the importance of being monogamous
Creating, Challenging, Imposing, and Defending the Marriage "Fortress"
Alternative nonconformist marriages posed a threat to monogamous marriage, endangering convictions about the superiority, naturalness, and common sense of this institution and its encoded gender roles. Such threats had to be policed and prohibited. The monogamous model was not ancient, enduring, entrenched, or even widely accepted as the only option. It had to be methodically made the sole option. As Ann Laura Stoler has argued, “Colonialism was not a secure bourgeois project. It was not only about the importation of middle-class sensibilities to the colonies, but about the making of them.” While the norm was clearly not invented in Western Canada, it was developed, substantiated, and affirmed there in contrast to the diverse alternatives perceived as threats to bourgeois respectability.
It was not until well into the nineteenth century that the monogamous model of marriage became the most accepted version of marriage in other parts of North America and in Western Europe. Legal historians have pointed out that the monogamous model of marriage was a fairly recent phenomenon that reached ascendancy in Europe in the nineteenth century, and that it was never as fixed, stable, or enduring as presented in the late nineteenth century (and beyond); rather, it was contested and in a state of constant flux. “Things had not always been so starkly inequitable,” writes historian Joan Perkin, who notes that in Anglo-Saxon England women had rights to property, could divorce or legally separate, and could depart with the children and half the marital property. Although she shows that this changed dramatically from Anglo-Saxon times, Perkin demonstrates that the working classes of the eighteenth century could live beyond the reach of marriage laws. Many married “without benefit of clergy,” and they also found ways to get divorced. In England, the United States, and Canada, marriage and divorce were “relatively informal affairs” with the sanction of the community being a vital consideration before the nineteenth century. In the United States, poor and “backcountry whites,” especially in the south and in the sparsely populated west, were married well into the nineteenth century by making reciprocal promises. Courts declared that “reputation, cohabitation and the declaration and conduct of the parties” would serve as adequate evidence of marriage.

Local customs of marriage and divorce in England that persisted into the nineteenth century, and which resembled the “fur trade” marriages described in the last chapter, did not necessarily reflect either legal or religious decrees; there were ways of gaining community consent to marriage, divorce, and remarriage. Among the working class and the poor of England the ritual “sale of wives” was a way of acquiring community consent to divorce and remarriage. In Customs in Common: Studies in Traditional Popular Culture, historian E. P. Thompson writes about this ritual, which had disappeared by the 1850s. It was also all but forgotten, dismissed as very rare and “utterly offensive to morality,” but it was a custom that gave people a way out of unhappy marriages. Thomas Hardy’s The Mayor of Casterbridge offers one powerful reminder of this custom. In the novel,
Michael Henchard sells his wife Susan in a public auction to a passing sailor—a stranger—who bids on impulse. Thompson is critical of Hardy’s portrayal of this event, arguing that it perpetuates a stereotype common to contemporary newspaper accounts of such “sales.” Thompson writes, “Once this stereotype has become established, it is only too easy to read the evidence through it. It can then be assumed that the wife was auctioned like a beast or chattel, perhaps against her will, either because the husband wished to be rid of her or for merely mercenary motives... It could be taken as a melancholy example of abject feminine oppression, or an illustration of the levity with which marriage was regarded among the male poor.”

While the idea of women as property is inescapable, there was more to this ritual, as Thompson demonstrates. He argues that wife sales were “occasioned by the breakdown of marriages, and were a device to enable a public divorce and re-marriage by the exchange of a wife (not any woman) between two men.” Hardy, according to Thompson, based his description on opaque newspaper accounts that were abbreviated and sensationalist. Thompson identified certain key rituals common to the “true” wife sale, which he argued was not brutal chattel purchase, but rather a prearranged means of publicly declaring and gaining the consent of the community to a divorce and remarriage. There was a semblance of an open auction, but the women were “purchased” not by strangers, but by their lovers. The “wife sale” was a public demonstration that the husband was a “willing (or resigned) party” to the divorce and remarriage. The delivery of the wife in the halter symbolized the surrender of the wife to another man. When the rope of the halter was transferred from one man to another there was an exchange of pledges analogous to a marriage wherein the wife gave her consent. In one case of the 1830s, the wife in question was angry when her husband tried to get out of the arrangement; she made him continue, saying: “Let be, yer rogue, I wull [sic] be sold. I wants a change.”

