magisterial courtrooms, Primrose's office began keeping a record of the monthly returns for both McLeod and Murphy.<sup>230</sup>

On January 1924, in response to Primrose's December 1923 letter, the Acting Deputy Attorney-General Smith sent a memo to Attorney-General Brownlee suggesting that the City Clerk might act as a go-between for the Magistrates and the Commissioner, but he was not hopeful that this solution would work in the long term:

The difficulty might be met by providing that Mr. Price, the present Clerk of the Edmonton City Police Court, should be the Clerk for both City and Provincial cases. In that case the City Magistrates would be advised of the fact and required to see that Mr. Price is advised of all informations [sic] taken by them. If it is desired to prohibit the Provincial Police from laying information in respect of offences which take place within the limits of the City of Edmonton, this object

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<sup>228</sup> Letter to Acting Deputy Attorney-General, R. Andrew Smith, Esq. from Police Magistrate P C H Primrose on 20 December 1923. *Provincial Archives of Alberta*, Accession # 69.210 Box #18 File #112.

<sup>229</sup> Philip Primrose's Magistrate Monthly Returns for 31 August 1926. *Provincial Archives of Alberta*, Accession #GR 1969.210, Box #16.

<sup>230</sup> On 30<sup>th</sup> April 1925, Joseph Price Esq., Clerk of the City Court began forwarding copies of all three magistrate's monthly return totals to Magistrate Philip Primrose. Prior to this date, Price's letters with the Monthly Return totals would only include the information from the designated magistrate's court.

might be attained by giving instructions to the Commissioner, but I am doubtful of the advisability of adopting this course.<sup>231</sup>

Mr. Price, however, was brought in to act as Clerk of the Court for the Provincial and City Court, as well as the Women's Court, but it is unclear if his appointment solved the problem, since no other correspondence was found regarding this matter. Both Murphy and Primrose had been working in their own courts for seven years, and as indicated in Deputy Smith's letter, they still needed to remind the Attorney-General of the terms and conditions of their appointments.

### 3.3 Salaries and Fees

Magistrates had among the highest salaries in Alberta in the early decades of the twentieth century. In 1916, the average income of a male supervisory or office employee was \$994.00. In 1916, the magistrates, both Emily Murphy and Phillip Primrose earned \$1200.00 per year. This data indicates that Emily Murphy was one of the highest paid women in Alberta (making more than the average male) and possibly for all of Canada.<sup>232</sup> The average income in 1925 for a comparable male supervisory or office employee was \$1872.00. by 1925, both magistrate's salaries had risen to \$4500.00 per year.<sup>233</sup>

Somewhat surprisingly, the Central Police Court and Women's Court magistrates

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<sup>231</sup> Memo to Honorable Mr. Brownlee, Attorney-General from R. Andrew Smith, acting Deputy Attorney-General, on 16 January 1924. *Provincial Archives of Alberta*. Accession #69.210 Box #18 File #112.

<sup>232</sup> Series E41-48., "Annual earnings in manufacturing industries, production and other workers, by sex, Canada," 1905, 1910 and 1917 to 1975. [www150.statcan.gc.ca](http://www150.statcan.gc.ca). Emily Murphy's unique position as the first female police magistrate allows for a man and woman to make the same salary while in a position of power.

<sup>233</sup> Letter to Philip Primrose from the Attorney-General to on 9 December 1924. *Provincial Archives of Alberta*. GR1969.2100. Box 18. File 112.

received the same salary – despite carrying vastly different caseloads, which was 40,000 for Justice Primrose and 4 000 Justice Murphy, respectively.<sup>234</sup>

Not surprisingly, Primrose was the highest “earning” magistrate in Central and Northern Alberta in the 1920s.<sup>235</sup> A comparison of their monthly returns indicates that Magistrate Primrose brought in significantly higher fees and fines than Magistrate Murphy (see Table 3.1 and 3.2). Primrose’s average monthly returns were \$944.25 while Murphy’s were \$223.97.

Table 3.1 Magistrate Primrose Total Monthly Fines, 1925-1926

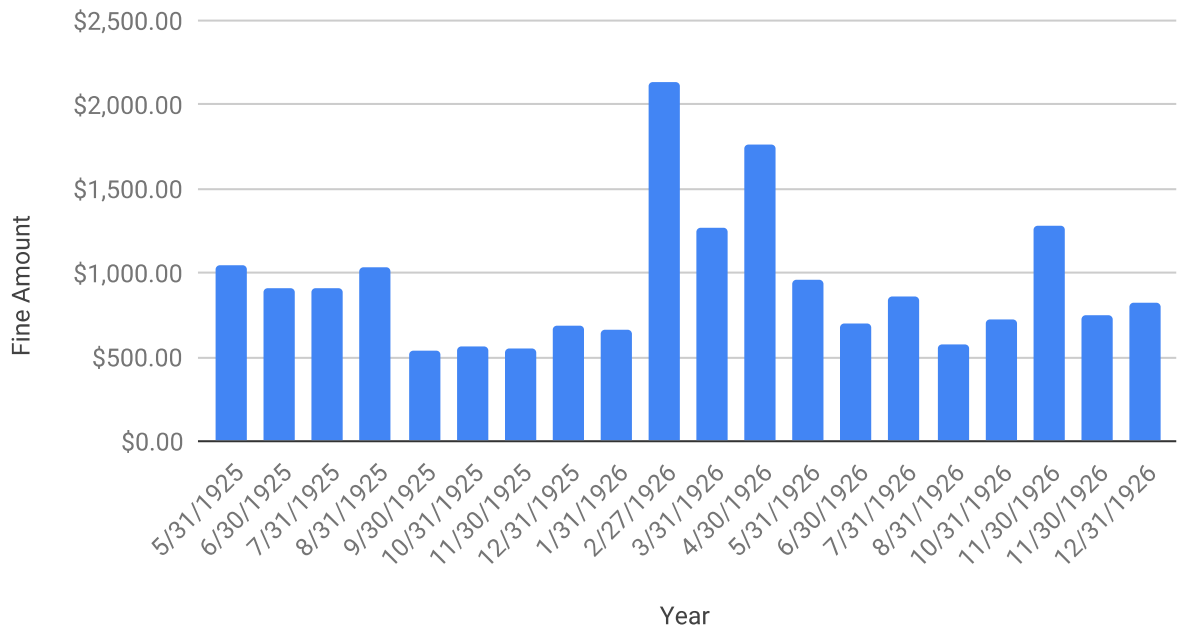


Table 3.1: Source: The monthly returns of Magistrate Primrose from 1925-1926. Provincial Archives of Alberta, GR 69.210

<sup>234</sup> This discrepancy between salary and caseload is not explained in the monthly return files.

<sup>235</sup> Note that Primrose took a leave of absence from May to June in 1924, leaving his courtroom under the care of Magistrate McLeod. As a result, Primrose’s fines remitted to the Attorney-General decreased from the March 1924 total of \$1375.50 to the April 1924 total of \$33.00. May 1924’s fines increased to \$380.00. Upon his return in June, Primrose’s fine totals rose once again to \$1675.00. Source: The monthly returns of Magistrate Primrose from 1923-1926. Provincial Archives of Alberta, Accession # 69.210



Table 3.2 Magistrate Emily Murphy Total Monthly Fines, 1925-1926

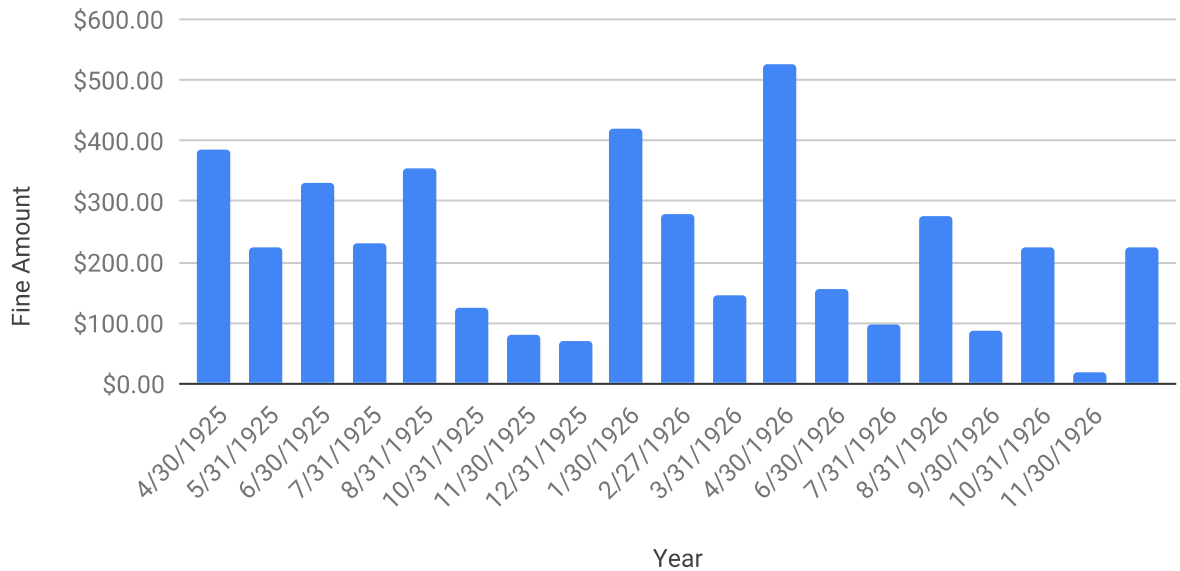


Table 3.2: Source: The monthly returns of Magistrate Primrose from 1925-1926. Provincial Archives of Alberta, Accession # 69.210.

### 3.4 Informants

Throughout the first three decades of the twentieth century, women and men charged with an offense entered the justice system via an informant who could be a police officer, a medical doctor, or a member of the public. The city police represented the majority of informants, sending 66% (n=2532) of the cases to the Women’s Court; the provincial police reported 1% (61); medical doctors, via the police, reported 7% (251), all of which were related to the insanity charge. The rest of the informants were individuals 26% (n=1048). Occasionally, the informants had the same surname as the offender 1% (n=61), thus, a family link may be assumed. The remaining 25% (n=987) of

cases did not specify the status of the informant and were labelled “limited information” in the monthly returns.

Two informants—J. Leslie and H. B. Petherham, both of whom were city police—were frequently cited in the monthly returns of both Magistrates Murphy and Primrose. Together they informed on 38% of the Women’s Court cases and 87% (n=248) of Primrose’s. Both Leslie and Petherham began to inform in 1916, and Leslie continued to inform until Murphy’s last return sheet in 1931 while Petherham did so until 1928. With respect to Primrose’s returns, Petherham was named as informant from 1915 to 1926 while Leslie appears in the returns only for 1926.<sup>236</sup> Both police officers were actively involved in the policing of prostitution-related offenses, although Petherham’s rate was almost twice as high as Leslie’s. Of the 121 cases of “Keeping A Common Bawdy House,” Petherham and Leslie reported respectively on 43% (n=53) and 25% (n=31) cases that appeared before Magistrate Murphy while Petherham informed upon 44% (n=42) and Leslie informed upon 10% (n=9) for Magistrate Primrose’s cases.

Of the 111 cases related “Inmates of a Common Bawdy House” adjudicated by Murphy, Petherham reported on 42% (n=47) compared to 29% (n=33) for Leslie while Petherham informed upon 39% (n=30) of “inmates” that appeared before Primrose.<sup>237</sup> Of the 67 cases related to “frequenters” appearing before Magistrate Murphy, Petherham reported on 61% (73) while Leslie reported on only 0.01% (1); of the 113 cases that appeared before Magistrate Primrose, Petherham informed upon 56% (n=64) “frequenters”.<sup>238</sup> While this data indicates that surveillance of bawdy houses was part of

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<sup>236</sup> Primrose’s data ends at 1926 because the Provincial Archives of Alberta only had his monthly returns until April 29, 1926. It is unclear if his other returns still exist, but I was not able to locate them.

<sup>237</sup> In 1926, Leslie informed on 2% (n=2) “inmates”

<sup>238</sup> From 1916 to 1922, officer W. Gillam reported on 23% (n=18) of 76 cases.

these police informants' "beat,"<sup>239</sup> this data also suggest that they had considerable discretion in the charges laid.

### 3.5 Conclusion

The early jurisdictional disputes that plagued the Women's Court continued well into the 1920s. Magistrate Emily Murphy fought hard to have women's cases heard before the Women's Court, often laying the blame of low caseloads at the feet of the Edmonton City Police. Magistrate Primrose, presiding over the Central Police Court, also was engaged in jurisdictional disputes with the Provincial Court. He joined the Women's Court's cause in having clear boundaries established among the three courts. These disputes over the assignment of cases highlights the importance fines, particularly those collected under *The Liquor Act*, to the operation of the courts. The Magistrates were also dependent upon informants, most of whom were from the City Police, to detect and channel offenders including those charged with bawdy-house related offenses, to the Central Police Court and the Women's Court. The informers were not disinterested parties, as they received a fee for their services.

