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[See table of contents](#)

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Article abstract

When Canadian feminists first began to organise against domestic violence in the 1970s, there was a sense that they were the first to do so. What this article suggests is that resistance to wife-abuse had its roots in the nineteenth century. Its visibility was, in part, due to the efforts of the temperance movement which made wife-battering into a public issue by linking it to its antidrinking campaign. Drunkenness was thought to cause wife-abuse and, as such, shaped people's perceptions of it as a crime. The first half of this article describes the role of temperance ideas informing the public's attitudes towards wife-battering. A common perception was that women beaten by their husbands were passive victims. This was only a part of the story. The actions of a significant number of working-class women in Montréal reveal a competing narrative. Evidence found in Montréal newspapers, police reports, and judicial records showed that women did, indeed, resist their husbands' violence. What sustained these women in their struggles against the physical aggression of their husbands, and the forms which these struggles took, are the subject of the second half of the paper.

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KATHRYN HARVEY

Résumé

When Canadian feminists first began to organise against domestic violence in the 1970s, there was a sense that they were the first to do so. What this article suggests is that resistance to wife-abuse had its roots in the nineteenth century. Its visibility was, in part, due to the efforts of the temperance movement which made wife-battering into a public issue by linking it to its antidrinking campaign. Drunkenness was thought to cause wife-abuse and, as such, shaped people's perceptions of it as a crime. The first half of this article describes the role of temperance ideas in forming the public's attitudes towards wife-battering. A common perception was that women beaten by their husbands were passive victims. This was only a part of the story. The actions of a significant number of working-class women in Montréal reveal a competing narrative. Evidence found in Montréal newspapers, police reports, and judicial records showed that women did, indeed, resist their husbands' violence. What sustained these women in their struggles against the physical aggression of their husbands, and the forms which these struggles took, are the subject of the second half of the paper.

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Dans les années 1970, quand les féministes canadiennes commencèrent à dénoncer la violence familiale, plusieurs crurent qu'elles faisaient figure de pionnières. Cet article suggère que la résistance des femmes à la violence conjugale trouve des racines au dix-neuvième siècle. Ce combat vieux d'un siècle doit sa visibilité au mouvement de tempérance qui amena le problème des femmes battues sur la scène publique en l'associant à sa campagne contre la consommation d'alcool. On croyait à l'époque que l'abus d'alcool était à la source de la violence conjugale, une idée qui contribua à répandre la notion que ce phénomène était un crime. La première partie de cette étude décrit le rôle que les théories du mouvement de tempérance ont joué dans la formation de l'attitude du public face à la violence conjugale. L'idée que les femmes battues ne sont que des victimes passives était au centre de ces convictions. Pourtant, un nombre significatif de femmes de la classe ouvrière de Montréal agissait différemment. En effet, des documents trouvés dans les journaux de Montréal, dans les rapports de police de la ville et

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dans les archives judiciaires montrent que les femmes résistaient à la violence de leur mari. Les fondements de la lutte de ces femmes contre l'agression physique de leur époux, et les manifestations variées de ces combats font l'objet de la seconde partie de cette étude.

Wife-beating was not new to midnineteenth-century Québec society but, despite its abiding presence, domestic violence has elicited few lasting commentaries.¹ One incident that stands out as an exception in this otherwise-forgotten past is the story of Marie-Josephe Corriveau, a battered wife who in 1763 murdered her husband with an axe while he lay sleeping. For this act of revenge she was hanged and her body put on public display for a month in an iron cage above a road near Québec City. "Many men killed their wives, but none gained the reputation of la Corriveau, who is still a legend two hundred years after her death."² Men who murdered their wives have never achieved the same lasting notoriety.³ Without any obvious explanation, the Corriveau story has taken on the appearance of myth for succeeding generations of Québécois. No matter what ends this legend has served, it continues to inform both sexes of the consequences when victimised women take justice into their own hands.

The story of la Corriveau also serves to remind us that resistance to wife-beating is not without a past. Among the people concerned with domestic violence in the late-twentieth century, it was assumed that, prior to the Women's Movement, wife abuse

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1. See Kathryn Harvey, "'To Love, Honour and Obey,' Wife-battering in Working-Class Montreal, 1869-1879," *UrbanHistoryReview/Revue d'histoire urbaine* 19:2 (October 1990). In Canada, there has been one unpublished MA thesis by Erin Breault, "Educating Women About the Law: Violence Against Wives in Ontario, 1850-1920," University of Toronto, 1986 and two articles by T. L. Chapman, "Till Death Do Us Part: Wife-beating and the Criminal Justice System in Alberta, 1905-1920," *Alberta History* 36:4 (1988) and "Problems In Researching Western Canadian Legal History, Wife Beating in Alberta 1905-1930," unpublished paper. In the last couple of years, this subject has received more attention by Canadian historians, most recently by Annalee Golz, "'If a man's wife does not obey him, what can he do?': Reflections on the Family and the State in Nineteenth-Century Ontario," paper presented at the Annual Meeting of the Canadian Historical Association, Kingston, 4 June 1991. Legal historian Constance Backhouse has written on domestic violence in her most recent book, *Petticoats and Prejudice, Women and Law in Nineteenth-Century Canada* (Toronto, 1991).
 2. The Clio Collective, *Quebec Women: A History*, trans. Roger Gannon and Rosalind Gill (Toronto, 1987), 98-99. Luc Lacourcière has written a series of articles on the trial and legend of la Corriveau: "Le triple destin de Marie-Josephte Corriveau (1733-1763)," *Les Cahiers des dix* 33 (1968); "Le destin posthume de la Corriveau," *ibid.*, 34 (1969); and "Présence de la Corriveau," *ibid.*, 38 (1973).
 3. In Montréal, on 19 August 1833, a crowd estimated at ten thousand filled the Champs de Mars to witness the hanging of Adolphus Dewey, a convicted wife murderer. At the time, it was largest number of people ever to assemble on the Champs de Mars, a prominent public space where soldiers drilled, ordinary citizens strolled, public meetings were held, and prisoners were executed. Today, no one remembers Adolphus Dewey or the crime he committed. See Edgar Collard, *Montreal: The Days That Are No More* (Toronto, 1976), 229-34.