This ceremony was sometimes followed by adjournment of all three with witnesses to the nearest inn where the sale would be “ratified” through the signing of papers. There were many variations. A wife could also be “sold” to her own relatives, a brother or mother, suggesting that it was a device by which a woman could annul
or be “bought out” of her existing marriage. The publicity of these rituals ensured general popular endorsement of the legitimacy of these divorces and remarriages.

“Jumping the broom” was another popular informal method of marriage and divorce. This was a ceremony that persisted in England to the mid-nineteenth century. A couple was regarded as married by their community when they jumped over a broomstick in the company of witnesses, and the transaction could be undone by jumping back over the broom. A “broomstick marriage” in Wales could be “sundered by the exact reversal of the form used for marriage. If divorce was desired and twelve months had not elapsed, a broom was again placed in the doorway in the presence of witnesses. The dissatisfied person then jumped backwards over the besom [broom made of twigs] into the open air, making sure neither broom nor door jamb was touched in the process.”

The classic definition of marriage as “the voluntary union for life of one man and one woman, to the exclusion of all others,” articulated in 1866 by Sir James O. Wilde (Lord Penzance) in the famous *Hyde v. Hyde and Woodmansee* case (involving Mormon marriage, which the judge found did not constitute a marriage in English matrimonial law, even if monogamous), and repeated in many judgements thereafter, was not ancient, universal, immutable, or “commonsensical” at the time of the intensive settlement of Western Canada. A variety of methods were employed to promote the monogamous model, all designed to reform, police, or undermine marital nonconformists. After the formation of the North-West Territories, steps were quickly taken to legislate on marriage through the 1878 Ordinance Respecting Marriage. As Nancy Cott writes, “Typically founders of new political societies in the Western tradition have inaugurated their regimes with marriage regulations, to foster households conducive to their aims and to symbolize a new era.”

The 1878 ordinance authorized the lieutenant governor to license ministers, clergymen, or Justices of the Peace to solemnize marriages, and it established the system of marriage licenses and certificates. The two persons were to proclaim their intention to marry through the publication of banns, “proclaimed at least once openly and in an audible voice on a Sunday in some public religious assembly.” There was provision,
however, that if the minister or clergyman was remote from the issuer of marriage licenses, or finding that it was not possible to publish such banns, he could celebrate the marriage anyway if satisfied that there were no legal impediments. All marriages were to be solemnized in the presence of two or more credible witnesses. A fee was attached as the marriage license cost three dollars, and the registrar of deeds charged another fifty cents. Officers in command of the NWMP posts were appointed Justices of the Peace, as well as issuers of marriage licenses and notary publics.  

A variety of methods, formal and informal, were used to prohibit or discourage nonconformist marriages, and to censure or make life difficult for those who rejected marriage altogether. Acceptable marriages were heartily endorsed, while others were not. Intra-racial marriage became an index of respectability. Aboriginal women were often labelled immoral prostitutes who posed a serious danger to public health. The movement of Aboriginal women off their reserves was restricted and monitored through a pass system. They were not welcome in the places and spaces newly defined as white. It was noted in the Regina Leader of April 12, 1887 for example, that there were complaints about the “squaw nuisance” in that town and it was proposed that if they were “to be tolerated at all off their reserves, why not prohibit them from appearing in town after dark?” The white men who married Aboriginal women were derisively labelled “squaw men.” Prominent and not-so prominent white men in the west divorced (according to Aboriginal law), separated, or otherwise abandoned their Aboriginal wives and families, and they often remarried.

Mixed-race marriage was censured in medical and other advice literature of the late nineteenth century. Alexander Reid, a McGill-trained doctor who lived in the Red River settlement in the late 1850s believed that scientific principles of classification could be applied to human society. In an 1875 paper published by the Journal of the Anthropological Institute of Great Britain and Ireland, Reid identified nine categories of mixed-race people at Red River. Reid found that his first class, the

> Marie Rose Delorme, who was Métis, married Norwegian Charles Smith in 1877 and they ranched at Pincher Creek Alberta. In this photograph from 1896, they are with their daughter Mary Anne, fifth of their seventeen children. “Mixed” marriages were increasingly censured in late 19th century Western Canada.
“Anglo-Saxon father and Indian mother,” and second class “the French ‘halfbreeds’ or ‘natives’” were “honest, industrious, and very energetic” but they resembled the “pure Indian” because “exposure to the open air and the customs of the country give them a swarhier look and different manners than would otherwise be theirs.”  