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<sup>239</sup> Many of the cases that are informed upon consist of vagrancy charges, assault, bylaw violations, prostitution, intoxication, and charges involving motor vehicles.

## Chapter 4 Data Analysis of Bawdy House Offenses

*“That is to say, to commit and offence against the code, she must be unchaste with more than one man. I make bold, however, to state that when a woman deliberately rents a house for the purposes of prostitution, and either goes out herself, or sends girls out to solicit men to come therein, or invites men to come by means of the telephone, she is, without a doubt, the greater sinner, and merits the greater punishment. (...) While it is our bounden duty to do all in our power to save these degraded women from their life of shame and to make them self-supporting and self-respecting. It is a thousand pities that we should appear in anyway to minimize or excuse their offences.”<sup>240</sup>*

-Magistrate Emily Murphy, Edmonton, February 1916.

As noted in the previous chapter, the magistrates’ monthly returns provide rich data on informants, the names of those accused (and in most cases from which the sex can be determined), the charge, the date of hearing, the sentence, the amount of the fine, the prison time and type, and the costs associated with the case. Not surprisingly, the data show that criminalized behaviour is gendered; that is, women and men are over- or under-represented in particular categories of crime—both those related and unrelated to bawdy-house related cases. Moreover, there were important differences in the disposition of these cases within these categories in terms of conviction and sentencing rates. In this chapter, I provide an analysis of all the cases (both bawdy-house related and non-related crimes) that appeared before Magistrate Murphy, as well as the bawdy-house cases

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<sup>240</sup> Emily Murphy, “The Administration of Criminal Justice in Canada.” In “Delinquents and Correction,” *Proceedings of the National Conference of Social Work* 51 (1924), 176. Emily Murphy’s history with the moral reform movement influenced her writing about the women who appeared before her. While believing that many women engaged in prostitution are “victims,” those that exhibit agency over their bodies are, in her opinion, the worst sort of criminal.

brought before Magistrate Primrose. Their conviction rates and sentencing patterns indicate that they exercised considerable discretion in the adjudication of their cases.

Table 4.1 provides a summary of the number and type of cases that Magistrate Murphy presided over from 1916 to 1931. Overall, Murphy oversaw 3831 cases.<sup>33</sup> These cases have been divided into eleven categories: prostitution-related crimes 19.26% (n=738),<sup>34</sup> alcohol-related 18.14% (n=695),<sup>35</sup> crimes related to children 12.74% (n=488),<sup>36</sup> money and property crimes 12.37% (n=474),<sup>37</sup> insanity 10.38% (n=398),<sup>38</sup> bylaw 9.01% (n=345),<sup>39</sup> other 8.46% (n=324),<sup>40</sup> assault-related crimes 4.65% (n=178),<sup>41</sup> vehicle offenses 3.03% (n=116),<sup>42</sup> drug-related 1.12% (n=43),<sup>43</sup> and animal -related crimes 0.84% (n=32).<sup>44</sup>

| Crime                      | % Male        | % Female      | % Other / Unknown | Total Male | Total Female | Total Other / Unknown Gender | Total       |
|----------------------------|---------------|---------------|-------------------|------------|--------------|------------------------------|-------------|
| Alcohol Related            | 11.37%        | 87.48%        | 1.15%             | 79         | 608          | 8                            | 695         |
| Animal Related             | 25.00%        | 71.88%        | 3.13%             | 8          | 23           | 1                            | 32          |
| Assault Related            | 17.98%        | 81.46%        | 0.56%             | 32         | 145          | 1                            | 178         |
| Bylaw                      | 44.93%        | 53.33%        | 1.74%             | 155        | 184          | 6                            | 345         |
| Crimes Related to Children | 32.17%        | 60.66%        | 7.17%             | 157        | 296          | 35                           | 488         |
| Drugs Related              | 34.88%        | 62.79%        | 2.33%             | 15         | 27           | 1                            | 43          |
| Insanity                   | 19.85%        | 79.65%        | 0.50%             | 79         | 317          | 2                            | 398         |
| Money and Property         | 19.83%        | 76.58%        | 3.59%             | 94         | 363          | 17                           | 474         |
| Other                      | 34.26%        | 57.10%        | 8.64%             | 111        | 185          | 28                           | 324         |
| Prostitution Related       | 13.69%        | 83.74%        | 2.57%             | 101        | 618          | 19                           | 738         |
| Vehicle                    | 90.52%        | 8.62%         | 0.86%             | 105        | 10           | 1                            | 116         |
| <b>Total</b>               | <b>24.43%</b> | <b>72.46%</b> | <b>3.11%</b>      | <b>936</b> | <b>2776</b>  | <b>119</b>                   | <b>3831</b> |

Table 4.1: Source: *Magistrate Emily Murphy's Monthly Returns*, Provincial Archives of Alberta, Accession #1969.210.

Not surprisingly the majority of the offenders who appeared before Magistrate Murphy in the Women's Court were women, representing 72.46% (n=2867) of her caseload; still men made up a significant minority 24.43% (n=991).<sup>45</sup> As can be seen from Table 4.2, the number of female offenders gradually increased from 1916 to 1920, suggesting that Murphy's letters to the Attorney-General had the desired effect of increasing her caseload of female offenders. Thereafter, Murphy's caseload of female defendants remained relatively stable until the year of her retirement in 1931. The only exception to this trend occurred in 1928, when the number of women appearing in her court dropped dramatically. In comparison, very few male defendants appeared before Magistrate Murphy in the first four years of Murphy's appointment, and their numbers tended to fluctuate more over the course of her tenure compared to the numbers of women.

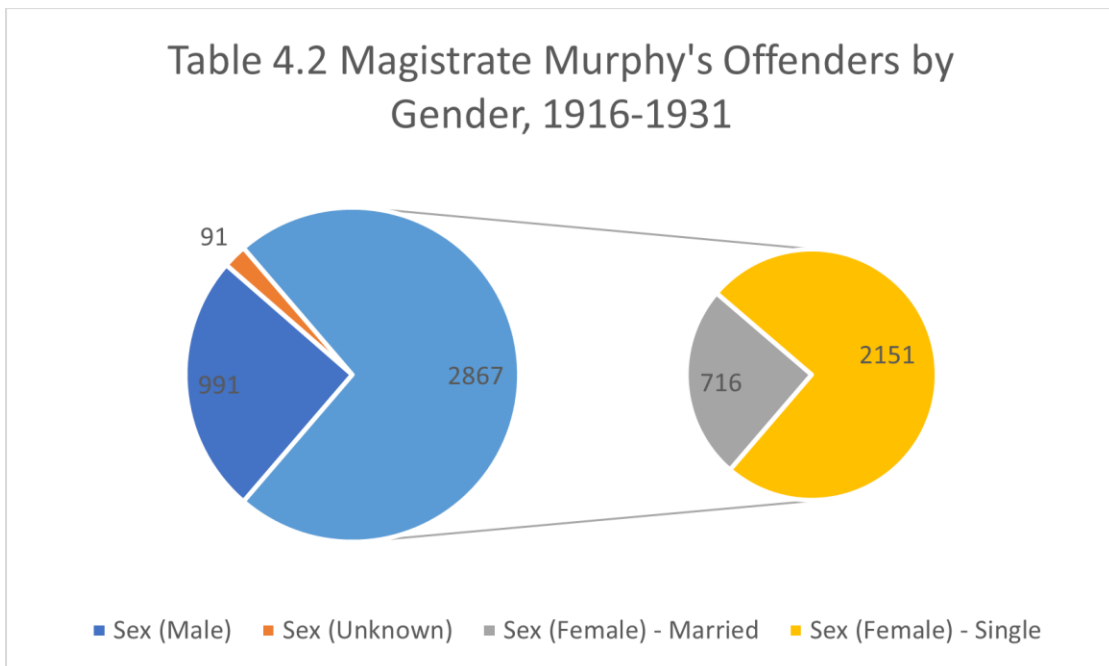


Table 4.2: Source: *Magistrate Emily Murphy's Monthly Returns*, Provincial Archives of Alberta, Accession #1969.210.

In addition to the gender status of the offender, the monthly returns also provided information about the marital status of the female offenders. Of the total number of female offenders, 25% (n=716) had the title “Mrs.” attached to their names. While it is difficult to tell if the women with “Mrs.” truly were married, it is possible they could also have been widowed or were using the title for another purpose. The women who appeared in court without “Mrs.” in front of their names are assumed to be unmarried. However, from the data alone, it is difficult to prove that was the case for every female offender. They may have not been married, or they may have chosen not to identify their marital status.

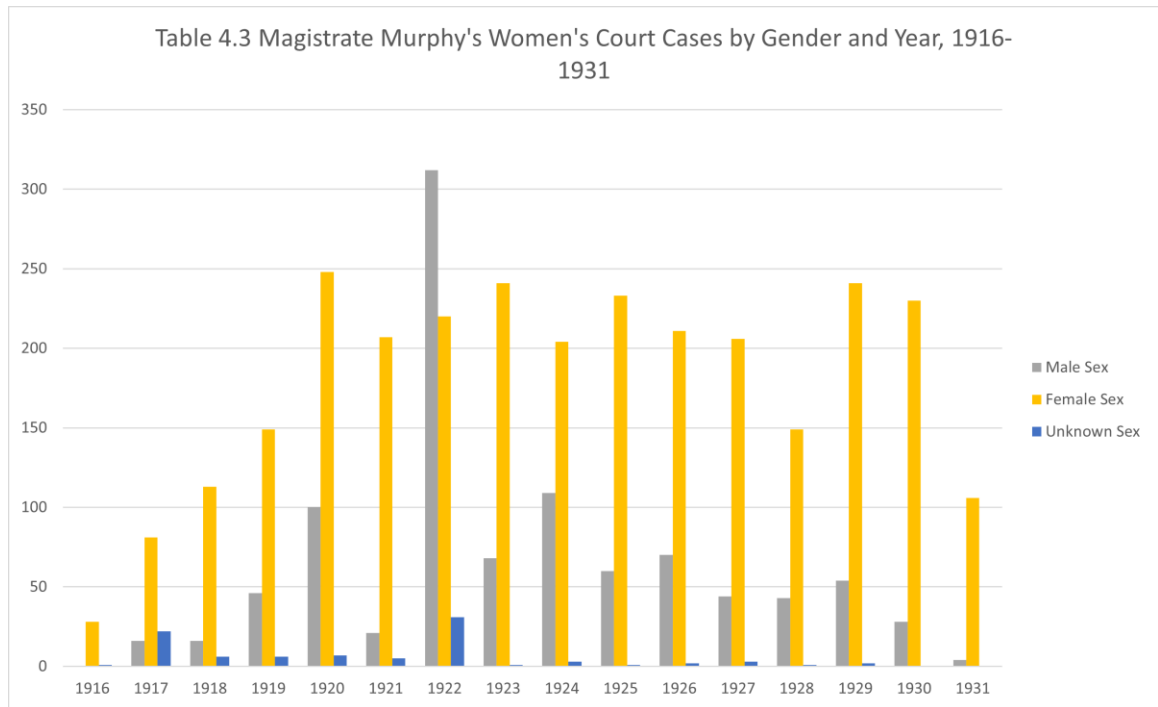


Table 4.3: Source: *Magistrate Emily Murphy's Monthly Returns*, Provincial Archives of Alberta, Accession #1969.210.

Since women made up 72% of Murphy's caseload, we would expect that this proportion to be represented in each of the categories. Instead, the data from Murphy's monthly reveals that compared to men, women were over-represented in the categories of "alcohol-related" cases (87.48%, n=608); "assault-related," (81.46%, n=145), "insanity" (79.65%, n=317), and "prostitution-related" (83.74%, n=618). Compared to men, women were under-represented in "by-law violations" (53.33%,n=184), "crimes-related to children" (60.66%, n=296), "drug-related" (62.79%, n=27), "vehicle" (8.62%, n=10), and "other" (57.10%, n=185) (see table 4.1). One of the main differences between male and female prosecutions is that men were vastly over-represented in "vehicle related" crimes. Changes in policing practices may account for this difference. For example, in 1922, the sharp increase in the number of male defendants appearing in the Women's Court could be attributed to the (overzealous) activities of J. Leslie, a police informant, who laid a large number of bylaw and Motor Vehicle Act violations. Normally, men would be sent to the Women's Court if they had committed an offense that was linked to a woman – either as a co-offender or victim.