was endured in silence.⁴ Underlying the silence was women's lack of legal, economic, and political autonomy which, until the twentieth century, allegedly prevented both sexes from formulating the idea that women had the right not to be beaten by their husbands. Evidence found in Montréal newspapers, police reports, and judicial records suggests that women did, indeed, resist their husbands' violence.⁵ What sustained these women in their struggles against the physical aggression of their husbands and the forms that these struggles took are the subjects of this article.⁶

It is true that, prior to the 1970s, no social movements in North America made wife abuse the special focus of their political cause with the possible exception of the Nova Scotia Society for the Prevention of Cruelty.⁷ Wife abuse, however, was not ignored entirely by social reformers in the last century. The temperance movement, child-welfare advocates, and agitators for changes in the divorce laws addressed this problem indirectly in their campaigns and literature. Temperance supporters were particularly passionate in their denunciation of "brutal" working-class husbands who drank

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4. Micheline Beaudry, *Battered Women*, trans. Lorne Huston and Margaret Heap (Montréal, 1985), 13. An international literature does exist on wife-battering in the past which includes the following: Pat Ayers and Jan Lambert, "Marriage Relations, Money and Domestic Violence in Working Class Liverpool 1919-1939" in *Labour and Love. Women's Experience of Home and Family, 1850-1940*, ed. Jane Lewis (Oxford, 1986); Linda Gordon, *Heroes of Their Own Lives, The Politics and History of Family Violence* (New York, 1988); Elizabeth Pleck, *Domestic Tyranny, The Making of American Social Policy Against Family Violence from Colonial Times to the Present* (New York, 1987); Ellen Ross, "'Fierce Questions and Taunts': Married Life in Working-Class London, 1870-1914," *Feminist Studies* 8 (1982); and Nancy Tomes, "'A Torrent of Abuse': Crimes of Violence Between Working-Class Men and Women in London, 1840-1875," *Journal of Social History* 11:3 (1978).
 5. This study is based on a total of 352 incidents of domestic violence. They were selected from all cases of assault, murder, failing to provide, and other miscellaneous cases involving wives and husbands that were brought before the Court of General and Special Sessions in Montréal for the years 1869 to 1879 and that remain in the prearchive section of the Montréal Judicial Archives. This source was supplemented by a sample of wife-battering cases seen by the Recorder and Police courts as reported three to four times a week in the pages of the *Montreal Star*. I selected newspaper accounts alternately from the first or last six months of every year for the years 1869 to 1879. The only exception was 1873, which was studied in its entirety. This source produced 349 incidents. In some cases the same incident was found in both the court records and the press.
 6. Evidence of women resisting their husbands abuse is provided by "Annual Reports of the Chief of Police," *Montreal Annual Reports*, 1863-79. As early as 1863, police statistics listed wife-beating as a separate category of assault, a fact which would seem to indicate that the public considered it to be a criminal act.
 7. Linda Gordon, *Heroes of Their Own Lives* 252-57; Elizabeth Pleck, *Domestic Tyranny* 3-13; and Breault, "Educating Women about the Law . . .," 16. In Britain, there existed an organised movement struggling for the rights of battered women. See the articles written on this subject by Carol Bauer and Lawrence Ritt, "'A Husband is a Beating Animal,' Frances Power Cobbe Confronts the Wife-Abuse Problem in Victorian England," *International Journal of Women's Studies* 6:2 (1983) and "'Wife-Abuse, Late-Victorian English Feminists, and the Legacy of Frances Power Cobbe,'" *International Journal of Women's Studies* 6:3 (1983); on the same subject, see also Margaret May, "'Violence in the Family: An Historical Perspective,'" in *Violence in the Family*, ed. J.P. Martin (Chichester, 1978).

and beat their wives.⁸ The *Montreal Star*, the source of many of the stories of wife abuse referred to in this article, was an outspoken opponent of alcohol. In its self-styled role as mediator of public morals, the *Star* denounced the use of liquor as the single underlying cause of crime, poverty, prostitution, ill-health, and the disintegration of the working-class family.⁹ Hugh Graham, the newspaper's crusading editor, aimed his message at the literate working class whose interests he presumed to defend. "We neither aspire to be the 'only religious daily' nor do we grovel so low as to bid for the support or countenance of the so-called aristocracy — in a word we try, however feebly, to be the organ of the people, particularly the portion known as the working classes."¹⁰ The *Montreal Star* exercised a double mandate. While acting as benevolent protector of working-class interests, it also moved self-righteously to censor any practices that were considered a threat to the social order. The newspaper used its influence to condemn those people and practices that challenged prevailing notions of what was considered acceptable behaviour.

Issues of the temperance movement and fears of male working-class violence framed the context within which reporting on wife abuse appeared in print. Wife-battering was introduced to the readers of the *Montreal Star*, not as a separate issue, but as an offshoot of the temperance movement's preoccupation with male working-class drunkenness. It was used by the *Star* to create support for its temperance platform. With mixed intent, it also created a public space where wife abuse was discussed. Male drunkenness was often used as a code word for domestic violence in the nineteenth century. It was believed that "drunkenness excites the instinct of destructiveness and thus becomes a direct cause of violence and often of wholly unprovoked assaults. Inebriety clouds the perceptive faculties and thus disqualifies its victims for judging the consequences of their acts or realizing the force of dissuasive arguments."¹¹

Many of the stories of wife-beating that appeared in this paper originated in the *Montreal Star*'s column devoted to the activities of the Police and Recorder's courts.¹² Written by an anonymous reporter in the then-popular melodramatic style, the column

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8. Temperance groups first began to organise in and around Montréal at the beginning of the 1830s. These first groups were started by English-speaking Protestants influenced by the movement in the eastern United States. Following the religious revival of 1840, temperance ideas began to take hold among French Catholics. For a discussion of the early temperance movement in Montréal, see Ghislaine Blais-Hildebrand, "Les débuts du Mouvement de Temperance dans le Bas-Canada: 1828-1840," MA thesis, McGill University, 1975.
 9. Paul Rutherford, *A Victorian Authority: the Daily Press in Late Nineteenth-Century Canada* (Toronto, 1982), 165-66.
 10. Cited *ibid.*, 51.
 11. Felix L. Oswald, a temperance writer, quoted by Rev. Joseph McLeod, *Royal Commission on Liquor Traffic* (hereafter *RCLT*), 6 (1896): 523.
 12. In the *Montreal Star*, stories of wife-battering appeared with much less frequency by the beginning of the 1880s. In part, this can be explained by changes to the newspapers's format which placed less emphasis on the reporting of the activities of the Police and Recorder's courts. The judicial records also registered a diminishing number of assault and battery cases involving wives and husbands at the end of the decade.