Reid’s scientific conclusion was that “the more distant from the first and second classes the nearer approach to the races of the primitive mother.” The mothers’ blood could impart “restlessness, slovenliness, impatience of control, wild liberty, superstition, and, when aroused, [a] fiendish hatred and temper.”  

Readers of advice literature also warned of the consequences of interracial marriage. “A negress who has borne her first child to a white man, will ever after have children of a lighter color than her own,” according to an 1871 book entitled The Physical Life of Woman. It was further noted that “Count Strzelewski in his travels in Australia, narrates this curious circumstance: a native woman who has once had offspring by a white man, can never more have children by a male of her own race.”  

In the emerging non-Aboriginal communities of the west there was unease over marriages that criss-crossed cultural and colonizing boundaries. White men deserted their Aboriginal spouses, or perhaps divorced according to Aboriginal law. In 1887 for example, one of Fort Macleod’s “most honoured citizens” married one of its “fairest daughters.” The bride was Lily Grier, a newly arrived teacher from Ontario, and the groom was D.W. Davis, former whiskey trader of Fort Whoop-Up fame. He was soon to be the district’s first Member of Parliament. In tendering the happy couples’ best wishes for the future, the writer of a column in the Macleod Gazette “[felt] sure that it will meet with the hearty endorsement of the whole community in so doing.” Not mentioned at all was the fact that Davis was already married to a prominent Kainai woman, a sister of Chief Red Crow, and they had four children together. Lily Grier’s brother, D.J. Grier of the NWMP, was married to Molly Tailfeathers of the Piikani (Peigan) Nation, and they had three children, but Grier was remarried to a white woman by 1887. Just how these men secured divorces from their first wives is not clear. Davis may have assumed he was never “legally” married to Revenge Walker, or he may have felt himself to have been divorced according to Aboriginal law. Grier had been
“legally” married to Molly Tailfeathers, and how he acquired a divorce from her is unknown. In any case it appears that these divorces and subsequent marriages were heartily endorsed in the non-Aboriginal community, although there were those, particularly missionaries, who protested when the children of the earlier interracial marriages were often “abandoned” to lives on the reserves. (Davis and Grier did, however, provide for their children from their first marriages.) A completely different standard was applied to divorces and remarriages among Aboriginal people subject to government administration. They were not permitted to divorce, except through an act of Parliament, which was not a feasible option for them.

A number of proposals were floated in the 1880s and 1890s to discourage intermarriage as well as more temporary relationships, and to simultaneously insist that fathers provide support for the children from these relationships. Legislation to this effect was proposed, although never enacted, including an 1886 ordinance of the North-West Territories Council compelling men in relationships with Aboriginal women to support their “illegitimate” offspring. In 1889 Indian Commissioner Hayter Reed expressed his concern to the deputy superintendent general that, especially in the Macleod district, white men were deserting Aboriginal women after cohabiting and having children with them. He proposed to make an example of one such case by bringing an action in civil court for alimony for both mother and children. He noted they would need to make a careful selection of the case for procedure, as unless there was “some sort of estate, we would have incurred costs to very little purpose.” He wrote: “In any case however, if whites see that we are on the alert to protect the rights of the women and their children the effect is likely to be good.” In 1894, as Deputy Superintendent Reed remained concerned with the issue; he wished to amend the Indian Act to “meet the case of the whiteman who takes an Indian girl or woman to live with him without undergoing any marriage ceremony and without the idea of any matrimonial obligation.” He wanted the law to “prohibit such immoral practices,” and to prohibit men from living with Aboriginal women unless married to them. Missionaries and their supporters also advocated such measures, and did so well into the twentieth
century. An 1895 Methodist Church petition to the British Columbia Legislature asked for legislation “prohibiting white men from cohabiting with Indian women, and compelling those who have children to marry, or abandon the woman and maintain the children in some educational institution.” Despite similar pressure over many years, no such action was ever taken. As Hayter Reed wrote in 1896, “There can be no question as to the desirability of taking measures to prohibit if possible the cohabiting of white men and Indian women, but the subject is one replete with difficulties. It is, in the first place, difficult to frame a law which would be operative; and even if we succeed in that, there would be great difficulty enforcing it.” There were jurisdictional problems as well; such legislation, either under the Indian Act or Criminal Code, was under the jurisdiction of the federal government alone. Continuing efforts to introduce such legislation will be discussed in a subsequent chapter.