Of the 3831 cases over which Murphy presided, 4.6% (n=180) were suspended, 9.4% (n=361) (were dismissed, 162 discharged, 100 withdrawn, 21 struck-off, and 2 adjourned.<sup>47</sup> In total, 21% (n=826) of Murphy's cases were not fined or given jail time. Of the remaining 3005 cases, 8% (n=339) were committed to prison, and 0.05% (n=153) children were designated as wards of the court.<sup>48</sup> The remaining offenses were charged with costs, a fine, or received jail time. Based on an examination of Murphy's returns, 63% (n=1935) offenders chose to pay their fines, while <1% (n=2) appealed. The fines ranged from \$1.00 to \$500.00; the average fine was between \$15.00 and \$25.00. Only



10% (n=315) individuals were sent to prison because they could not (or did not) want to pay their fines. The remaining 0.08% (n=262) individuals paid only their court costs, which were remitted to the police to cover costs of housing offenders and office-related expenses.

Of the 3831 cases over which Murphy presided, 3005 (78.4%) were found guilty of various offenses enumerated above. Based on an examination of Murphy's returns, 64.5% (n=1937) offenders paid their fines; only 8% (n=315) individuals were sent to prison because they could not (or did not) want to pay their fines. The remaining 6% (n=262) individuals paid only their court costs, which then were remitted to the police to cover costs of housing offenders and office-related expenses. Together "Alcohol-Related" and "Prostitution-Related" offenses represented just under 40% of Murphy's caseload, representing 18% (n=695) and 19% (n=738) respectively. The amount of the fines imposed by the Women's Court differed significantly for these offenses (see Table 4.3). For "Alcohol-related" convictions, the fines ranged from \$4.00; for "Drunkenness" to \$950.00 for "Keeping Liquor for Sale." In total, the potential amounts that could be collected for "Alcohol-Related" and "Prostitution-Related" offenses were \$41,124.80 and \$14,697.00 respectively. Of the "Alcohol-Related" convictions, "Intoxication" accounted for 56% (394), representing the single, largest category of convictions in Murphy's caseload. The average fine for "Intoxication" was \$35.00 (ranging from \$1.00 to \$200.00). The average fine for "Sale of Liquor," which accounted for 11% (79) of all alcohol-related, was \$225.00 (ranging from \$75.00 to \$700.00). "Alcohol-Related" offenses remained relatively high in Alberta from 1 July 1916 until 1923 when legal

consumption and production became illegal.<sup>241</sup> In comparison, the fines for prostitution-related cases, which made up 19% of Murphy’s caseload, ranged from \$2.00 for “Vagrancy” to \$300.00 for “Immorality.” Vagrancy is a unique charge, in that there are 20 sub-charges under the offense, including prostitution, loitering, soliciting, etc.

| <b>Table 4.4 The Total Number of Cases Brought before the Women's Court by Gender for "Alcohol-related" Crimes and Prostitution or "Morality-related" Crimes, 1916-1931</b> |                   |          |                     |          |                             |          |              |          |
|---|-------------------|----------|---------------------|----------|-----------------------------|----------|--------------|----------|
|   | <b>Total Male</b> | <b>%</b> | <b>Total Female</b> | <b>%</b> | <b>Total Unknown Gender</b> | <b>%</b> | <b>Total</b> | <b>%</b> |
| <b>Alcohol Related</b>  | <b>79</b>         |          | <b>608</b>          |          | <b>8</b>                    |          | <b>695</b>   |          |
| Breach of Liquor Act  | 0                 | 0.00%    | 1                   | 0.16%    | 0                           | 0.00%    | 1            | 0.14%    |
| Drive Auto intoxicated  | 0                 | 0.00%    | 8                   | 1.32%    | 0                           | 0.00%    | 8            | 1.15%    |
| Drunkenness   | 0                 | 0.00%    | 19                  | 3.13%    | 2                           | 25.00%   | 21           | 3.02%    |
| Employ female help in bar   | 0                 | 0.00%    | 1                   | 0.16%    | 0                           | 0.00%    | 1            | 0.14%    |
| Fail to close   | 1                 | 1.27%    | 5                   | 0.82%    | 0                           | 0.00%    | 6            | 0.86%    |
| Give liquor   | 0                 | 0.00%    | 2                   | 0.33%    | 0                           | 0.00%    | 2            | 0.29%    |
| Government Liquor Control Act s 80  | 2                 | 2.53%    | 0                   | 0.00%    | 0                           | 0.00%    | 2            | 0.29%    |
| Intoxication  | 50                | 63.29%   | 343                 | 56.41%   | 1                           | 12.50%   | 394          | 56.69%   |
| Keep Liquor for Sale  | 3                 | 3.80%    | 32                  | 5.26%    | 0                           | 0.00%    | 35           | 5.04%    |
| Liquor Act  | 1                 | 1.27%    | 14                  | 2.30%    | 1                           | 12.50%   | 16           | 2.30%    |
| Liquor Possession   | 0                 | 0.00%    | 2                   | 0.33%    | 0                           | 0.00%    | 2            | 0.29%    |
| Making Alcohol  | 1                 | 1.27%    | 2                   | 0.33%    | 0                           | 0.00%    | 3            | 0.43%    |
| Minor on Premise  | 0                 | 0.00%    | 0                   | 0.00%    | 1                           | 12.50%   | 1            | 0.14%    |
| Open too Long   | 0                 | 0.00%    | 1                   | 0.16%    | 0                           | 0.00%    | 1            | 0.14%    |
| Permit Drunkenness  | 1                 | 1.27%    | 20                  | 3.29%    | 0                           | 0.00%    | 21           | 3.02%    |
| Possession of Liquor  | 17                | 21.52%   | 82                  | 13.49%   | 1                           | 12.50%   | 100          | 14.39%   |
| Purchase of Liquor  | 0                 | 0.00%    | 1                   | 0.16%    | 0                           | 0.00%    | 1            | 0.14%    |
| Sale of Liquor  | 3                 | 3.80%    | 74                  | 12.17%   | 2                           | 25.00%   | 79           | 11.37%   |
| Supply Liquor to a Minor  | 0                 | 0.00%    | 1                   | 0.16%    | 0                           | 0.00%    | 1            | 0.14%    |
| <b>Prostitution Related</b>   | <b>101</b>        |          | <b>618</b>          |          | <b>19</b>                   |          | <b>738</b>   |          |
| Expose indecent pictures  | 0                 | 0.00%    | 1                   | 0.16%    | 0                           | 0.00%    | 1            | 0.14%    |
| Frequenter of Bawdy house   | 63                | 62.38%   | 1                   | 0.16%    | 3                           | 15.79%   | 67           | 9.08%    |
| Immorality  | 6                 | 5.94%    | 4                   | 0.65%    | 0                           | 0.00%    | 10           | 1.36%    |
| Inmate of Bawdy House   | 5                 | 4.95%    | 97                  | 15.70%   | 9                           | 47.37%   | 111          | 15.04%   |
| Keep a Common Bawdy House   | 13                | 12.87%   | 107                 | 17.31%   | 1                           | 5.26%    | 121          | 16.40%   |
| Living on Avails of Prostitution  | 3                 | 2.97%    | 0                   | 0.00%    | 0                           | 0.00%    | 3            | 0.41%    |
| Night Walking   | 0                 | 0.00%    | 10                  | 1.62%    | 0                           | 0.00%    | 10           | 1.36%    |
| Obscene Literature in Possession  | 1                 | 0.99%    | 0                   | 0.00%    | 0                           | 0.00%    | 1            | 0.14%    |
| Procuring   | 0                 | 0.00%    | 4                   | 0.65%    | 0                           | 0.00%    | 4            | 0.54%    |
| Vagrancy  | 7                 | 6.93%    | 370                 | 59.87%   | 6                           | 31.58%   | 383          | 51.90%   |
| VD  | 3                 | 2.97%    | 24                  | 3.88%    | 0                           | 0.00%    | 27           | 3.66%    |
| <b>Total</b>  | <b>180</b>        |          | <b>1226</b>         |          | <b>27</b>                   |          | <b>1433</b>  |          |

Table 4.4: Source: *Magistrate Emily Murphy’s Monthly Returns*, Provincial Archives of Alberta, Accession #1969.210.

<sup>241</sup> Prohibition had its roots in 1907 when the Alberta Temperance and Moral Reform League, the Women’s Christian Temperance Union and the Methodist and Presbyterian churches. They combined their efforts to lobby for the complete elimination of alcohol from the province.

Finally, as Table 4.5 A Comparison of Bawdy House and Alcohol Offenses in the Women’s Court from 1916-1931, shows that from the period of 1915 to 1931, the number of offenders appearing in the Women’s Court declined bawdy-house offenses declined while the number of alcohol-related cases rose from 1915 to 1924, rising precipitously from 1920 to 1924 during the temperance period. Although the number of offenders for alcohol-related offenses varied from 1925 to 1931, the prosecution alcohol-related offenses was much higher than bawdy-house related offenses.

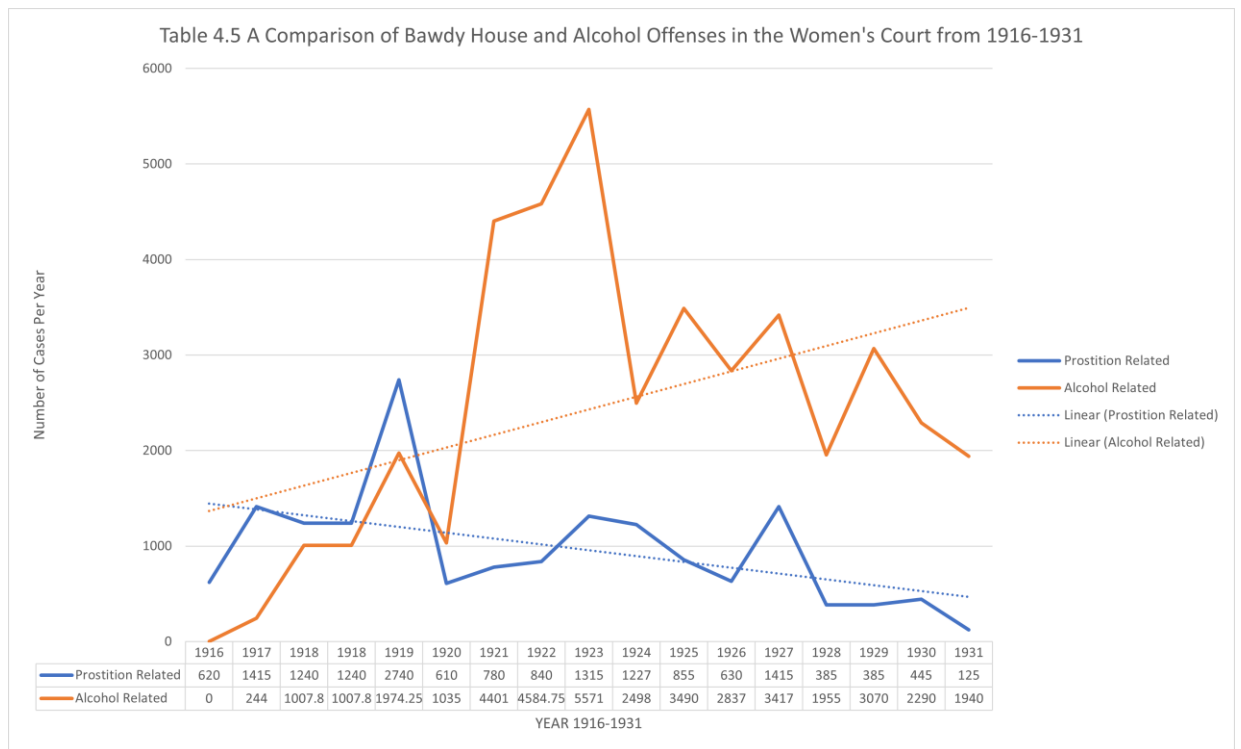


Table 4.5: Source: *Magistrate Emily Murphy’s Monthly Returns*, Provincial Archives of Alberta, Accession #1969.210.