borrowed extensively from temperance language and lectures to formulate its message.¹³ Melodrama as a literary form carried with it a set of conventions that lent itself easily to the activities of the courtroom. The struggle between good and evil, so often played out in this genre, found an ideal setting in the junior courts. Here, complex moral questions could be reduced to their lowest common denominator, of good versus evil, by the quickly rendered judgements of the Recorder. This basic dualism spawned others: the cowardly wife-beater and the manly defender, or the Amazon and the victim. The reporter as story-teller and teacher used these one-dimensional characterisations to animate the morality tales which made up court reporting. Wife-battering was introduced to the story as one of the more dramatic outcomes of male inebriety. As such, it provided a negative example of manliness that working-class men were encouraged not to follow. The focus was not on wife-battering *per se*, but on working-class male drunkenness and violence and this, in turn, influenced both the descriptive language used and the reading public's perception of it as a crime.

Midnineteenth-century temperance discourse was as much about changes in gender roles as it was about changing attitudes towards alcohol consumption. Temperance ideology reconfirmed the Victorian middle-class ideal of separate spheres for women and men. It provided the appropriate model of family for the working class whose domestic life, it was thought, was endangered by the intemperate habits of its members. The social harmony so sought after by the middle classes was identified by them as beginning at home. Temperance literature was unified upon the theme of male working-class drunkenness and female victimisation. Reformers argued that it was poor women who suffered the most from the excesses of the liquor trade. The story "Smashing his furniture," an account of a drunken wife-beater, was a familiar sight in the pages of the *Montreal Star*:

Last evening as a policeman was on his beat on Dorchester St., two young men came up to him and said that there was a row going on at the corner of Dorchester and St. Elizabeth St. When the policeman reached the house he heard the cry of murder and police, and entering perceived Louis Lacroix, a painter, smashing a piece of furniture and kicking up a row generally. The man was drunk and the woman was bewailing her unhappy fate. There was scarcely any furniture in the room, no fire, and apparently no food. It is one more example of the suffering of the poor in this city.¹⁴

This theme — of men being undermined by alcohol and the ruin it inflicted on their families — was a common one. Most of the issues raised were related to a husband's inability to support his family and the consequent forced entry of wives into the work-

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13. Paul Craven, "Law and Ideology: The Toronto Police Court 1850-80," *Essays in Canadian Law*, ed. David Flaherty (Toronto, 1978), 2: 291-92 argues similarly that the language of the Toronto Police Court reporters was the language of melodrama. In *All Our Yesterdays* (Montreal, 1988), 118, Edgar Collard describes the Montréal Recorder's Court as a place of comic relief: "Victorian Montrealers had a lively relish for stories from the Recorder's Court, as reported in the newspapers. They found amusement in the antics of criminals — not serious criminals, but the strays, vagrants, toppers, petty thieves. Much of the fun came from the presences of the accused, the quaint naivety of their alibis and explanations!"
14. *Montreal Star*, 7 January 1879.

force. Alcohol undermined the established boundaries that defined gender relations. By destroying men as breadwinners, alcohol forced women to assume the task of wage-earner to avoid abject poverty. By temporarily abandoning their maternal role, women presented a challenge to the naturalness of family relationships organised upon rigid sexual divisions.

The basis of newspaper reporting on wife-battering was frequently the challenge that drunkenness posed to what was considered acceptable male and female behaviour. One woman who charged her husband with assault was lampooned as “a regular Bloomer” (in reference to the American nineteenth-century feminist Amelia Bloomer) for allegedly provoking the attack by criticising his ability to provide: “let him [their son] alone; you don’t support him; you don’t support yourself.”¹⁵ The other half of the headline read “A Wife threatens the life of her husband” when, in actual fact, the article was about the husband’s assault on his wife and adult son. What this woman threatened was not her husband’s physical life, but his life as a “man.” In the lexicon of temperance, manliness and provider were read as synonyms.

Another aspect of the masculine role was playing the part of family protector. In the newly emerging capitalist order of the nineteenth century, home and its comforts became juxtaposed to the hard-driving, ruthless competition of the marketplace. Womanhood became the metaphor for all that was missing in men’s “economic” world.¹⁶ Ironically, it was men’s duty to protect their women and the domestic space of the home against the corrupting influences of industrial capitalism. In this context, men’s use of violence to protect the family was considered legitimate. An article describing a beating suffered by a woman at the hands of her husband berated the male neighbours for not intervening: “It is a reflection on the manliness of the men residing in the neighbourhood that when they find the woman cruelly and shamefully ill-treated they do not go in and thrash the life out of the brute. One such lesson would put an end to the cowardly violence of such ruffians.”¹⁷ Here we are reminded that male violence was cowardly when used to settle domestic disputes and manly when it was used to reinforce a gender system that associated femininity with fragility and masculinity with strength.

Wife-beating, in most instances, was considered an inappropriate expression of manliness by the *Star*, and words like “brute” and “cowardly” were regularly used to describe the perpetrators. “Perhaps the most despicable of men are wife beaters; they are generally speaking cowards to boot, and should be beaten with the cat-of-nine tails.”¹⁸ Wife abuse was seen as yet another way working-class men violated domestic ideals and stripped women of their virtue. As the “purer” sex, women had the right to live without fear in their homes. The “new masculinity” argued for by middle-class reformers did not need to enforce male authority with “brute” strength. The new norms

15. *Ibid.*, 12 November 1878.

16. See Carroll Smith-Rosenberg, *Disorderly Conduct, Visions of Gender in Victorian America* (New York, 1985) and Barbara Welter, *Dimitry Convictions, The American Woman in the Nineteenth Century* (Athens, Ohio, 1976).

17. *Montreal Star*, 9 August 1875.

18. *Ibid.*, 20 January 1879.

for male behaviour called for discipline, self-control, and authority expressed symbolically or in hard cash and not through the rule of the fist.¹⁹ These prescriptions also served another purpose: they called into question the legitimacy of all male working-class expressions of violence, whether directed at wives, employers, or law enforcers.