There were single men who could be, and were, “ordered” to get married. Following the Resistance of 1885, there was criticism in the House of Commons of Indian agents and farm instructors on the reserves who, it was alleged, had “immoral” relations with Aboriginal women and abused their positions of authority. In response to these criticisms, the Department of Indian Affairs drew up a list of the married and single employees, and the single men were ordered to get married or be replaced by married men. In the “remarks” column of an 1886 list it was noted that the remaining single men would be “replaced by married men as soon as suitable men can be obtained.” Their wives were required to live on the reserves. One single instructor, J. H. Gooderham, it was noted, “says he will marry when a house is erected for him to live in,” and another was “in the east on leave to get married.” According to an early Saskatchewan history, the efforts of the agents and instructors to quickly find wives was the source of much amusement: “Most of them [instructors and agents] were single men, and to turn young men, clothed with authority, loose as it were, among a lot of Indian women, was found to have disadvantages which missionary effort was powerless to counteract. And so the word went forth that the single farm instructors were to get
married within a certain period or lose their jobs...One doesn’t need to be told that while these young fellows were industriously hunting wives, in a country where women were decidedly scarce, their laudable efforts were watched with a good deal of amusement by those who were in the know.”

This policy too was criticized as some competent instructors lost their jobs, and married farm instructors had to devote a great deal of their attention to their families; they required larger and better-built houses, and more rations were required to feed the extra family members.

When, in 1888, NWMP Commissioner Lawrence Herchmer refused to grant permission to marry to some members of the force, there was sharp community criticism and censure. The Regina Leader threatened “dire revenge.” In a series of editorials it was claimed that Herchmer pursued a general policy of refusing permission to marry, and of reassigning men, or reducing them in rank, to prevent them from marrying. It was alleged that Herchmer did not allow a Regina-stationed constable to marry, and ordered him off to Maple Creek, telling him “not to put a millstone round his neck.” The same thing had allegedly happened to a constable engaged to a young woman at Moosomin; when he asked for permission to marry he was “shipped off to Fort Macleod.”

This, according to the Leader, promoted immorality; “if the moment a policeman hints at marriage he will be removed, all a bad man has to do is to make love to a girl, promise her marriage, perhaps receive her entire confidence, then go and say to the Commissioner, ‘I want to marry.’ Without appearing wilfully to treat the girl badly, he will be shipped off three or four hundred miles and if the girl follows him shipped off again.”

The Leader’s correspondent at Calgary reported a distressing case of a member of the NWMP who “betrayed” a young woman, took fifty dollars from her, and then had himself transferred to Regina. Upon hearing that the woman had followed him to Regina, he had himself transferred to Battleford. Readers were asked, was Herchmer the “aider of the seducer and thief”? “[W]e know if this man told him he wanted to marry he would reply to him with his favourite weapon—a threat.”

In the midst of the controversy the Leader reported on the lavish Regina wedding of Emma Blanche Royal, a daughter of the lieutenant governor of the
North-West Territories, to the dashing Captain Gagnon of the NWMP.\(^9\) The message was clear—the young policemen should be encouraged rather than discouraged to marry.

Herchmer’s policy on marriage did, however, have some support in the west. It was argued in the *Edmonton Bulletin* that for reasons of efficiency, and because of expense to the federal government, the hiring of married non-commissioned officers and constables should be avoided, and their subsequent marriages not permitted. In a 5 January 1889 editorial it was pointed out that “if a constable’s marriage adds to the responsibilities and expenses of the government in connection with that man certainly the government should have something to say as to whether these responsibilities should be forced on them or not.” Criticism was levelled at the lack of attention to the wives and families of members of the force. An article in the *Leader* calling for an end to the canteen at the Regina NWMP barracks where beer was served reinforced the idea that the wives and families of the force needed more attention.\(^40\) At the end of January 1889 it was reported that Corporal T.B. Wright had spent the entire month since New Year’s at the canteen. After that he deserted the force, his wife, and their children who lived at the police barracks.