#### 4.1 Prostitution-Related Crimes Overseen by Magistrate Murphy

Not surprisingly, prostitution-related crimes made up the largest, single, category in Murphy’s caseload—19.26%, and while the overwhelming majority (83.74%, n=618)

of offenders were women, a small minority (3.69%, n=105) were men. Within the category of prostitution-related offenses, vagrancy accounted for 51% (n=383) of the total. In comparison, those charges related to bawdy-house offenses was quite low: only 8% (n=121) were charged with “Keeping a Common Bawdy House;” 7% (n=111) were found to be “inmates” of a bawdy house; and 4% (n=67) were “frequenters” (see Table 4.3). While the number of convictions related to bawdy houses declined over the 1920s, as this form of organized prostitution was being eradicated, charges of vagrancy were still common.

| Table 4.6 Disposition of Bawdy House Cases by Gender |                           |      |         |        |         |                |         |       |         |
|--|---------------------------|------|---------|--------|---------|----------------|---------|-------|---------|
|  |                           | Male |         | Female |         | Unknown Gender |         | Total |         |
| Magistrate Primrose Bawdy Cases                      |                           |      |         |        |         |                |         |       |         |
|  | Frequenter of Bawdy House | 114  | 78.09%  | 0      | 0.00%   | 0              | 0.00%   | 114   | 40.14%  |
|  | Inmate of Bawdy House     | 2    | 1.36%   | 69     | 61.06%  | 5              | 20.00%  | 76    | 26.76%  |
|  | Keep a Common Bawdy House | 30   | 20.56%  | 44     | 38.94%  | 20             | 80.00%  | 94    | 33.10%  |
| Total  |                           | 146  | 100.00% | 113    | 100.00% | 25             | 100.00% | 284   | 100.00% |
| Magistrate Murphy Bawdy Cases                        |                           |      |         |        |         |                |         |       |         |
|  | Frequenter of Bawdy House | 63   | 77.78%  | 1      | 0.49%   | 3              | 23.07%  | 67    | 22.41%  |
|  | Inmate of Bawdy House     | 5    | 6.17%   | 97     | 47.31%  | 9              | 69.23%  | 111   | 37.12%  |
|  | Keep a Common Bawdy House | 13   | 16.05%  | 107    | 52.20%  | 1              | 7.70%   | 121   | 40.47%  |
| Total  |                           | 81   | 100.00% | 205    | 100.00% | 13             | 100.00% | 299   | 100.00% |

Table 4.6: Source: *Magistrate Emily Murphy’s Monthly Returns 1916-1931*, Provincial Archives of Alberta, Accession #1969.210. *Magistrate Philip Primrose’s Monthly Returns* from 1915-1926. Provincial Archives of Alberta, Accession # 1969.210.

The data from Magistrate Murphy’s monthly returns indicates that from 1916 to 1931, “keepers” had higher rates of conviction than “inmates” while the lowest rates of conviction were for “frequenters.” Of the total bawdy-house related cases, 40% (n=121) for keeping a bawdy house; 38% (n=111) of individuals were convicted for being an “inmate” in a bawdy house; 22% (n=67) as a frequenter of a bawdy house (see Tables 4.4, 4.5, 4.6). As is true for prostitution now, the pattern of convictions for prostitution

then are deeply gendered. Closer examination of these categories reveals that of those convicted for being an “inmate” in a bawdy house, 87% (n=97) were women and 4% (n=5) were men; of those convicted of keeping a bawdy house, 88% (n=107) were women and 11% (n=13) were men; of those convicted of being a frequenter, 1% were women (n=1) and 94% were men (n=63).

|                                     | Total Male | %      | Total Female | %       | Total Unknown | %      | Total Offenders | %      |
|-------------------------------------|------------|--------|--------------|---------|---------------|--------|-----------------|--------|
| Adjourned                           | 0          | 0.00%  | 0            | 0.00%   | 0             | 0.00%  | 0               | 0.00%  |
| Bail Escheated                      | 0          | 0.00%  | 0            | 0.00%   | 0             | 0.00%  | 0               | 0.00%  |
| Bail Forfeit                        | 8          | 12.70% | 0            | 0.00%   | 0             | 0.00%  | 8               | 11.94% |
| Committed to Mental Institution     | 0          | 0.00%  | 0            | 0.00%   | 0             | 0.00%  | 0               | 0.00%  |
| Costs                               | 1          | 1.59%  | 0            | 0.00%   | 0             | 0.00%  | 1               | 1.49%  |
| Costs or Prison                     | 0          | 0.00%  | 0            | 0.00%   | 0             | 0.00%  | 0               | 0.00%  |
| Discharged                          | 1          | 1.59%  | 0            | 0.00%   | 0             | 0.00%  | 1               | 1.49%  |
| Dismissed                           | 5          | 7.94%  | 1            | 100.00% | 0             | 0.00%  | 6               | 8.96%  |
| Fine                                | 1          | 1.59%  | 0            | 0.00%   | 0             | 0.00%  | 1               | 1.49%  |
| Fine and Costs                      | 0          | 0.00%  | 0            | 0.00%   | 1             | 33.33% | 1               | 1.49%  |
| Fine or Prison                      | 45         | 71.43% | 0            | 0.00%   | 2             | 66.67% | 47              | 70.15% |
| Fine and Prison                     | 0          | 0.00%  | 0            | 0.00%   | 0             | 0.00%  | 0               | 0.00%  |
| Handed Over to Military Authorities | 0          | 0.00%  | 0            | 0.00%   | 0             | 0.00%  | 0               | 0.00%  |
| No Evidence                         | 0          | 0.00%  | 0            | 0.00%   | 0             | 0.00%  | 0               | 0.00%  |
| Other                               | 0          | 0.00%  | 0            | 0.00%   | 0             | 0.00%  | 0               | 0.00%  |
| Prison                              | 0          | 0.00%  | 0            | 0.00%   | 0             | 0.00%  | 0               | 0.00%  |
| Prison Hard Labour                  | 0          | 0.00%  | 0            | 0.00%   | 0             | 0.00%  | 0               | 0.00%  |
| Remanded                            | 0          | 0.00%  | 0            | 0.00%   | 0             | 0.00%  | 0               | 0.00%  |
| Suspended                           | 2          | 3.17%  | 0            | 0.00%   | 0             | 0.00%  | 2               | 2.99%  |
| Withdrawn                           | 0          | 0.00%  | 0            | 0.00%   | 0             | 0.00%  | 0               | 0.00%  |
| <b>TOTAL</b>                        | <b>63</b>  |        | <b>1</b>     |         | <b>3</b>      |        | <b>67</b>       |        |

Table 4.7: Source: *Magistrate Emily Murphy's Monthly Returns*, Provincial Archives of Alberta, Accession #1969.210.

The majority of men (70.15%, n=47) who appeared before the Women's Court on the charge of “frequenter” a common bawdy house were sentenced to pay a fine or go to

prison (should they not be able to pay the fine). Only one woman appeared under the offense of frequenting, and her case was dismissed. No offender who was charged with “frequenting” was given hard labour or prison time only by Magistrate Murphy.

| Table 4.8 The Disposition of Cases for the Offense "Keeping a Common Bawdy House" by Gender in the Women's Court under Magistrate Murphy, 1916-1931 |            |        |              |        |               |         |                 |        |
|---|------------|--------|--------------|--------|---------------|---------|-----------------|--------|
|   | Total Male | %      | Total Female | %      | Total Unknown | %       | Total Offenders | %      |
| Adjourned   | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%   | 0               | 0.00%  |
| Bail Escheated  | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%   | 0               | 0.00%  |
| Bail Forfeit  | 0          | 0.00%  | 1            | 0.93%  | 0             | 0.00%   | 1               | 0.83%  |
| Committed to Mental Institution   | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%   | 0               | 0.00%  |
| Costs   | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%   | 0               | 0.00%  |
| Costs or Prison   | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%   | 0               | 0.00%  |
| Discharged  | 0          | 0.00%  | 5            | 4.67%  | 0             | 0.00%   | 5               | 4.13%  |
| Dismissed   | 4          | 30.77% | 8            | 7.48%  | 0             | 0.00%   | 12              | 9.92%  |
| Fine  | 0          | 0.00%  | 3            | 2.80%  | 0             | 0.00%   | 3               | 2.48%  |
| Fine and Costs  | 1          | 7.69%  | 2            | 1.87%  | 0             | 0.00%   | 3               | 2.48%  |
| Fine or Prison  | 4          | 30.77% | 56           | 52.34% | 1             | 100.00% | 61              | 50.41% |
| Fine and Prison   | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%   | 0               | 0.00%  |
| Handed Over to Military Authorities   | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%   | 0               | 0.00%  |
| No Evidence   | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%   | 0               | 0.00%  |
| Other   | 0          | 0.00%  | 1            | 0.93%  | 0             | 0.00%   | 1               | 0.83%  |
| Prison  | 1          | 7.69%  | 20           | 18.69% | 0             | 0.00%   | 21              | 17.36% |
| Prison Hard Labour  | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%   | 0               | 0.00%  |
| Remanded  | 2          | 15.38% | 1            | 0.93%  | 0             | 0.00%   | 3               | 2.48%  |
| Suspended   | 1          | 7.69%  | 10           | 9.35%  | 0             | 0.00%   | 11              | 9.09%  |
| Withdrawn   | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%   | 0               | 0.00%  |
| <b>TOTAL</b>  | <b>13</b>  |        | <b>107</b>   |        | <b>1</b>      |         | <b>121</b>      |        |

Table 4.8: Source: *Magistrate Emily Murphy's Monthly Returns*, Provincial Archives of Alberta, Accession #1969.210.

In comparison, those women who were convicted of “keeping” a bawdy house received overall much harsher punishments than male “frequenters.” Just over half (50.41%, n=61) of the women were ordered to pay a fine go to prison (should they not be able to pay the fine); 17.36% (20 women and 1 man) were sent to prison; none, however,

received hard labour. The cases for remaining offenders, 9.92% (8 women and 4 men) and 9.09% (10 women and 1 man), were suspended or dismissed.

| Table 4.9 The Disposition of Cases for the Offense "Inmate of a Bawdy House" by Gender in the Women's Court under Magistrate Murphy, 1916-1931 |            |        |              |        |               |        |                 |        |
|--|------------|--------|--------------|--------|---------------|--------|-----------------|--------|
|  | Total Male | %      | Total Female | %      | Total Unknown | %      | Total Offenders | %      |
| Adjourned  | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| Bail Escheated   | 0          | 0.00%  | 0            | 0.00%  | 1             | 11.11% | 1               | 0.90%  |
| Bail Forfeit   | 0          | 0.00%  | 3            | 3.09%  | 0             | 0.00%  | 3               | 2.70%  |
| Committed to Mental Institution  | 0          | 0.00%  | 1            | 1.03%  | 0             | 0.00%  | 1               | 0.90%  |
| Costs  | 0          | 0.00%  | 1            | 1.03%  | 0             | 0.00%  | 1               | 0.90%  |
| Costs or Prison  | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| Discharged   | 0          | 0.00%  | 14           | 14.43% | 0             | 0.00%  | 14              | 12.61% |
| Dismissed  | 0          | 0.00%  | 8            | 8.25%  | 0             | 0.00%  | 8               | 7.21%  |
| Fine   | 0          | 0.00%  | 1            | 1.03%  | 0             | 0.00%  | 1               | 0.90%  |
| Fine and Costs   | 1          | 20.00% | 1            | 1.03%  | 0             | 0.00%  | 2               | 1.80%  |
| Fine or Prison   | 3          | 60.00% | 41           | 42.27% | 8             | 88.89% | 52              | 46.85% |
| Fine and Prison  | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| Handed Over to Military Authorities  | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| No Evidence  | 0          | 0.00%  | 3            | 3.09%  | 0             | 0.00%  | 3               | 2.70%  |
| Other  | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| Prison   | 0          | 0.00%  | 10           | 10.31% | 0             | 0.00%  | 10              | 9.01%  |
| Prison Hard Labour   | 0          | 0.00%  | 3            | 3.09%  | 0             | 0.00%  | 3               | 2.70%  |
| Remanded   | 0          | 0.00%  | 2            | 2.06%  | 0             | 0.00%  | 2               | 1.80%  |
| Suspended  | 0          | 0.00%  | 8            | 8.25%  | 0             | 0.00%  | 8               | 7.21%  |
| Withdrawn  | 1          | 20.00% | 1            | 1.03%  | 0             | 0.00%  | 2               | 1.80%  |
| <b>TOTAL</b>   | <b>5</b>   |        | <b>97</b>    |        | <b>9</b>      |        | <b>111</b>      |        |

Table 4.9: Source: *Magistrate Emily Murphy's Monthly Returns*, Provincial Archives of Alberta, Accession #1969.210.