Women embroiled in domestic conflict were portrayed in the pages of the *Montreal Star* alternatively as Amazons or victims. Stories describing women who defied their husband's authority by asserting their right to drink, by being indifferent household managers or by matching a husband's violence with some of their own were treated with a variety of epithets. The headline "husband beater" was chosen to sum up the case of Ellen Barry, a twenty-three year old woman brought before the Recorder's Court for assaulting her husband and being drunk and disorderly.

From the evidence, it appears that for the last year and a half the prisoner has been addicted to habits of drunkenness. Last night she came home drunk and chased her husband out of the house. He regretfully had to call the police who found the vixen awaiting the return of her husband with a smoothing iron in her hand. His Honor sent the amazon to jail for 2 months.²⁰

Here was an example of femininity gone wrong. By being self-assertive, Barry was linked to a mythical past where women behaved as men by assuming the role of warrior.²¹ The intent of the reporting was to discourage women from engaging in that most unfeminine of behaviours, fighting. The warning was explicit: women who used violence transformed themselves into men.²² Physical aggression was a masculine prerogative. By behaving violently, wives broke an important social taboo. Their aggression was a direct challenge to masculine authority and to established patterns of gender identity laid down by the reforming middle class. Policing the gender border was one of the outcomes of this type of journalism.

Stories featuring the Amazon's alter-ego, the wife as victim, filled considerably more pages. The image, sympathetically drawn, of the poor suffering wife whose life was made miserable by her husband's addiction to drink, was one of the mainstays of crime reporting. It is illustrated by the following story:

One of the unmanly class of ruffians who vent their spite on defenceless women was brought before the Recorder this morning, charged with beating his wife Louise Verrette. The man's name was David Gamache, a laborer, 32 years old, who has been

19. Gordon, *Heroes of Their Own Lives*, 255. For a broader discussion of American masculinity in this period, see Elisabeth Pleck and Joseph Pleck, *The American Man* (Englewood Cliffs, 1980) and Carroll Smith-Rosenberg, "Davy Crockett as Trickster: Pornography, Liminality, and Symbolic Inversion in Victorian America," in her *Disorderly Conduct*. For a Canadian discussion, see Steven Maynard, "Rough Work and Rugged Men: The Social Construction of Masculinity in Working-Class History," *Labour/Le Travail* 23 (Spring 1989).

20. *Montreal Star*, 6 August 1878.

21. *The Concise Oxford Dictionary*, 1964 ed. defines Amazon as "a fabulous race of female warriors in Scythia; Female warrior; masculine woman."

22. For some contemporary insights into the social construction of gender and how it relates to female victimisation, see Lucy Gilbert and Paula Webster, *Bound by Love, The Sweet Trap of Daughterhood* (Boston, 1982).

married several years and has more than once previously been brought before his Honor for beating his wife. The beating on this occasion was the most brutal kind; not content with giving the woman a severe black eye, and a blow on the ear which felled her on the ground, the ruffian then kicked her in the ribs and about the body ten or twelve times until she fainted when he coolly picked her up and threw her downstairs.²³

The temperance movement created a vocabulary that women could and did use to publicly name the crime of wife-battering. It was, however, a language that simultaneously empowered and restrained them. Temperance writing identified drunkenness as a male vice but stopped short at making it a male responsibility. The helpless woman matched with an unmanly man represented a paradox that the temperance movement could not resolve. What were women to do? It was unwomanly to fight back, and leaving a drunken husband was not recommended and frequently not possible. How were women to reform their mates if they were not empowered to do so?

As guardians of the hearth, women were made responsible for everything that went on in the home, including domestic violence. Dubbed the "moral sex," women had the added responsibility of setting moral standards and enforcing them. When men transgressed the boundaries of what was considered acceptable behaviour, in this instance by beating their wives, it was up to the woman to contain the aggression. Yet to do so by fighting back with whatever means at her disposal was condemned as unwomanly.

Submissiveness, piety, and domesticity were the attributes of middle-class femininity.²⁴ They were the ideals that middle-class women aspired to live by. They were, however, of limited use to working-class women whose lives only faintly resembled those of their wealthier sisters. To be consistent with these values was to remain a victim. Some women did choose submission as a means of survival while others, within the confines of their situations, developed alternative strategies that blended passivity with resistance. Much depended on the complex interaction between shifting social possibilities and individual character. Through the effort of living everyday life, working-class wives devised their own system of submission and resistance to protect themselves against the violence of their husbands. In doing so, they effectively defied this dominant discourse that taught submission as a way of life.²⁵

When women entered the courts to prosecute abusive husbands, the reporter interpreted their actions as the simple playing out of their part in the temperance melodrama. The presence of battered wives in court was proof of their victimisation. From the judicial archives came a competing scenario, one which revealed these women to be active participants in limiting male violence. In this context, going to court appeared

23. *Montreal Star*, 24 January 1874.

24. Welter. *Dimity Convictions*, 21.

25. Dina Copelman, "'A New Comradeship between Men and Women': Family, Marriage and London's Women Teachers, 1870-1914," in *Labour and Love*, 177 argues that London working-class women were less attached to Victorian gender roles: "It is rare to find the frail or neurasthenic mother here. Instead, mothers waged an unceasing struggle to stretch resources and to keep appearances, usually without the help of servants. Their toil, and the fierce passions that guided them, stand out in the memoirs of their sons and daughters. . . ."

as an act of resistance to the very victimisation they were said to embody. The court records provide us with a brief glimpse into what Elizabeth Janeway has called “the unexplored territory of the weak.”²⁶

The women who brought their domestic disputes to court were unlikely Amazons. As a social class, they represented the very poor whose husbands were, for the most part, employed as day labourers, carters, and shoemakers. The majority could not sign their names. The act of going to court called for a type of courage born of everyday necessity. Some of these women lived their daily lives in fear of being physically abused by their husbands. A Mrs. Irvine gave voice to the sentiments of these women when she told the judge, “I can live better without him, your Honor, I only stand in dread of my life day after day.”²⁷ Having a spouse arrested was an effective means of achieving a brief respite from the fear generated by domestic violence. Fear also kept many women away from the courtroom. Both the newspapers and the police remarked on wives’ reluctance to prosecute their husbands. If current yardsticks for measuring incidents of wife abuse are reliable, most cases — then as now — went undetected.²⁸