The challenges posed by an excess of single white men compared to the few adventurous single white women in the region were in part addressed through the federal government’s land distribution policy for the west, which was administered through the Department of the Interior. The monogamous model was deeply embedded in the Dominion Lands Act (DLA) and the homestead system—the economic and social foundation of prairie Canada after 1870. It was adopted from US land policy, which was based on Thomas Jefferson’s view of an agricultural society composed of small family farms. The central figure in this social system was the yeoman farmer, and the male-female couple and their family was at the core.\(^41\) In Jefferson’s view it was imperative that women be locked up on the land under the control of men. As historian Peter Boag has noted, “the land itself, then, played a role in the preservation of the ‘natural’ gender system.”\(^42\) Women gained access to land only through their relationship with men. The grid survey system and associated land legislation was based not on ideas of how best the land might be farmed, but on
cherished cultural, social, religious, and gender ideals. The DLA provided that the patriarchal nuclear family with male heads of households and dependent wives would be the foundation of society. The homesteads were designed as small-scale units of production—family farms. Married men were encouraged to come ahead of their families to get established, and to send for them as soon as possible. The Department of the Interior’s strategy for single men was that they should soon “settle down.”

The DLA was a powerful tool for imposing the nuclear family model that isolated families and scattered them across the prairies. Many groups such as the Mennonites and Doukhobors, who hoped to establish alternative communal societies, found that they too were eventually compelled to conform to this model. When many of the Doukhobors refused, they were dispossessed of their land. Groups that purchased land, such as the Hutterites, were independent of the social constraints imposed by the DLA on homesteaders, and could therefore pursue their communal lifestyle.

Officials of the Department of the Interior went to extraordinary lengths to ensure that very few solo women were permitted to homestead, and thus they were denied access to the main source of income in the west at that time—land—unless they were wealthy enough to purchase directly. In Canada a woman could not homestead unless she had a dependent child or children of her own, and could thus qualify as a “sole” head of household. The word “sole” in the Canadian legislation was used to disqualify a great variety of women whose husbands were alive, but might have deserted, or be ill or incapacitated. In 1895 Catherine Godkin sought permission to homestead. She was the mother of four young children and her husband had been confined in an asylum for seven years with little hope for recovery. The decision was that the circumstances did not constitute Mrs. Godkin as the sole head of her family within the meaning of the statute, as her husband was still alive, even though confined to an asylum. A widowed, separated or divorced woman having no minor children was not a sole head of a family. The majority who qualified were widows with children. Each widowed applicant had to sign a statutory declaration stating she was a widow and including the names and ages of the children who depended on her. If the children were not
her own, she was disqualified. In an 1895 case, a single woman named Eliza McFadden applied for a homestead as a head of a family as she had two adopted children. She had a letter from the children’s father in which he agreed to relinquish all his legal claims to the children as their parent. McFadden was found not eligible as she could not be considered the sole head of a family as “a father cannot divest himself of his authority over or responsibility for his children by such an agreement.” In 1916 cancellation proceedings on the grounds of fraud were instituted against a widow who had filed on a homestead claiming she had a minor child dependent on her for support. This child was later shown to have been her daughter’s child. A woman with an “illegitimate” child was not eligible to homestead. In 1919 a woman wrote from Spokane, Washington asking whether a woman who was not married but had a child could take up a homestead in Canada. The reply was “the regulations do not permit of a homestead entry being made in a case of this kind.”

A divorced or separated woman had to have legal proof of the divorce or legal separation. Further, the woman had to have been given complete and sole custody of the children through a binding agreement. Even such documentary proof was not always sufficient. In January 1895 Mrs. Maria Heath applied for a homestead near Leduc, Alberta, believing she was entitled to do so as a head of family. She was from Ridgetown, Ontario, and had an adult son and a younger daughter. She had a deed of separation from her husband which was attached to her file, which was referred all the way to the deputy minister of justice in Ottawa. E.L. Newcombe’s opinion was that deed of separation did not make Mrs. Heath a “sole head of a family within the meaning of the Dominion Lands Act so as to qualify her to obtain a homestead entry. Her husband by this deed does not purport to divest himself of his control over his children, and under the laws in force in Ontario or Manitoba or the North West Territories he could not effectively so divest himself or escape from his duties and responsibilities by any such deed.” In a less than magnanimous gesture later that summer, it was decided that Mrs. Heath could purchase the land at $1.00 per acre or for $160.00—land available to any male for a $10.00 filing fee. It is remarkable that Maria Heath remained on her land in the summer of 1895 during the months
of indecision about her rights. Snow fell in July and again in August of 1895 in the Leduc district, and many settlers abandoned, leaving their crops unharvested. Those who remained were very hard up that winter, with rabbits being a mainstay in almost every home. It would have been a tremendous strain on her resources to pay for this land. 