Similar patterns of punishment were apparent for those who were convicted of “being an “inmate” of a common bawdy house: 46.85% (n=52) were ordered to pay a fine or go to prison if they could not pay; 9% (n=10) were sentenced to prison; 12.61% (n=14) were discharged and 7.21 (n=8) were “dismissed” and 7.21% (n=8) were “suspended.” Women

made up the majority of “inmate” cases, 87% (n=97). Of this group, 42% (n=41) women were sentenced to pay a fine or face prison time. 14.43% (n=14) of women had their cases discharged, 10.31% (n=10) were sent directly to prison. Interestingly, five men were charged with being an “inmate” of a bawdy house--three of whom were sentenced to pay a fine or go to prison; one case was withdrawn, and one case was ordered to pay a fine and costs.

| <b>Table 4.10 Women's Court Fines Arranged by Lowest Fine per Crimes, Highest per Crimes, Average of Total Fines per Crime, Most Assigned Fine per Crime, and Potential Collection of Fines Per Crime, 1916-1931</b> |                                  |                    |                     |                |                         |                                    |
|--|----------------------------------|--------------------|---------------------|----------------|-------------------------|------------------------------------|
|  |                                  | <b>Lowest Fine</b> | <b>Highest Fine</b> | <b>Average</b> | <b>Most Common Fine</b> | <b>Potential Collection Amount</b> |
| <b>Alcohol Related</b>   |                                  |                    |                     |                |                         |                                    |
|  | Breach of Liquor Act             | N/A                | N/A                 |                | N/A                     | N/A                                |
|  | Drive Auto intoxicated           | N/A                | N/A                 |                | N/A                     | N/A                                |
|  | Drunkenness                      | \$ 4.00            | \$ 20.00            | \$ 11.50       | \$ 10.00                | \$ 219.00                          |
|  | Employ female help in bar        | \$ 20.00           | \$ 20.00            | \$ 20.00       | \$ 20.00                | \$ 20.00                           |
|  | Fail to close                    | \$ 2.00            | \$ 5.00             | \$ 3.80        | \$ 5.00                 | \$ 19.00                           |
|  | Give liquor                      | \$ 200.00          | \$ 450.00           | \$ 325.00      | \$ 325.00               | \$ 650.00                          |
|  | Government Liquor Control Act s  | \$ 300.00          | \$ 300.00           | \$ 300.00      | \$ 300.00               | \$ 300.00                          |
|  | Intoxication                     | \$ 1.00            | \$ 200.00           | \$ 35.00       | \$ 20.00                | \$ 11,572.75                       |
|  | Keep Liquor for Sale             | \$ 2.00            | \$ 950.00           | \$ 323.00      | \$ 300.00               | \$ 7,127.00                        |
|  | Liquor Act                       | \$ 25.00           | \$ 301.80           | \$ 125.20      | \$ 100.00               | \$ 1,126.80                        |
|  | Liquor Possession                | \$ 200.00          | \$ 450.00           | \$ 366.00      | \$ 450.00               | \$ 1,100.00                        |
|  | Making Alcohol                   | \$ 20.00           | \$ 20.00            | \$ 20.00       | \$ 20.00                | \$ 20.00                           |
|  | Minor on Premise                 | \$ 20.00           | \$ 500.00           | \$ 132.00      | \$ 100.00               | \$ 1,720.00                        |
|  | Open too Long                    | \$ 10.00           | \$ 400.00           | \$ 83.00       | \$ 20.00                | \$ 5,980.00                        |
|  | Permit Drunkenness               | N/A                | N/A                 | N/A            | N/A                     | N/A                                |
|  | Possession of Liquor             | \$ 10.00           | \$ 400.00           | \$ 83.50       | \$ 20.00                | \$ 5,930.00                        |
|  | Purchase of Liquor               | N/A                | N/A                 | N/A            | N/A                     | N/A                                |
|  | Sale of Liquor                   | \$ 75.00           | \$ 700.00           | \$ 225.00      | \$ 200.00               | \$ 11,270.25                       |
|  | Supply Liquor to a Minor         | N/A                | N/A                 | N/A            | N/A                     | N/A                                |
|  | <b>Total</b>                     |                    |                     |                |                         | <b>\$ 41,124.80</b>                |
| <b>Prostitution Related</b>  |                                  |                    |                     |                |                         |                                    |
|  | Expose indecent pictures         | N/A                | N/A                 | N/A            | N/A                     | N/A                                |
|  | Frequenter of Bawdy house        | \$ 15.00           | \$ 100.00           | \$ 40.00       | \$ 25.00                | \$ 1,945.00                        |
|  | Immorality                       | \$ 25.00           | \$ 300.00           | \$ 141.00      | \$ 141.00               | \$ 425.00                          |
|  | Inmate of Bawdy House            | \$ 10.00           | \$ 100.00           | \$ 45.00       | \$ 50.00                | \$ 2,430.00                        |
|  | Keep a Common Bawdy House        | \$ 10.00           | \$ 200.00           | \$ 114.00      | \$ 100.00               | \$ 7,320.00                        |
|  | Living on Avails of Prostitution | N/A                | N/A                 | N/A            | N/A                     | N/A                                |
|  | Night Walking                    | \$ 10.00           | \$ 100.00           | \$ 45.00       | \$ 45.00                | \$ 135.00                          |
|  | Obscene Literature in Possessio  | N/A                | N/A                 | N/A            | N/A                     | N/A                                |
|  | Procuring                        | N/A                | N/A                 | N/A            | N/A                     | N/A                                |
|  | Vagrancy                         | \$ 2.00            | \$ 50.00            | \$ 29.00       | \$ 25.00                | \$ 2,412.00                        |
|  | VD                               | \$ 10.00           | \$ 10.00            | \$ 10.00       | \$ 10.00                | \$ 30.00                           |
|  | <b>Total</b>                     |                    |                     |                |                         | <b>\$ 14,697.00</b>                |



Table 4.10: Source: *Magistrate Emily Murphy's Monthly Returns*, Provincial Archives of Alberta, Accession #1969.210.

An analysis of Murphy's conviction rates for prostitution-related crimes reveals that she had higher conviction rates in the first part of her career from 1916 to 1924 than in the later half from 1925 to 1931. From 1916 to 1924, of the 45 "inmates" who appeared before Murphy, 37 were convicted, representing a rate of 82%. Of the 37 convicted, 75% (n=28) women paid their fines and 10% (n=4) women, also charged with "fine or prison" went to prison for non-payment, the other convicted women, 13% (n=5) were sent straight to prison; the total income from "inmates" fines was \$1200.00. From 1925 to 1931, Murphy's conviction rate was 55% (n=26). Most, 64% (n=12) of the "inmates" paid their fines rather than accept jail time and 36% (n=7) of the women charged with "fine or prison" could not pay. The total income from these fines for this period was \$440.00.

|                        | Fined     | %              | Dismissed | %              | Discharged | %              | Suspended | %              | Withdrawn | %              | Prison   | %              |
|------------------------|-----------|----------------|-----------|----------------|------------|----------------|-----------|----------------|-----------|----------------|----------|----------------|
| 1917                   | 13        | 40.63%         | 0         | 0.00%          | 0          | 0.00%          | 0         | 0.00%          | 1         | 100.00%        | 1        | 20.00%         |
| 1918                   | 1         | 3.13%          | 0         | 0.00%          | 0          | 0.00%          | 0         | 0.00%          | 0         | 0.00%          | 0        | 0.00%          |
| 1919                   | 6         | 18.75%         | 0         | 0.00%          | 0          | 0.00%          | 0         | 0.00%          | 0         | 0.00%          | 0        | 0.00%          |
| 1920                   | 2         | 6.25%          | 0         | 0.00%          | 0          | 0.00%          | 1         | 33.33%         | 0         | 0.00%          | 1        | 20.00%         |
| 1921                   | 1         | 3.13%          | 0         | 0.00%          | 0          | 0.00%          | 0         | 0.00%          | 0         | 0.00%          | 0        | 0.00%          |
| 1922                   | 1         | 3.13%          | 2         | 100.00%        | 1          | 50.00%         | 0         | 0.00%          | 0         | 0.00%          | 2        | 40.00%         |
| 1923                   | 2         | 6.25%          | 0         | 0.00%          | 0          | 0.00%          | 2         | 66.67%         | 0         | 0.00%          | 1        | 20.00%         |
| 1924                   | 6         | 18.75%         | 0         | 0.00%          | 1          | 50.00%         | 0         | 0.00%          | 0         | 0.00%          | 0        | 0.00%          |
| <b>TOTAL</b>           | <b>32</b> | <b>100.00%</b> | <b>2</b>  | <b>100.00%</b> | <b>2</b>   | <b>100.00%</b> | <b>3</b>  | <b>100.00%</b> | <b>1</b>  | <b>100.00%</b> | <b>5</b> | <b>100.00%</b> |
| 1925                   | 7         | 36.84%         | 4         | 80.00%         | 0          | 0.00%          | 0         | 0.00%          | 0         | 0.00%          | 7        | 100.00%        |
| 1926                   | 1         | 5.26%          | 0         | 0.00%          | 4          | 36.36%         | 0         | 0.00%          | 0         | 0.00%          | 0        | 0.00%          |
| 1927                   | 7         | 36.84%         | 1         | 20.00%         | 3          | 27.27%         | 1         | 100.00%        | 1         | 100.00%        | 0        | 0.00%          |
| 1928                   | 1         | 5.26%          | 0         | 0.00%          | 0          | 0.00%          | 0         | 0.00%          | 0         | 0.00%          | 0        | 0.00%          |
| 1929                   | 0         | 0.00%          | 0         | 0.00%          | 2          | 18.18%         | 0         | 0.00%          | 0         | 0.00%          | 0        | 0.00%          |
| 1930                   | 2         | 10.53%         | 0         | 0.00%          | 2          | 18.18%         | 0         | 0.00%          | 0         | 0.00%          | 0        | 0.00%          |
| 1931                   | 1         | 5.26%          | 0         | 0.00%          | 0          | 0.00%          | 0         | 0.00%          | 0         | 0.00%          | 0        | 0.00%          |
| <b>TOTAL</b>           | <b>19</b> | <b>100.00%</b> | <b>5</b>  | <b>100.00%</b> | <b>11</b>  | <b>100.00%</b> | <b>1</b>  | <b>100.00%</b> | <b>1</b>  | <b>100.00%</b> | <b>7</b> | <b>100.00%</b> |
| <b>Total All Cases</b> | 51        |                | 7         |                | 13         |                | 7         |                | 2         |                | 12       |                |

Table 4.11: Source: *Magistrate Emily Murphy's Monthly Returns*, Provincial Archives of Alberta, Accession #1969.210.

## 4.2 A Comparison of Magistrates Primrose’s and Murphy’s Adjudication of Bawdy-house related Offenses.

Magistrate Primrose also adjudicated bawdy-house related offenses in the Central Police Court, but they represented only 0.71% (n=284) of his total caseload of 40 000 cases. Of those charged with bawdy-house related offenses, 33.10% (n=94) of being a convicted of “Keeping a Common Bawdy House,” 26.76% (n=76) were convicted of being an “Inmate in a Bawdy House,” and 40.14% (n=114) for being a “frequenter.”

|                                     | Total Male | %      | Total Female | %      | Total Unknown | %      | Total Offenders | %      |
|-------------------------------------|------------|--------|--------------|--------|---------------|--------|-----------------|--------|
| Adjourned                           | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| Bail Escheated                      | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| Bail Forfeit                        | 1          | 33.33% | 2            | 2.94%  | 0             | 0.00%  | 3               | 3.95%  |
| Committed to Mental Institution     | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| Costs                               | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| Costs or Prison                     | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| Discharged                          | 1          | 33.33% | 18           | 26.47% | 2             | 40.00% | 21              | 27.63% |
| Dismissed                           | 0          | 0.00%  | 9            | 13.24% | 0             | 0.00%  | 9               | 11.84% |
| Fine                                | 0          | 0.00%  | 8            | 11.76% | 2             | 40.00% | 10              | 13.16% |
| Fine and Costs                      | 0          | 0.00%  | 2            | 2.94%  | 1             | 20.00% | 3               | 3.95%  |
| Fine or Prison                      | 1          | 33.33% | 5            | 7.35%  | 0             | 0.00%  | 6               | 7.89%  |
| Fine and Prison                     | 0          | 0.00%  | 7            | 10.29% | 0             | 0.00%  | 7               | 9.21%  |
| Handed Over to Military Authorities | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| No Evidence                         | 0          | 0.00%  | 3            | 4.41%  | 0             | 0.00%  | 3               | 3.95%  |
| Other                               | 0          | 0.00%  | 2            | 2.94%  | 0             | 0.00%  | 2               | 2.63%  |
| Prison                              | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| Prison Hard Labour                  | 0          | 0.00%  | 7            | 10.29% | 0             | 0.00%  | 7               | 9.21%  |
| Remanded                            | 0          | 0.00%  | 3            | 4.41%  | 0             | 0.00%  | 3               | 3.95%  |
| Suspended                           | 0          | 0.00%  | 1            | 1.47%  | 0             | 0.00%  | 1               | 1.32%  |
| Withdrawn                           | 0          | 0.00%  | 1            | 1.47%  | 0             | 0.00%  | 1               | 1.32%  |
| <b>TOTAL</b>                        | <b>3</b>   |        | <b>68</b>    |        | <b>5</b>      |        | <b>76</b>       |        |

Table 4.12: Source: *Magistrate Phillip Primrose Monthly Returns 1915-1926*, Provincial Archives of Alberta, Accession #1969.210.