Whether motivated by feelings of revenge or the desire to secure their own personal safety, women who turned to the law to have these needs satisfied were confronted with a legal system that was both expensive and patriarchal. Even before a woman entered a courtroom, she was required to have a dollar in her possession to cover the cost of a warrant for her husband’s arrest.²⁹ For wives whose participation in the waged economy was restricted by family responsibilities, a dollar was a large sum to have on hand. At a time when many labourers expected to earn that in a day and most women a third less, this amount effectively discriminated against women seeking help from the judicial system.³⁰ There were, however, some exceptions to this procedure. In an incident involving Marie Darigol and Augustin Ressouche, the court assumed the costs of the trial because the wife, a new immigrant to Canada who neither spoke or understood English, had no means of paying for the prosecution.³¹

Throughout this period, the average cost to participants in an assault and battery trial hovered around five dollars. This amount covered the obligatory dollar for the warrant, sixty cents for the building and jury fund, fifty cents for attendance, another fifty cents for recording of the judgement, a dollar to pay for the arrest and travel, a

26. Elizabeth Janeway, *Powers of the Weak* (New York, 1981), 15.

27. *Montreal Star*, 25 February 1879.

28. In *Wife Battering in Canada: The Vicious Circle* (Ottawa, 1980), 21, Linda MacLeod states that, every year, one in ten Canadian women who are married or in a relationship with a live-in lover are battered.

29. According to police procedures, an arrest could only be made if an officer actually witnessed the attack or a formal complaint was laid along with a dollar to cover the costs of the warrant. Raoul Dandurand and Charles Lanctot, *Manuel de police* (Montréal, 1893).

30. See Jean de Bonville, *Jean Baptiste Gagnepetit: les travailleurs montréalais à la fin du XIXe siècle* (Montréal, 1975), 79-111.

31. In the period 1869-79, I found two cases which were prosecuted at the public’s expense. Archives nationales du Québec à Montréal (ANQM) pre-archivage, Court of Special Sessions, Montréal, 20 December 1875, Marie Darigol vs. Augustin Ressouche, #479.

dollar for transit to and from jail, and twenty cents for the bill of costs itself. Additional expenses were incurred if money was allowed to the witnesses. Subpoenas also entailed further outlays and, among the big spenders, the cost of a lawyer also had to be calculated. In most cases, court costs equalled or exceeded the fine levied against the guilty party. In a straightforward case of assault and battery brought against Syfroid Lemay by his wife Sophie Pelletier in September of 1870, the bill came to \$9.33. Lemay, a shoemaker, was found guilty and fined three dollars plus costs. As was frequently the outcome at these trials, Lemay did not have the money to pay, so his fine was commuted to one month in jail.³²

Women who used the judicial system to place limits on male violence were more likely to come away disappointed than encouraged by the results. In 331 cases where verdicts were known, only 154 ended in convictions. Although 85 per cent of all cases of domestic violence involved women taking men to court, these figures clearly show that it was women who risked the most and gained the least. When men were not convicted, court costs became the responsibility of the deponent. Even when a settlement was imposed by the magistrate, meaning that guilt was attributed to neither party (the decision made in 36 per cent of the cases), women were still out of pocket for the expense of the warrant. The situation was even more depressing for wives who failed to appear after laying a charge. Women who did not pursue their complaints before a judge were still bound to reimburse the court for expenses incurred. When Elize Chase withdrew her assault charge against her husband, he was discharged and "the costs amounting to \$4.50 fell upon the woman, and as she was a respectable but poor person, she was given 20 days to pay up."³³ Women who couldn't find the money were jailed.

When a husband was found guilty, sentencing took the form of a fine and payment of court costs. With a few exceptions, the amount men were expected to pay averaged between ten and fifteen dollars. In only eleven cases were husbands jailed without being given the option of a fine. These were men charged with aggravated assault, whose attacks were considered life-threatening. Penalties of up to six months in prison were reserved for this crime. If the statistics for 1875 are consistent with those for the rest of this period, perpetrators of wife-battering were punished with slightly more severity than those involved in other assault and battery trials. Yet people charged with mistreating animals received penalties comparable with the ones given to wife abusers. This seeming contradiction can partially be explained by the presence of the Society for the Protection of Cruelty to Animals, whose lobbying efforts were effective in influencing judicial opinion. Abused women had no comparable organisation to defend their cause until the founding of the Montreal Society for the Protection of Women and Children in 1882.

Fining a husband for wife abuse was the ultimate irony. When a wife actually won a case, she simultaneously risked losing her main breadwinner to prison. A husband's imprisonment put an end to the abuse but it also deprived a wife of an important source of income. In this context, a conviction only served to shift the threat to a woman's

32. ANQM, pre-archivage, Court of Special Sessions, Montréal, 22 September 1870, Sophie Pelletier vs. Syfroid Lemay, #458.

33. *Montreal Star*, 14 October 1870.

well-being from physical violence to the violence wrought by hunger. One therefore wonders at the motivation of a woman like Delima Chagnon, who returned to court year after year to prosecute her husband for assault. From 1870 to 1878, Delima Chagnon brought six counts of assault and battery and one of uttering threats against her husband Alexandre Vezina, a saddler by trade. In the first two instances, Chagnon failed to appear against her husband and, as a result, was made to pay court costs of \$3.80 on each occasion. From 1872 to 1874, Vezina was arrested three more times for beating his wife. In all three cases, the judge imposed a settlement and, in 1874, insisted that court expenses be reimbursed. It was not until 1876 that Chagnon managed to gain a verdict of guilty from the court. By this time, Chagnon must have been a familiar face to Judge Brehaut, the same magistrate who had failed to convict Vezina in the past. Why this accusation was treated differently is impossible to tell. We do know that the combined fine and court costs of twenty dollars or two months imprisonment made the penalty in this instance a more severe sentence than was usual for this crime.