A main concern about permitting separated women to homestead, as expressed in the House of Commons in 1907 by future Prime Minister R.L. Borden, was that this would provide an inducement to separation, as each spouse would be entitled to a homestead. Rulings with regard to deserted and separated wives were eventually relaxed, but in all cases they had to have minor children. At first women who could prove desertion for five years were permitted homestead entry, and in 1920 this was changed to two years, although permission was not automatically granted—each case was individually scrutinized. Among the duties of homestead inspectors were reports on whether women were actually who they said they were, whether they were indeed widows or deserted. Was a woman truly deserted, or was her husband still in the vicinity? What did the neighbours say?

The Department of the Interior received regular enquiries from women, single, married, widowed, divorced or deserted, asking if they were eligible to homestead, and the answer was invariably “no,” or no answer at all. They also wrote to protest the restrictions on women’s rights to homestead. In 1913 Mrs. Thomas McNeil, a deserted woman from Dungloe, Saskatchewan, wrote that she had arrived from Ontario with her husband and eleven children seven years earlier. As soon as her husband got his patent to their homestead he sold it and left, claiming he was going to use the proceeds to purchase another homestead, but she had found out that “he has drank the most of it by this time and has not took a purchased homestead yet and about all the satisfaction I can get is that a man in the Saskatchewan can do as he likes with his own property but if he ever does take a purchased homestead I would never go to live on it I got hunger enough on this one. I would often have starved only for what my children had sent me…Let women have a share in property in the west the same as they have in the east it would be alright. I suppose you will think I am crazy for writing such letter and I
don’t suppose you would be far mistaken.”

She asked that the minister of the interior do whatever was in his power to allow women to get homesteads.

The policy of making it nearly impossible for women to homestead in Canada was not an oversight of policymakers; it was deliberate and in contrast to the United States, where single women were permitted to homestead, and did so in the thousands. The US legislation permitted a much wider diversity of women to homestead and there was greater flexibility in the interpretations of the regulations. Widows, deserted and divorced women did not need to have minor children dependent on them for support. “Unwed” mothers were permitted to make entry, even if they were not yet twenty-one years of age. A wife whose husband was a “confirmed drunkard” was considered the head of a family. A married woman could make homestead entry if her husband was in the penitentiary, or “incapacitated by disease or otherwise from earning a support for his family.”

The restrictions on women’s homestead rights in Canada were protested. A “homesteads-for-women” campaign took shape in Western Canada from 1908–1914. When the issue was considered by the federal government, however, the reaction of administrators was to narrow the existing categories of eligible women. In 1910, Minister of the Interior Frank Oliver was asked in the House of Commons why single women could not homestead in Canada as they could in the US West. His response clearly demonstrates how the monogamous model with its embedded gender roles was deeply rooted in the land policy for Western Canada. Oliver said, “our experience is entirely against the idea of women homesteading.” In order to make a homestead productive there must be “not a single woman upon it, nor even a single man, but there should be both the man and the woman in order that the homestead may be made fully advantageous to the country. The idea of giving homesteads to single women would tend directly against that idea.”

Women were to be on the land and working hard, but only under the control of men. Georgina Binnie-Clark was told by the deputy minister of the Department of the Interior that “the object of granting the land-gift to men is to induce them to make a home on the prairie...He held the first requirement of
the genuine home-maker to be a wife: he married, he has a family, etc. etc. Women, he assumed, are already averse to marriage, and he considered that to admit them to the opportunities of the land-grant would be to make them more independent of marriage than ever.63

There were a variety of ways in which single women were discouraged from remaining single, not all of which were unique to Western Canada. Single women were discouraged from immigrating to Canada unless they were in the category of domestic servant, in which case they were generally assessed as to their suitability, chaperoned during the trip, and placed in a supervised hotel while awaiting placement. Women coming to Canada had to be accompanied by a husband, parent, or other approved relatives. Otherwise, “unaccompanied” women had to obtain an emigration permit from a Canadian government emigration agent. To obtain the permit a woman had to show that she had a job awaiting her, or sufficient money to provide for her needs while she found employment, or that she had relatives or friends willing to support her.64