As was true of Magistrate Murphy's cases, the vast majority 89.47% (n=68) charged with being an "inmate" in a bawdy house in Primrose's court room were women, but Primrose's handling of the them differed from Magistrate Murphy's. Overall, the data that Magistrates Primrose was less punitive in sentencing "inmates" than Magistrate Murphy. Primrose had higher rates of discharged cases (27.63%, n= 18 women and 1 man) and dismissed cases (11.84% (n=9 women). In comparison, 12.61% (n=14 women) of Murphy's cases were discharged and 7% (n=8 women) were dismissed. Primrose had lower rates of fining offenders compared to Murphy: 13.16% (n=8 women and 2 unknown) of Primrose's cases were sentenced to a fine compared to 0.9% (n=1) of Murphy's cases. Primrose also had lower rates of "fine with costs," representing 3.95% (n=2 women and 1 unknown) of his total dispositions compared to (1.8%, n=1) for Magistrate Murphy. Magistrate Primrose also had much lower rates of "fine with prison" (representing n= 7.89% (n=5 women) compared to Murphy whose rate was 46.85% (n=41 women, 3 men, 8 unknown). At the same time, Primrose was more likely to assign prison time to individuals convicted of being an "inmate." 9.21% (n=7 women) of Magistrate Primrose's cases were sentenced to hard labour. In comparison, Murphy did not anyone convicted of being an inmate to hard labour.

| Table 4.13 Disposition of Cases for the Offense of "Keeping a Bawdy House" by Gender in the Central Court under Magistrate Primrose, 1915-1926 |            |        |              |        |               |        |                 |        |
|--|------------|--------|--------------|--------|---------------|--------|-----------------|--------|
|  | Total Male | %      | Total Female | %      | Total Unknown | %      | Total Offenders | %      |
| Adjourned  | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| Bail Escheated   | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| Bail Forfeit   | 0          | 0.00%  | 1            | 2.44%  | 0             | 0.00%  | 1               | 1.10%  |
| Committed to Mental Institution  | 0          | 0.00%  | 1            | 2.44%  | 0             | 0.00%  | 1               | 1.10%  |
| Costs  | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| Costs or Prison  | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| Discharged   | 6          | 21.43% | 9            | 21.95% | 0             | 0.00%  | 15              | 16.48% |
| Dismissed  | 6          | 21.43% | 3            | 7.32%  | 3             | 13.64% | 12              | 13.19% |
| Fine   | 2          | 7.14%  | 11           | 26.83% | 7             | 31.82% | 20              | 21.98% |
| Fine and Costs   | 0          | 0.00%  | 0            | 0.00%  | 2             | 9.09%  | 2               | 2.20%  |
| Fine or Prison   | 1          | 3.57%  | 2            | 4.88%  | 3             | 13.64% | 6               | 6.59%  |
| Fine and Prison  | 9          | 32.14% | 4            | 9.76%  | 2             | 9.09%  | 15              | 16.48% |
| Handed Over to Military Authorities  | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| No Evidence  | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| Other  | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| Prison   | 0          | 0.00%  | 0            | 0.00%  | 0             | 0.00%  | 0               | 0.00%  |
| Prison Hard Labour   | 4          | 14.29% | 8            | 19.51% | 3             | 13.64% | 15              | 16.48% |
| Remanded   | 0          | 0.00%  | 1            | 2.44%  | 0             | 0.00%  | 1               | 1.10%  |
| Suspended  | 0          | 0.00%  | 0            | 0.00%  | 1             | 4.55%  | 1               | 1.10%  |
| Withdrawn  | 0          | 0.00%  | 1            | 2.44%  | 1             | 4.55%  | 2               | 2.20%  |
| TOTAL  | 28         |        | 41           |        | 22            |        | 91              |        |

Table 4.13: Source: *Magistrate Phillip Primrose Monthly Returns 1915-1926*, Provincial Archives of Alberta, Accession # 1969.210.

With respect to the disposition of cases involving “keepers,” Primrose’s sentencing patterns were more lenient than Magistrate Murphy’s: Of the total number of dispositions, Primrose discharge 16.8% (n=9 women and 3 men) and 13.19% dismissal rates (n=3 women and 4 men) were higher than Murphy’s, which were 4.3% (n=5 women) and 9.92% (n=8 women and 5 men) respectively. Magistrate Primrose had a higher rate of fining “keepers” (21.98%, n=11 women and 2 men) compared to Murphy’s

rate of 2.48% (n=3 women).<sup>242</sup> In cases involving “fine or prison,” Magistrate Primrose’s had a much lower rate (6.59% , n=2 women and 1 man) than Magistrate Murphy whose rate was 50.41% (n=56 women and 4 men) of the total disposition of cases. As was true for “inmates,” Magistrate Primrose was more likely to imposed “fine and prison” in 16.48% (n=4 women and 9 men) whereas Murphy had none.

| Table 4.14 Disposition of Cases for the Offense of "Frequenting a Common Bawdy House" by Gender in the Central Court under Magistrate Primrose, 1915-1926 |            |        |              |       |               |        |                 |        |
|---|------------|--------|--------------|-------|---------------|--------|-----------------|--------|
|   | Total Male | %      | Total Female | %     | Total Unknown | %      | Total Offenders | %      |
| Adjourned   | 0          | 0.00%  | 0            | 0.00% | 0             | 0.00%  | 0               | 0.00%  |
| Bail Escheated  | 0          | 0.00%  | 0            | 0.00% | 0             | 0.00%  | 0               | 0.00%  |
| Bail Forfeit  | 6          | 5.45%  | 0            | 0.00% | 0             | 0.00%  | 6               | 5.31%  |
| Committed to Mental Institution   | 0          | 0.00%  | 0            | 0.00% | 0             | 0.00%  | 0               | 0.00%  |
| Costs   | 0          | 0.00%  | 0            | 0.00% | 0             | 0.00%  | 0               | 0.00%  |
| Costs or Prison   | 6          | 5.45%  | 0            | 0.00% |               | 0.00%  | 6               | 5.31%  |
| Discharged  | 23         | 20.91% | 0            | 0.00% | 2             | 66.67% | 25              | 22.12% |
| Dismissed   | 6          | 5.45%  | 0            | 0.00% | 1             | 33.33% | 7               | 6.19%  |
| Fine  | 24         | 21.82% | 0            | 0.00% | 0             | 0.00%  | 24              | 21.24% |
| Fine and Costs  | 4          | 3.64%  | 0            | 0.00% | 0             | 0.00%  | 4               | 3.54%  |
| Fine or Prison  | 3          | 2.73%  | 0            | 0.00% | 0             | 0.00%  | 3               | 2.65%  |
| Fine and Prison   | 24         | 21.82% | 0            | 0.00% | 0             | 0.00%  | 24              | 21.24% |
| Handed Over to Military Authorities   | 11         | 10.00% | 0            | 0.00% | 0             | 0.00%  | 11              | 9.73%  |
| No Evidence   | 1          | 0.91%  | 0            | 0.00% | 0             | 0.00%  | 1               | 0.88%  |
| Other   | 0          | 0.00%  | 0            | 0.00% | 0             | 0.00%  | 0               | 0.00%  |
| Prison  | 0          | 0.00%  | 0            | 0.00% | 0             | 0.00%  | 0               | 0.00%  |
| Prison Hard Labour  | 1          | 0.91%  | 0            | 0.00% | 0             | 0.00%  | 1               | 0.88%  |
| Remanded  | 0          | 0.00%  | 0            | 0.00% | 0             | 0.00%  | 0               | 0.00%  |
| Suspended   | 1          | 0.91%  | 0            | 0.00% | 0             | 0.00%  | 1               | 0.88%  |
| Withdrawn   | 0          | 0.00%  | 0            | 0.00% | 0             | 0.00%  | 0               | 0.00%  |
| TOTAL   | 110        |        | 0            |       | 3             |        | 113             |        |

Table 4.14: Source: *Magistrate Phillip Primrose Monthly Returns 1915-1926*, Provincial Archives of Alberta, Accession # 1969.210.

<sup>242</sup>The rates for “fine and costs” were almost identical with 2.2% (n=2 women) and 2.48% (n=2 women and 1 man) for Magistrates Primrose and Murphy respectively.

As was true for the disposition of “inmates” and “keeping,” Magistrate Primrose’s overall pattern of sentencing was more lenient than Magistrate Murphy’s. While Magistrates Primrose and Murphy had a similar rate of dismissal for “frequenters” (6.19%, n=6 men, 1 unknown and 8.9% (n=1 woman, 5 men, respectively), Primrose’s discharge rate (22.12%, n= 23 men and 2 unknown) was considerable higher than Murphy’s (1.49%, n=1). While Magistrates Primrose and Murphy had similar rates of “fining with costs,” (3.54%, n=4, and 1.49%, n=1 woman respectively), Primrose was more likely to impose a “fine” (21.24%, n=24 men) compared to Murphy (1.49%, n=1 unknown). In contrast, Primrose was less likely to impose “fine or prison” (2.65%, n=3 men) than Murphy, whose rate was 70.15% (n=45)—the single highest category of the disposition of her cases. Yet, in relation to “fine with prison,” Primrose’s rate was 21.4% (n=24 men) whereas Murphy did not sentence any man to this category. Primrose’s court was unique in that it was the only court where an offender could be handed over to military authorities for punishment and judgement, representing 10% (n=11) of the cases. Even though Magistrate Murphy had male “frequenters” in her court during the same period, none were referred to the military, and only one was sentenced to hard labour.

#### 4.3 A Comparison of the Amounts of Fines Between Magistrates Murphy and Primrose

Although Magistrate Primrose was more lenient than Magistrate Murphy in assigning fines rather than “fines with prison” or only “prison” sentences, the amount that he fined varied depending upon the type of prostitution-related crime (see Table 4.13). For the category of “frequenters,” Primrose had a lower minimum fine than Murphy

(\$5.00 versus \$15.00), a much lower mean fine rate (\$21.24 versus \$40.00), and even lower mode rate (\$15.00 versus \$25.00). Given, however, that Primrose had a higher number of men before him, his total collection amount was \$1147.00. For the category of “inmate,” Magistrate Primrose’s lowest fine was \$20.00, \$10.00 more than Magistrate Murphy’s lowest fine. This data might suggest that Murphy was more lenient on the women and girls who were found working in the bawdy houses. However, Murphy had a higher maximum fine of \$100.00 in comparison to Primrose’s \$75.00. The mean fine for both magistrates was quite similar for “inmates,” (45.00 versus \$41.58). Magistrates Murphy’s and Primrose’s pattern for fines was the most similar for the “keeper” category in terms of lowest, highest and mean; Magistrate Murphy’s and Primrose’s lowest charge was \$10.00, and Magistrate Primrose was \$15.00. Again, Murphy’s lowest fines are seemingly more lenient than Primrose’s. Both Magistrates share the maximum fine of \$200.00- as was set out in the Criminal Code. The mean fines for “keepers” were the highest of the three bawdy-house related offenses, with Magistrates Murphy and Primrose have the same mean rate of \$114.00 and \$113.98 respectively.

| Table 4.15 A Comparison of the Fines for Bawdy House Related Offenses Adjudicated by Magistrates<br>Murphy and Primrose, 1916-1931 |                              |             |              |          |              |                      |
|--|------------------------------|-------------|--------------|----------|--------------|----------------------|
|  |                              | Lowest Fine | Highest Fine | Mean Fin | Mode<br>Fine | Collection<br>Amount |
| <b>Magistrate Murphy Bawdy Cases</b>   |                              |             |              |          |              |                      |
|  | Frequenter of Bawdy House    | \$ 15.00    | \$ 100.00    | \$ 40.00 | \$ 25.00     | \$ 1,945.00          |
|  | Inmate of Bawdy House        | \$ 10.00    | \$ 100.00    | \$ 45.00 | \$ 50.00     | \$ 2,430.00          |
|  | Keeper of Common Bawdy House | \$ 10.00    | \$ 200.00    | \$114.00 | \$100.00     | \$ 7,320.00          |
|  | <b>Total</b>                 |             |              |          |              | <b>\$11,695.00</b>   |
| Central Court Fines  |                              |             |              |          |              |                      |
|  |                              | Lowest Fine | Highest Fine | Mean Fin | Mode<br>Fine | Collection<br>Amount |
| <b>Magistrate Primrose Bawdy Cases</b>   |                              |             |              |          |              |                      |
|  | Frequenter of Bawdy House    | \$ 5.00     | \$ 100.00    | \$ 21.24 | \$ 15.00     | \$ 1,147.00          |
|  | Inmate of Bawdy House        | \$ 20.00    | \$ 75.00     | \$ 41.58 | \$ 50.00     | \$ 1,081.00          |
|  | Keeper of Common Bawdy House | \$ 15.00    | \$ 200.00    | \$113.98 | \$100.00     | \$ 5,015.00          |
|  | <b>Total</b>                 |             |              |          |              | <b>\$ 7,243.00</b>   |

Table 4.15: Source: *Magistrate Phillip Primrose Monthly Returns 1915-1926*, Provincial Archives of Alberta, Accession # GR 1969.210; *Magistrate Emily Murphy's Monthly Returns 1916-1931*, Provincial Archives of Alberta, Accession #GR 1969.210.

#### 4.4 Conclusion

The monthly returns for Magistrates Murphy and Primrose provide significant insight into the adjudication of the cases that appeared in their respective courts.