Women were frequently forced to make a series of complaints before a conviction resulted. The magistrate was often not convinced of the seriousness of the crime until the settlements he had negotiated broke down and the combatants returned to face him in court. Settling domestic violence cases before they went to trial was the judiciary's preferred practice. This had obvious benefits for the defendants, who avoided spending time in prison this way and evaded any possible humiliation associated with a public trial. These were concerns that may have been shared by their wives as well. One woman begged the court reporter to keep her husband's name out of the papers, "not for his sake, but for her two sons who are in respectable positions."³⁴ The judges' motivation is more difficult to measure. The emphasis seemed to be on keeping couples together. The *Montreal Star* made the contradictory claim that it was "better family matters were settled out of court, as well as out of newspapers."³⁵

In 1878 Chagnon was back in court, charging her husband this time with threatening to beat her while under the influence of alcohol. This last episode ended with the arrest of Vezina, compounded by an additional charge of carrying an illegal firearm, found on him at the time of his arrest. On this count, he received a suspended sentence.³⁶ If the story finished here, we would be left wondering whether the tenacious spirit attested to by Delima Chagnon's frequent appearances in court was developed in response to her husband's "too liberal employment of the means for wifely correction," to use the newspaper's words, or rather the sign of a litigious temperament.³⁷

The discovery of other kinds of court cases involving Delima Chagnon introduces new issues. At first glance, she easily fit the description of the poor victim, a favourite with the *Star*'s crime reporters. Her appearance as both deponent and defendant in eight

34. *Ibid.*, 10 March 1869.

35. *Ibid.*, 17 August 1878.

36. ANQM, pre-archivage, Court of Special Sessions, Montréal, 15 July 1870, 9 January 1871, 6 December 1872, 9 August 1873, 3 July 1874, 13 July 1876, 8 and 9 July 1878; Court of Special Sessions, Montréal, Delima Chagnon vs. Alexandre Vezina, #458, #460, #466, #467, #472, #482, #497, and #497.

37. *Montreal Star*, 6 December 1872.

other assault and battery trials during the years 1869 through 1877, this time involving women, adds an important modification to this otherwise one-dimensional portrait.³⁸ Only one verdict is known and this went in favour of Chagnon, so it is difficult to evaluate whether she had more luck accusing women of violence than she did her husband. More is revealed about Chagnon's life by her appearance in court for keeping a house of ill-fame on the upper floor of a house she rented with her husband on St. Charles Boromé Street. The complaint, initiated by her downstairs neighbours, ended in a guilty verdict and a fine of forty dollars or three months imprisonment.³⁹ Over a nine-year period, Chagnon had brought at least thirteen suits against a variety of people for physically abusing her. A conviction rate of only 15 per cent on her complaints contrasts sharply with the guilty verdict condemning her prostitution-related activities. Chagnon's experience with the law may well have convinced her she was more sinned against than sinning.

Why did Delima Chagnon repeatedly turn to the legal system to resolve her domestic problems when it consistently showed itself to be indifferent to her concerns? The *Star* reporter imposed one possible interpretation on these events: "Delima Chagnon had Alex Vezina, her husband, arrested on a charge of beating her. She did not appear against him this morning, and the action was dismissed with costs. This is her method for some time, and she thinks she abundantly punishes her husband [just by laying the charge]."⁴⁰

Chagnon was not alone in using the legal system to secure some time and distance from a violent husband. In approximately 15 per cent of the cases, women refused to appear in court against their spouses after they had initiated a complaint. In one of his year-end reports, Chief of Police Penton lamented that too many wife-beaters escaped punishment this way. As a strategy against husbands, he added, it did have its advantages.⁴¹ It punished men by depriving them of their freedom for a short time without risking the consequences that a complete separation would entail. By abandoning their complaint after an arrest had already been made, women effectively contained the violence without challenging men's right to be violent. Encoded in this reaction was the temperance movement's response to male violence. It supported women's right not to be beaten, but was incapable of formulating a critique of male supremacy as it was lived by women within the family.

The work of historian Judith Fingard attaches another possible meaning to Chagnon's multiple court appearances. In her study of repeat offenders, men and women who frequented the Halifax prison system during the later half of the nineteenth century,

38. ANQM, pre-archivage, Court of Special Sessions, Montréal, 6 March 1869, Delima Chagnon vs. Marie Fontaine, #454; 26 April 1871, Delima Chagnon vs. Louise Ethier, #460; 26 April 1871, Louise Ethier vs. Delima Chagnon, #460; 22 April 1875, Delima Chagnon vs. Louise Lafrance and Alphonsine Lauzon, #479; 4 July 1877, Delima Chagnon vs. Winnie McDonald, #489; 4 July 1877, Winnie McDonald vs. Delima Chagnon, #489; 22 August 1877, Delima Chagnon vs. Gedeon Gauthier dit Gagnon, #489.

39. *Ibid.*, 8 March 1872, Queen vs. Delima Chagnon, #465.

40. *Montreal Star*, 15 July 1870.

41. "Annual Report of the Chief of Police," *Montreal Annual Reports*, 1867.

she argues that these habitués of the police court constituted a type of “underclass.” She writes that “they were the residents of specific, rough and disreputable streets of the city, limited in their lifetime opportunities because of racial prejudice, gender inequalities, educational deprivation, chronic poverty, pathological disorders, or by association with those so limited. They even developed a welfare dependency in their attitude towards the few public services available.”⁴²

The portrait Fingard presents of the urban poor in Halifax is easily applicable to late-nineteenth-century Montreal. Delima Chagnon would have been right at home among the residents of the “rough and disreputable streets” of Halifax. In this context, Chagnon’s use of the courts provides proof of her social marginality. Through the power of association, she becomes as “disreputable” as the individuals she is prosecuting, the mediating factor being her poverty. Yet the culture-of-poverty thesis that Fingard employs to structure her argument leaves little space to understand the motivations of the poor themselves. Observed through the eyes of the literate middle-class reformers on whose evidence she depends, these users of the lower courts emerge consistently as failures or, at best, opportunists — their greatest failing being their inability to live up to middle-class norms.

Like the hundreds of other women who used the legal system as a defense against wife abuse, Delima Chagnon did so out of a desire to exercise some control over their domestic lives. At a time when women’s options for limiting husbands’ authority within the home were severely constrained by economic, legal, and social practices, going to court was a rational calculation based on very limited choices. Yet most women did not go to court. The assault and battery cases that make up this study inadvertently provide a glimpse into the workings of another, more popular form of justice, one founded in the streets and presided over by neighbours and kin.