Disparaging comments about “old maids” were frequent in advice literature, novels, and in the press. An 1880s marriage manual advised, “For a woman to live through life unmarried is to be worse than dead… If she, indeed, escape a part of the snares that best the path of the man unmarried, she encounters others of even a more deadly tendency. Some fall, others save themselves—to a prolongation of misery. The career of the old bachelor is bad enough in the name of all that is sensible, but his case is a paradise compared to the ancient maiden.”65 Single women could be criticized and marginalized, becoming local characters in many communities where the stories that circulated about them served to reinforce conventional behaviour for women. Caroline Fulham, a woman who made her own living in Calgary mentioned in the previous chapter, was frequently arrested and prosecuted for her disorderly and unsteady habits. In one courtroom exchange in 1891, lawyer and senator James Lougheed called her a “moral leper,” and he regretted the “liberty or rather the licenses granted to such a woman who made herself a notorious nuisance.”66 Her behaviour, which was in contrast to and in conflict with the norms of respectable femininity, functioned to confirm these norms, attesting to the value of “traditional” domestic arrangements
that implied little freedom or independence for women. Mrs. Fleming was “A Woman Who Made It Alone,” ranching and farming near Brooks, Alberta, and there were numerous stories of her efforts to “show the world that anything a man could do she could do better.” She put on men’s clothing, and did farm work including irrigating her fields and raising hogs. But her behaviour was cast as decidedly peculiar, and the stories surrounding her emphasized the difficulties of a woman on her own, such as when she was once stranded on her roof when she was hammering shingles and the ladder blew down.

The problem of excess “bachelors” in Western Canada was in part addressed through schemes to attract white women as domestic labourers, as it was widely acknowledged that their home-making skills would soon be put to good use in the homes of their new husbands. Scottish correspondent Jessie Saxby reported from the North-West Territories in 1888 that the region was a true “woman’s paradise,” and she quoted a Canadian gentleman of “influence and education” who said that what was needed most there was a “cargo of home-loving girls.” “The want of home life is keenly felt as a very great calamity by those western settlers,” wrote Saxby. “[T]here seems about one woman to every fifty men, and I believe the old country could confer no greater boon upon this fine young country than by sending in thousands of our ‘rosebud girls’ to soften and sweeten life in the Wild West.” These women, who would “get the men,” in the words of Interior Minister Oliver, were thought essential to the stability, prosperity, and growth of the region. The labour of the women on the family farms was vital, as was their reproductive work, and in turn the work that the resulting children would contribute. Great Britain was the main source of women domestic labourers until the mid-1920s.

The process was fuelled by the myth that emerged in the mid-nineteenth century of the “redundant” or “surplus” women of Britain. They were popularly referred to as “stock,” essential to the objective of reaching a heterosexual balance, and they were vital to the reproduction of the “race.” Single women were not encouraged or assisted to immigrate to Canada in any role other than as domestic labourers.

The plethora of single males was also addressed through farm journal depictions of the lonely, unkempt bachelor who required “a broad-
shouldered, stirring wife, who will keep the house in order, as well as the husband who owns it.72 “The want of feminine influence,” wrote Jessie Saxby, “tends to make men (so they acknowledge to me) restless, dissatisfied, reckless and godless.”73 Through marriage the bachelor would be transformed into “one of the lords of creation.” Bachelors’ balls were held in many centres in the west. At Rosser, Manitoba, according to the local history, the bachelors “seemed to organize themselves into bands for the purpose of competing each with the other as to which could put on the most successful or elaborate ‘Ball.’ These separate tribes were known as the Bachelors of East Rosser, Bachelors of South Rosser, and Bachelors of West Rosser and their invitation cards so designated them.”74

An excess of single males among the newcomer population was seen as a potential source of danger and subversion of the monogamous foundation for Western Canada. The “bachelor” problem was addressed through various schemes and incentives. These young men in Saskatoon took their own initiative, likely preparing this postcard for their friends and relatives back home.

(Saskatoon Public Library Local History Room LH 3348)
At one 1884 Edmonton district “Bach Ball,” a transparency was displayed “bearing the legend most suggestive at a bachelor’s ball, ’1884–Leap Year.”\(^{75}\) (February 29th of a leap year was the traditional time when women in British society could propose marriage, a custom sometimes referred to more recently in the United States and Canada as “Sadie Hawkins Day.”) Dancing (the quadrille, waltz, polka, cotillion, lancers, schottische, varsovienne, gallop, reel of eight, Sicilian circle, Virginia reel, etc.) began at eight-thirty and continued until morning with but a midnight intermission for supper.