Although the data (as far as known) is complete for Magistrate Murphy's tenure from 1916 to 1931, the records for Magistrate Primrose are only available from 1915 to 1926, making for an imperfect comparison. Nonetheless the data show important differences in the adjudication of the cases that appeared before them. Together alcohol- and prostitution related cases made up almost 40% of Murphy's caseload. Within these categories, "intoxication" was the largest single category for alcohol-related cases while vagrancy (51.9%) made up the largest single category of prostitution-related cases. This group of women were more likely to have been "street" prostitutes, lacked the protection of a "madam", and were more likely to be picked up and charged by the police than those



“hidden” inside a bawdy house. In comparison, bawdy-house related offenses made approximately up 40% of all-prostitution related offenses—with the charges being equally divided between inmates (15%) and keepers (16%)—the vast majority of whom were women—while the “frequenter” —the vast majority of whom represented only 9% of those charged with bawdy-house offenses.

Not surprisingly the majority of the offenders who appeared before Magistrate Murphy in the Women’s Court from 1916 to 1931 were women, 72% (n=2776); still men made up a significant minority, 24% (936). Overall, the data indicate that both Murphy and Primrose preferred to impose fines for all bawdy-house related crimes, or if the defendants could not pay the fine, then they went to prison. (9%, n=26, and 8%, n=24 for Murphy and Primrose respectively). As is true for prostitution now, the pattern of convictions for prostitution are deeply gendered. Overall, “keepers” and “inmates”—the majority of whom were women--had higher rates of convictions than the “frequenter,” the majority of whom were men.

The conviction rates and sentencing patterns, however, consistently show differences in the treatment of female offenders by Murphy and Primrose. They were more likely to convict and impose harsher punishments on “keepers,” than “inmates.” These data suggest that both Murphy and Primrose differentiated between different classes of female offenders. The reasons could be pure economics: “keepers” would have more disposable income to pay higher rates of fines. But their higher conviction rates and harsher sentences suggest that their offenses seemingly were the most egregious of all the bawdy-house related categories. “Keepers” not only provided a service, but they were entrepreneurs, living off the avails of prostitution. Not only did keepers violate middle-

class norms of femininity, this type of involvement in sex trade would make it impossible for Justices Murphy and Primrose to perceive “keepers” as victims; their agency signalled a knowing transgression of Victorian norms of femininity for which they were seemingly punished. In comparison, Murphy and Primrose could still perceive “inmates” through the lens of the “fallen” women, and hence, as victims.

Finally, although the data is only suggestive since this study examined the statistics of one female and one male judge, the Justices’ adjudication of their cases suggests that gender shaped their conviction and punishment rates. Overall, Primrose was more lenient than Murphy in the disposition of cases involving men—both in conviction rates and in the fine imposed, but he was more likely to impose hard labour in a few cases whereas Murphy never assigned such a harsh sentence.

## Chapter 5 Discussion and Conclusion

*“Besides, in those cases where the fines are not paid, it is actually the Government which is punished, and not the woman.”<sup>243</sup>*

**-Emily Murphy, December 7<sup>th</sup>, 1916**

The response to prostitution on the prairies was varied and complex. The influence of women’s reform groups helped shape what the “modern woman of the Canadian west” should look like – and to many, that image did not include women who sold sex. But, in cities, like Edmonton where a disproportionate number of single men seeking employment, prostitution flourished. Edmonton also was home to Emily Murphy, a well-known feminist and writer, who was appointed the first female magistrate in the British Empire, and who was assigned to the newly founded Women’s Court. Its mandate was to administer justice to women who were charged with various offenses included those related to bawdy-houses. Drawing on her monthly returns, this thesis analyzed Murphy’s adjudication of cases involving women working in bawdy-houses either as an “keepers” or “inmates”, and the men who frequented them. Not surprisingly, the analysis indicates that prostitution is deeply gendered. The vast majority of “inmates” and “keepers” were women while it was men who paid for their services. Overall, despite the

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<sup>243</sup> Emily Murphy, “The Administration of Criminal Justice in Canada.” In “Delinquents and Correction,” *Proceedings of the National Conference of Social Work* 51 (1924): 178. Emily Murphy imposes fines often in her sentencing – especially in bawdy house case, and alcohol related cases. If the offender cannot pay, Murphy implies that the punishment is then done at the financial expense for the government, and not the offender.

rhetoric of reforming women who committed these offenses, Murphy was quite harsh in the disposition of her cases even in comparison to those adjudicated by her male colleague, Magistrate Primrose, with the exception that on occasion, when he imposed hard labour on women who were convicted as “keepers.”

## 5.1 Findings

Not surprisingly, the analysis of the data found that the prosecution of bawdy house offenses was deeply gendered. The overwhelming majority of “inmates” and “keepers” were women while it was men who paid for their services. The analysis of the monthly records for Magistrates Murphy and Primrose indicate that both they adhered to male stereotypes of “men will be men,” and whose sexual needs, in the absence of “respectable wives”, could be met by women working in the sex trade. Thus, both Magistrates Murphy and Primrose treated male “frequenters” more leniently than the women charged with bawdy-house offenses. Most of the “frequenters” cases were dismissed or discharged. That being said, Primrose was even less likely to convict “frequenters” than Murphy.

Not only did the Women’s Court fulfill its mandate by adjudicating cases involving predominantly female offenders, but a significant proportion (20%) of Murphy’s cases dealt with bawdy house-related offenses. But, despite Murphy’s professed concern about women working in the sex trade, her punishment practices reveal that she dealt harshly with women convicted of bawdy-house offenses: (48%) of her cases were fined and placed back out on the street – with little to no evidence of helping them to reform their “immoral” behavior. In comparison, Primrose had higher

discharge (21%) and dismissal (10%) rate for bawdy-house cases than Murphy, (7%) and (9%) respectively. Moreover, Primrose had lower rates of sentencing by fine (43%) compared to Murphy (57%). Primrose, however, was more likely than Murphy to assign prison time that included hard labour. These findings suggest that the gender of the magistrate may have played a role in the disposition of their cases, but the sample is too small to make any definitive conclusions.

Not only did the magistrates discriminate in the punishments between women and men, but they also imposed steeper fines and prison sentences on those found guilty of “keeping” than those who were convicted of being “inmates.” This latter group of women fit more easily into the stereotypical Victorian/Edwardian view of the “fallen woman” perpetuated by the social reform movements. Indeed, the category “inmate” conjures up the image of women who are imprisoned, who are victims, and who have no agency of their own. In contrast, the agency of “keepers,” who were entrepreneurs, could not be denied. These women lived off the avails of prostitution and would appear to defy patriarchal norms of femininity. For their transgressions, the magistrates imposed more stringent punishments on them than the women who worked for them. Since the “keepers,” however, earned a substantial income, they were able to pay their fines and avoid jail time. In comparison, the data indicate that the women who were convicted of being “inmates” made less income and were less likely to pay their fines.

## 5.2 Discussion

These findings need to be contextualized in the larger social, political, and economic relations in the West, but particularly in Edmonton, from 1915 to the early 1930s. In the early twentieth century, social reformers at the local and national levels began to push for the prosecution of the alleged “crimes” associated with prostitution. In their attempt to achieve power beyond the domestic sphere (as signaled by acquiring the vote), the desire for respectability among women’s organizations was predicated on drawing boundaries between “the good and virtuous women,” and “fallen women.” Ostensibly, these reformers were concerned about the growing presence of young, independent women in the work force, who, away from the watchful eye of their male relatives, would be lured (or coerced) into the white slave trade by easy money and good times. The reformers’ targets, however, were immigrant, Indigenous, and working-class women. Many of the revisions to the *CCC* regarding prostitution represented a response to these fears raised by the moral reform movements. As is often the case, legal reforms often follow decades of agitation from interested groups, but once passed, the law reinforces the views of the dominant group.

Like other cities (e.g. Halifax) Edmonton was in the process of modernizing during the first decades of the twentieth century; it was moving from a frontier town to a civilized city. Setting up the police and the judicial system was part of that process; it signaled to its middle-class inhabitants that the city was going to be “safe,” and its citizens, particularly women, were going to be protected from vice and crime. The policing and the court system, however meted out fines rather than enforcing hard labour

or prison time. These monies went into the city coffers and help provide some of the infrastructure for a “civilized city.”

Edmonton city officials did this on the backs of women sex workers and prostitutes. The magistrates’ monthly records reveal that the Edmonton Police were involved in the regulation of prostitution in the city. Two police officers consistently patrolled the brothels for the twenty-year period under examination, although they informed on those involved in prostitution, the brothels were not shut down. These findings suggest that the law was selectively enforced to achieve what McLaren and Lowman has described as a “non-coercive method of compliance.”<sup>244</sup> Prostitution was tolerated—both socially and geographically—within certain limits. Both parties benefitted from this charade.<sup>245</sup> On occasion, those involved in prostitution could expect to be charged and convicted, but they also could remain in business over the longer term. For its part, the city leaders could maintain the fiction of defending a morally upright community while collecting a steady income from the fines for bawdy-house offenses imposed by its magistrates. These findings are consistent with the experiences of other Canadian cities as they were being established at the end of the nineteenth and early twentieth centuries.<sup>246</sup>

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<sup>244</sup> McLaren and Lowman, “Enforcing Canada’s Prostitution Laws,” 25.

<sup>245</sup> Dunae, “Sex, Charades, and Census Records,” 267-297.

<sup>246</sup> Katherine Crooks, “Profits, Savings, Health, Peace, Order: Prostitution, Urban Planning and Imperial Identity in Halifax, Nova Scotia, 1898-1912.” *Journal of Imperial and Commonwealth History*, Vol. 46, No. 3, (2018). Patrick A. Dunae, "Geographies of Sexual Commerce and the Production of Prostitutional Space: Victoria, British Columbia, 1860-1914." *Journal of the Canadian Historical Association* 19.1, (2008). Rhonda L. Hinthner, “The Oldest Profession in Winnipeg: The Culture of Prostitution in the Point Douglas Segregated District, 1909-1912.” *Manitoba History*, No. 41, (Spring/Summer 2001). Kurt Korenski, “Reform and Empire: The Case of Winnipeg, Manitoba, 1870-1910s.” *Urban History Review/Revue d’histoire urbaine*, Vol. XXXVII, No. 1, (Fall 2008).

The civic authorities, however, were not immune to the voices of the social reformers. As a “frontier” town, Edmonton attracted a disproportionate number of single, working-class men who worked on the railroads, in agriculture, and performed manual labour, some of which literally helped to build the town. This “rough and tumble” masculinity was at odds with the civic officials’ more genteel vision of a provincial capital, where business, culture, and politics converged. At the same time, the masculinized “West” excluded white, rural, women from the corridors of power. Women’s organizations imagined that they could gain access to power by becoming the moral guardians and a civilizing influence in this highly masculinized space. Thus, the establishment of the Women’s Court in Edmonton can be read as a response to these competing economic, cultural, and political interests. Working within the doctrine of “separate spheres,” the Women’s Court represented a space where women charged with various offenses could receive fair treatment based on their sex rather than being subjected to the humiliating practices of a masculine justice system.

In many ways, then, Emily Murphy was the “perfect” candidate to serve as the first female magistrate to preside over the Women’s Court. As a nationally known writer and civic-minded volunteer, Murphy represented the coalescence of middle-class and maternal feminist values, grounded in the experience of agrarian culture and identity. She was well- positioned for administering justice in the Women’s Court. Murphy started with good intentions; that is, she wanted to “do right” by the women whom she saw as “fallen women.” But a female magistrate presiding over a Women’s Court was not

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without controversy. Magistrate Murphy fought both for the right to serve as a magistrate and to have women's cases heard in the Women's Court, an environment that was meant to be accommodating and safe for those who would appear before her.

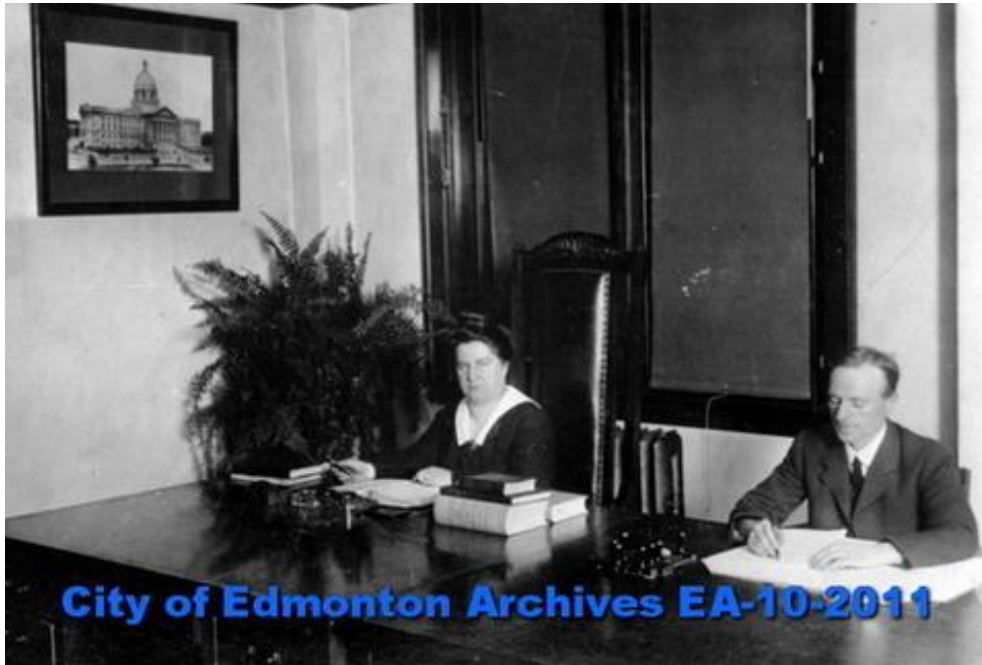


Figure 5.1: Emily Murphy and an unnamed court clerk sitting at her desk in the Women's Court. The photo was taken by an unknown photographer in 1917.