For any community to exist, a familiarity must prevail among its residents along with an acceptance of certain behavioural norms.⁴³ This does not necessarily make for a uniformity of behaviour among its members but it does create a set of expectations, whether acted upon or ignored, that constitutes the basis for community response. In working-class Montréal, wife-beating was judged according to an unwritten code of the neighbourhoods. Whether it was tolerated, condoned, or criticized, this activity did not escape the judgements of neighbours, family, and friends. There is evidence to show that domestic violence was tolerated, but this tolerance was not without its limits. A key factor in determining how people responded to domestic violence was the type of relationship that existed between witnesses and participants. Family members appeared the most prepared to intervene, followed by neighbours who were frequently on hand to summon the police. Depending on circumstances, strangers and casual acquaintances were the group most likely to leave the combatants to themselves. Despite Victorian gender prescriptions that described men as the “natural” protectors of fragile womanhood, women were just as likely to come to the rescue of a victimised female relative

42. Judith Fingard, *The Dark Side Of Life In Victorian Halifax* (Halifax, 1989), 10.

43. David Garrioch, *Neighbourhood and Community in Paris, 1740-1790* (Cambridge, 1986), 5.

or friend. When Mrs. Spencer heard the screams of her friend, she rushed in to help, only to be stopped by blows delivered to her face and chest by Patrick Smith, her friend's husband.⁴⁴ Generally, people seemed ready to intervene and offer assistance if the violence passed a certain threshold, or if sympathy was evoked by a victim's age or physical condition (for example, pregnant), or if a weapon was involved.

Gestures of support were not limited to the acts of courage needed to quell a domestic dispute. The generosity of neighbours and relatives could sometimes be counted on to provide a safe place to stay, a loan to cover court costs, and a meal when angry husbands used money as a weapon.⁴⁵ The mutual aid of the neighbourhood was one of the few dividends that accrued to married women whose responsibility for household labour brought them into constant contact with other members of their community on whom they came to depend in times of crisis. Mary Barry had only known her neighbour Winnifred Philbin for a few months. Despite the short duration of their relationship, Barry was prepared to testify in court on her neighbour's behalf, lend her money, and provide her with emergency provisions.⁴⁶

Wild fluctuations in the early industrial economy, as exemplified by the depression of 1874, sorely tested the survival skills of the urban poor. Restrictions placed on married women's participation in waged labour, which created the conditions for their dependence on a male wage, made women with small children especially vulnerable. The loss of men's earnings through sickness, death, or desertion dealt a severe blow to family fortunes.⁴⁷ In the absence of a steady male wage, one of the ways women achieved a measure of economic solvency was through participation in a social network encompassing kin and neighbours that coordinated a patchwork of community resources used to gain the upper hand in questions of survival. Women joined with other women to pool neighbourhood resources that extended and augmented the family wage. "While trade unions were a predominately male manifestation of the new kinds of communities the city made possible, the tenement neighbourhoods were a female form of association and mutual aid, a crucial buffer against the shocks of uprootedness and poverty."⁴⁸ Evidence of a "thick sociability" that sustained people through difficult times was common in the cases for failure to provide.⁴⁹ Hariette Lindley, a witness called in the trial for failing to provide involving William Smith, testified that, in December last, "there were only two dust pans full of coal in the house, the double windows were not

44. *Montreal Star*, 14 March 1873.

45. Stansell, *City of Women*, 57, makes an important distinction between the aid offered strangers and what was expected from neighbours. "Involvement with neighbors was less circumstantial than was aid proffered to strangers, not so much a matter of generosity on the spur of the moment as of structured expectations of reciprocal help. In a calamity, neighbors' help made the difference between survival and destitution."

46. ANQM, pre-archivage, Court of General Sessions, Montréal, 6 November 1876, Queen vs. Richard Jaap, #485.

47. See Bettina Bradbury, *Working Families. Daily Survival in Industrializing Montreal* (forthcoming Toronto, 1992).

48. Stansell, *City of Women*, 55.

49. "Thick sociability" is a concept used by Thomas Brennan in his *Public Drinking and Popular Culture in Eighteenth Century Paris* (Princeton, N.J., 1988), pp. 13-14.

up at the time, from what I saw Mrs. Smith and her children were in a very miserable state. It was her father and mother and a neighbour named Mrs. Dawes that had to supply herself and children with firewood and food."⁵⁰ Values that emphasised regulated forms of generosity and reciprocity were at the root of the giving that appears to have been woven into the lives of the people documented by the judicial archives.

The resources of the neighbourhood provided women with the means of attaining a degree of physical as well as economic security otherwise lacking in their world. Much of the work of poor women obliged them to seek out the company of neighbours, lodgers, and shopkeepers with as much, if not more, regularity than of family members.⁵¹ These connections endowed women with a form of power which they could bring to bear in their struggles with husbands. At the heart of these alliances was home, not as it was understood by the new urban bourgeoisie — a place of moral and material comforts, isolated from the work and political world of men — but a place readily joined to the life of the streets. Women's domestic duties tended to make home more of a woman's place. Whether this gave wives an edge in conflicts with their spouses is difficult to assess. Paper-thin walls and the widespread practice of taking in boarders ensured that most domestic conflicts were never entirely private affairs. The existence of an audience no doubt worked to curtail some of the worst abuses. It was, however, a system that did break down, as more than one court case clearly indicates.

The most severe case of wife abuse recorded by the courts involved the wife of George Franklin. Her "greatly bruised and disfigured body" was found dead on her sofa. One cannot help but wonder if Mrs. Franklin's murder by her husband, the only such murder recorded between 1869 and 1879, could have been prevented had her neighbours chosen to intervene more directly. At the inquest into Mrs. Franklin's death, three people testified that they had witnessed the beatings or their aftermath.