Figure 5.2: Emily Murphy presiding over a juvenile case in the Women's Court. Beside her, a female clerk is recording the goings-on. The image illustrates how small the space is for the Women's Court.

The establishment and size of the Women's Court is in many ways symbolic of Murphy's marginalization in the court system; that is, she had to beg to find a room, and when she did, there was little space for its occupants in which to move. The senior police administration/government clearly did not take the Women's Court or Murphy seriously or see her work as important. Murphy was not seen as "legitimate" or authoritative. Hence, her status to serve as a magistrate was challenged in the first case that appeared before her, and although Murphy was vindicated this test must have rankled, eventually leading her to launch the Person's Case. As final sign that Murphy's standing and justice for women was held in low regard by Edmonton's male judicial and civic leaders was that the Women's Court ceased to exist after Murphy's retirement. Similarly, Calgary's

female magistrate, Alice Jamieson, was forced to step down due to lack of funds in the late 1920s. The demise of the Edmonton Women's Court also coincided with the Toronto Women's Court. With the decline in "first-wave feminism" by the end of the 1920s and the effects of the Great Depression were beginning to be felt, these "boutique"<sup>247</sup> women's courts and female magistrates "spooning out" maternal justice were no longer in fashion.

In order for her to be taken seriously, Murphy had to take a "tough on crime" approach. Murphy's and Primrose's returns reveal that they were relatively comparable in cases where they imposed fines. Moreover, outside of her first two years as magistrate when Murphy tried to find options for the women whom she convicted, there is little evidence that Murphy found ways to "rehabilitate" the women. Indeed, the data analysis shows that Murphy and Primrose held traditional ideas about the appropriate gendered and sexual behaviour and mores for men and women. They were more lenient in the fines that they imposed on the men "the frequenters" than they did for the "inmates" and the "keepers." Thus, Murphy's adjudication of bawdy-house related cases was not consistent with the maternal feminist principles that she espoused even though she seemingly was in a position of power to enact them. Rather, we can conclude that Murphy she did not want to be seen as a member of "the weaker sex" and that she wanted the same privileges as her male peers, as can be seen most poignantly in her pursuit of the Person's Case.

In the end, Murphy's style of feminism was not able to challenge masculine privilege, which operated at different levels. From the difficulty of getting a court room, to the small size of the one in which she worked, to the policing practices whereby the

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<sup>247</sup> Thanks to Professor Valerie Korinek for this description of the Women's Courts.

police consistently sent cases to male magistrates than to Murphy, to her lenient treatment of frequenters and her own internalized gendered beliefs, Murphy was caught up in a flow of masculine privilege. Emily Murphy's counterpart in the Toronto Women's Court, Dr. Margaret Patterson, was subjected to similar expectations and limitations. Patterson was expected to act as her male colleagues, and was, according to Historian Amanda Glasbeek, "... it was in accordance with the rules laid out by men that Margaret Patterson was appointed to the bench."<sup>248</sup> To the female community of moral and social reformers, her status as a woman was an asset in the Women's Court, however, to the men in the Toronto legal profession, it was her biggest fault.<sup>249</sup> Female magistrates were subjected to the masculine expectations no matter where their courts were in Canada.

Although the Women's Court was established ostensibly to serve the needs of female offenders and offer a more congenial environment in which their cases were heard, Murphy was subjected to the same pressures as her male counterparts including Primrose to generate revenues for the Attorney-General's office. Thus, it is not surprising that the data analysis indicates that those convicted of bawdy house offenses were more likely to be fined than sentenced to prison or hard labour. Since the collection of fees and fines was central to the running of the justice system, the magistrates felt pressured to maintain or expand their cases loads. Competition for cases often lead to jurisdictional disputes among and between the city magistrates and provincial judges. Murphy's disposition of her cases follows public sentiments. Initially, she dealt with bawdy-house related crimes, which were quite lucrative. Once public attention shifted to temperance,

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<sup>248</sup> Glasbeek, *Feminized Justice*, 167.

<sup>249</sup> Glasbeek, *Feminized Justice*, 167.

alcohol-related crimes became a major source of revenue for the magistrate courts and Murphy's adjudication of these cases followed suit.

### 5.3 Limitations and Future Directions

This thesis was limited to the administration of justice in the City of Edmonton where Magistrate Emily Murphy's records were housed at the Provincial Archives of Alberta. Although her records appear to be complete from the time of her appointment in 1916 to 1931, unfortunately, Primrose's files go only from 1915 to 1926, thus the comparison is incomplete. Nonetheless, the monthly returns contain a rich data set, but due to time constraints and the sheer amount of information, I limited my comparison to the adjudication of bawdy-house and *Liquor Act* cases. A full analysis of Murphy's and Primrose's complete caseloads would make it possible to compare both individually and together the dispositions of Murphy's and Primrose's cases. Such an inquiry would determine if the magistrates treated other types of offenders in the same way as they did to those charged with bawdy-house offenses.

While many other historians focus their attention and research on correspondence and qualitative data, I chose to focus on the numerical data. There was such a tremendous amount of factual data in the monthly returns, that to ignore it would have been a mistake. The data in the returns provides solid evidence for how men and women were treated in Edmonton for bawdy-house related crimes. Unfortunately, numerical data can only tell us so much. Missing from this thesis are the voices of those who appeared on the return sheets every month.

| INFORMANT       | Nature of informant | Type of Informant (Police) | Provincial Police | Name of Police Informant-Irvine | Type of Informant Doctor | limited information available? | DATE(S) OF Hearing | Year | NAME OF OFFENDER  |
|-----------------|---------------------|----------------------------|-------------------|---------------------------------|--------------------------|--------------------------------|--------------------|------|-------------------|
| W. Hill         | Provincial Police   |                            | 0                 | 1                               |                          | 0                              | 1 1931-02-07       | 1931 | Alice Jones       |
| J. Leslie       | City Police         |                            | 1                 | 0                               | J. Leslie                | 0                              | 0 1931-02-07       | 1931 | Alice Houston     |
| J. Paquin       | no                  |                            | 0                 | 0                               |                          | 0                              | 1 1931-02-09       | 1931 | Mrs Mccafferey    |
| Dr. Hamilton    | Doctor              |                            | 0                 | 0                               |                          | 1                              | 0 1931-03-16       | 1931 | George Clemens    |
| h. gutteridge   | no                  |                            | 0                 | 0                               |                          | 0                              | 1 1931-03-20       | 1931 | Rose Kelly        |
| J.J. Saunders   | no                  |                            | 0                 | 0                               |                          | 0                              | 1 1931-03-25       | 1931 | Vera Saunders     |
| Mrs J. Campbell | no                  |                            | 0                 | 0                               |                          | 0                              | 1 1931-03-25       | 1931 | Pearl Pekin       |
| R. Jennings     | City Police         |                            | 1                 | 0                               | R. Jennings              | 0                              | 0 1931-03-31       | 1931 | Christina Stanton |
| R. Jennings     | City Police         |                            | 1                 | 0                               | R. Jennings              | 0                              | 0 1931-03-31       | 1931 | Hilda Nelsand     |
| h. gutteridge   | no                  |                            | 0                 | 0                               |                          | 0                              | 1 1931-03-19       | 1931 | Jessie WAinwright |
| h. gutteridge   | no                  |                            | 0                 | 0                               |                          | 0                              | 1 1931-03-19       | 1931 | Vincent Bridge    |
| h. gutteridge   | no                  |                            | 0                 | 0                               |                          | 0                              | 1 1931-03-19       | 1931 | Philip MArty      |
| R. Jennings     | City Police         |                            | 1                 | 0                               | R. Jennings              | 0                              | 0 1931-03-31       | 1931 | Mary Boyd         |
| R. Jennings     | City Police         |                            | 1                 | 0                               | R. Jennings              | 0                              | 0 1931-04-04       | 1931 | Olive Wagner      |

Table 5.1: Here is a snapshot of one series that has been coded from the returns. There was a wealth of quantitative data available.

In order to gain a more complete picture of the sex trade in “The West,” further work could be done by comparing Murphy’s and Primrose’s files with those of Col. McLeod, who adjudicated cases in the rural areas adjacent to the provincial capital. In addition, the administration of justice in Edmonton could be expanded to include the cities of Calgary and Lethbridge, which like Edmonton at the beginning of the twentieth century, had a booming economy, large populations of men, and documented “red light” districts. In addition, to exploring the role that the gender of the magistrates might play in the adjudication of cases, Murphy’s files could be compared to Alice Jamieson, who was the second female magistrate to be appointed and she resided in Calgary. In addition, the findings of this study, as well as one of Calgary, could be compared to a study of the Toronto Women’s Court.<sup>250</sup> Three notable female magistrates were employed as

<sup>250</sup> Amanda Glasbeek, *Feminized Justice: The Toronto Women’s Court, 1913-1934*. Vancouver: University of British Columbia Press, 2009.

magistrates in Canada during the first decades of the twentieth century. In what way did their geographical and social spaces shape the disposition of these cases?

What is missing from this thesis is the voices and experiences of the women and men who participated in the sex trade in Alberta in the first few decades of the twentieth century. It is particularly noteworthy that the numerical data did not reveal the racial identities of the women charged with bawdy-house offenses. A number of other studies of the history of prostitution have found that racialized women were overrepresented in the women charged with bawdy-house offenses.<sup>251</sup> In addition, a more nuanced analysis of ethnicity could be developed based on the names of offenders who appeared in the courts by coding their names based on probable origin (for example, British versus European, and perhaps a more refined distinctions between different country origins. Such an analysis would provide only a rough assessment of the socio-demographics of women charged with bawdy-house offenses because it may be difficult to determine the country of origin and many immigrants anglicized their names.

Since the names of those charged with bawdy-house offenses and the date of their arrests and convictions are known, then a search of the Edmonton newspapers might lead to articles discussing their arrests and the outcomes of their cases, as well images that might reveal their racial status. In addition, census data could provide information about where these women and men lived, their ages, if they had children, how they represented their occupations to the census taker, and where they might have ended up if they were traceable over time. Finally, the few women who were sentenced to prison most likely

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<sup>251</sup> Jean Barman, "Taming Aboriginal Sexuality: in *In the Days of Our grandmothers: A reader in Aboriginal Women's History in Canada*. eds Mary-Ellen Kelm and Lorna Townsend. Toronto: University of Toronto Press, (2006).

would have been incarcerated in the Fort Saskatchewan prison. Their prison records, if available, may provide more information about this group of women, as well as those who couldn't pay their fines and had no option but to go to prison.

Finally, a historical account of the events leading up to the establishment of the Women's Court in Edmonton and its ultimate demise after Murphy's retirement were beyond the scope of this thesis. But such a study would provide insight into the social, political, and economic forces that shaped these events, identify the individuals who supported or opposed the Women's Court, and examine the discourses that were mobilized. This research would provide greater insight into Emily Murphy's role and that of other social reformers in their struggle to have the Women's Court established and the parameters that shaped her actions.

#### 5.4 Conclusion

Feminist historians working in the area of prostitution have found that a more nuanced understanding is needed to understand the ways in which sex work has been regulated in Canada and elsewhere. This thesis affirms these findings by pointing to the configuration of social, political, civic, and economic interests in Edmonton that shaped the policing and adjudication of women and men who were charged/convicted with bawdy-house related offenses. The results of this analysis show that the figure of the prostitute was "produced" by women's groups and other moral reformers, resulting in the criminalization of prostitution. Prostitutes had to navigate these relationships with the "keepers" faring overall better than "the inmates" due to the economic power of the



former. Nonetheless, these women still operated within the powerful constraints imposed by the judicial system and subjected to various forms of surveillance and coercion. Ironically, the increasing visibility of prostitutes ultimately led to the demise of the bawdy-house, putting the women at greater risk when they became “street walkers.”

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