A number of factors contributed to the murder of Mrs. Franklin. At the time of her death, the Franklins were living alone in the three small rooms of a rented cottage on Scotland Street in Saint Antoine ward, a couple minutes walk from Griffintown. During their married life together, they had often moved. Franklin had originally met his wife-to-be in Kingston. In the three years leading up to Mrs. Franklin's death, they were known to have lived in at least two different neighbourhoods in Montréal.⁵² The relationships that might have been drawn into the conflict on the side of Mrs. Franklin were not well-established ones. From the testimony of witnesses at the coroner's inquest, she appears as a marginal figure, "a quiet and inoffensive woman" was the description used by one neighbour. Even the one neighbourly gesture of help she did receive, the use of a nearby shed, is as suggestive of a lack of integration into the surrounding community

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50. ANQM, pre-archivage, Court of General Sessions, Montréal, 3 June 1879, the Queen vs. William Morgan James Smith, #501.
51. Stansell, *City of Women*, 41. Home as an extension of public space may well have been a thing of the past in working-class Montréal by the 1930s. In her doctoral thesis for the Université de Montréal, entitled "Travail domestique et crise économique. Les ménagères montréalaises durant la crise des années trente," Denyse Baillargeon argues that contact between neighbours was infrequent and that the most important relationships involved family.
52. *Lovell's Montreal Directory* (Montréal, 1870-74).

as it is of acceptance. The neighbours' failure to act may well have been tempered by lack of contact with the deceased.

The work of David Garrioch on community in eighteenth-century Paris emphasises the importance of kin networks in settling disputes between family members.⁵³ He argues that any direct intervention was considered the prerogative of blood relations. Certainly, the presence of relatives to which Mrs. Franklin felt comfortable enough to turn might have changed the outcome of her beatings. In the absence of close kin, Mr. Franklin did seek out help from a longtime employer, Mr. Thomas O'Neil, a bailiff in Superior Court, who had known both George Franklin and his wife Mary since 1863.

On 21 October Franklin arrived at the O'Neill house, drunk and in a greatly agitated state. When Mrs. O'Neill asked after his wife Mary, Franklin replied "I think she is dead by this time." Alarmed by his answer, Mrs. O'Neill insisted that her husband accompany Franklin home so he could see for himself. When they arrived, Mary Franklin was nowhere to be found. Eventually she finally did appear, her face disfigured by a mass of bruises. Shocked by what he saw, O'Neill asked her what had happened. George Franklin quickly responded with the explanation that Mary had fallen against the stove. Mary Franklin insisted that this was not the case. O'Neill remarked that "she was very feeble and was not able to cry." O'Neill and Franklin were both anxious that Mary go home with Thomas O'Neill. She refused, however, saying that she did not want to show herself to Mrs. O'Neill all battered and bruised. In two months, she would be dead.⁵⁴

Under these circumstances Mrs. Franklin's passivity had acted as poor protection. This is not suggest that Mrs. Franklin was in some way to blame for her own death, but rather to highlight how passivity and aggression were two forms of a woman's resistance. In this period, there is evidence to show that these strategies were also subject to change.

Nancy Tomes has suggested that a woman's willingness to assert herself in a domestic quarrel was influenced by competing notions of femininity. In her work on wife-battering in working-class London between 1850 and 1890, she concluded that, as women's violence declined, shame about being beaten increased.⁵⁵ This was proof that middle-class ideals of proper feminine behaviour that strongly condemned working-class women who fought back were beginning to have their desired effect.⁵⁶ Passivity and dependence on patriarchal institutions for protection were increasingly considered the appropriate responses. Here we see the roots of what some twentieth-century feminist theorists have referred to as "the battered woman syndrome" or alternatively "learned helplessness."⁵⁷ Psychologist Lenore Walker has written that "women are

53. Garrioch, *Neighbourhood and Community*, 79.

54. ANQM, pre-archivage, Coroner's Inquisition, Montréal, 9 December 1873, Queen vs. George Franklin, #475.

55. Nancy Tomes, "A 'Torrent of Abuse'," 328-45.

56. Gordon, *Heroes of Their Own Lives*, 276.

57. Lenore Walker, *The Battered Woman* (New York, 1979). Learned helpless refers to a psychological state whereby people who are repeatedly exposed to trauma (in this case, beatings) develop feelings of powerlessness which prevent them from reacting to the danger, leaving them feeling immune and passive and eventually immobile when confronted with the danger.

systematically taught that their personal worth, survival, and autonomy do not depend on effective and creative responses to life situations . . . they learn that they have no direct control over their lives. . . .” This power, Walker argues, is invested in others, namely their husbands.⁵⁸ The passivity of Mary Franklin comes closest to the contemporary behaviour associated with the battered-woman syndrome, and no doubt there were many more who shared her situation, women defeated by the ongoing battle with poverty and abusive husbands. Mary Franklin’s murder was, however, an exception. Conditions of working-class existence demanded that all people, but especially married women with children, give their maximum effort in finding ways to outwit poverty. Their survival depended on it. Finding effective and creative responses to life situations was a given for working-class women. The inadequacy of male wages obliged women to seek out alternatives. Qualities such as physical strength, stubbornness, courage, and a steely will were what women depended on to maintain their families. These same qualities were equally as useful when applied to the arena of conflict between wives and husbands.

Most cases of wife abuse seen by the courts did not result in serious physical injury. This was in part due to the fact that some women resisted their husbands physically. Fifteen per cent of the cases of marital violence involved husband-beating.⁵⁹ Many of the assaults were not completely one-sided. Thomas Craven, arrested for aggravated assault against his wife, had a kettleful of cold water thrown at him before he succeeded in breaking his wife’s ankle. The physical strength needed to do most household chores served women well when arguments turned violent. One of the more surprising outcomes of this research was uncovering the extent to which female violence was both common and expected. Women did battle with shopkeepers, bailiffs, children, women, and most certainly their husbands.

The women who appeared in court did not rely on an ideology of autonomy to justify their desire to be protected from the violence of their husbands. Their efforts to resist — whether they took the form of physical retaliation, a court summons, or a call to community intervention — emerged from a sense of entitlement grounded in their everyday existence. Women fashioned the tools for their own survival from the very institutions that conspired to oppress them. The legal system that permitted women to prosecute their spouses for domestic violence was the same one that codified women’s inferior status in law. This was also true of women’s place within the family, which left them vulnerable to attack but at the centre of a web of relationships that constituted the front line of their defence.

As much as these women were victims of a class and gender system that severely restricted their choices and their dreams, they were also survivors. This is not to underestimate the harshness of their lives or the amount of pain they must have suffered. Their story is about survival and endurance, not radical transformation.

58. *Ibid.*, 51.

59. ANQM, pre-archivage, Court of Special Sessions, 1870 and 1873-75. Of the eighty-seven cases of marital violence found, eleven involved husband abuse.

Figure 1
The City of Montréal in 1880. (Prepared by Yves Otis.)