Various ideas were proposed to address the marriage needs of the bachelors of the North-West Territories, including the 1887 “Jubilee Marriage Scheme” of C.F. Lewis, the Canadian Pacific Railway (cpr) agent at Indian Head, published in a brochure entitled A Revolution: The Worlds’ Return Rebate Marriage Certificate or the Want of the West.\(^{76}\) The problem, as Lewis saw it, was that the single men of the west could not afford a trip to the east or overseas to find wives, let alone the expense of a return trip for two. He proposed that single males be offered tickets with a return rebate that would allow men returning with wives on the cpr free of charge. Tickets would be issued to eastern destinations, and on the reverse side of each ticket would be a marriage certificate, to be properly filled in and signed by the bride and groom, officiating clergyman, and two witnesses. When these documents were presented, the ticket agent would issue two free tickets to the newlyweds. The plan received widespread and favourable press coverage, although it does not appear that the cpr ever adopted the plan. The proposed scheme is “becoming famous,” it was reported in the Regina Leader; it was a “Boon to Bachelors.”\(^{77}\) It was also noted in the Leader that the St. John Telegraph had thrown “cold water on the proposal. It remarks that ‘It is a very ingenious scheme, but it will not work. All the Bluenose girls would be shy of a man who came 3,000 miles with a blank marriage certificate in his pocket.’”\(^{78}\) But the Leader advised the hopeful groom to keep the marriage certificate/ticket rebate in his pocket “until he has gone through the ‘monkey business’ and popped the momentous question. Then he can produce his ticket, go to the minister and return to the North-West with triumph and a wife. Nothing easier.”
By the 1890s there was agitation for a tax on unmarried males in Western Canada, and such a tax was introduced in Montana in 1922. A three-dollar “bachelor tax” applied to every unmarried male in the state over the age of twenty-one but the measure was short-lived; it was declared unconstitutional a year later.79 In Canada the extent to which homesteads were taken up by bachelors was criticized. According to one critic, there was one bachelor shack after another with no “clothes hanging out to dry on the line, or other evidences of progress, family life and civilization”; there were fake homesteads and gopher farms without “horses and cows and women and babies.”80 Bachelor homesteaders were “merely sitting in idleness and dirt on their claims. As a rule, they have but little inducement to work. Some go to town and get drunk and gamble, etc.”81 Bachelor “hired hands” were increasingly censured after the turn of the century as undesirable elements in rural communities. By the early twentieth century, the harvest excursions from Eastern Canada, made up of mainly young single men, were cast as an undesirable force of mischief, mayhem, and (even worse) a threat to respectable women. In August 1908 it was reported that harvesters on their way west at Port Arthur were charged with “stripping and photographing a young woman.”82 That same summer a married woman travelling from Halifax to Edmonton to meet her husband “went insane,” according to newspaper reports, “as a result of the lawlessness displayed on the harvest excursion trains from the Maritime provinces.”83 As historian Lyle Dick has argued, there were also deep-seated concerns about the potential threat that bachelors posed to the heterosexual order.84

The polygamous challenge to the monogamous west, that became particularly threatening with the arrival of the Latter Day Saints, was fought on a number of fronts. Polygamy was condemned in the press, as mentioned in chapter two. Polygamy was also discussed with disgust in advice literature for Canadian women, indicating that it was perceived as a very real threat. In The Physical Life of Woman: Advice to the Maiden, Wife and Mother readers were informed that “such practices lead to physical degradation. The woman who acknowledges more than one husband is generally sterile; the man who has several wives has usually a weakly offspring, principally males...The Mormons of Utah would soon sink
into a state of Asiatic effeminacy were they left to themselves.”

The idea that Mormon polygamy led to a “degenerate,” “feeble” and “ill-looking race of children” abounded in the anti-polygamy US press. Some “experts” claimed the Mormons had principally male children, others that they had mainly female offspring. A surgeon for the US army who visited Salt Lake City wrote in 1863 in an article published in Canada Lancet that “Under the Polygamic system, the feeble virility of the male, and the precocity of the female, become notorious. The natural equilibrium of the sexes being disturbed, mischief of this kind must ensue; as a consequence, more than two-thirds of the births are females, while the offspring, though numerous, are not long lived, the mortality in infantile life being very much greater than in monogamous society.”

Despite the widespread censure of polygamy in Canada, parliamentarians and legal officials learned not long after the arrival of the Mormons that Canadian law had to be amended in order to criminalize polygamy. When this came to light, and when suspicions were aroused that Mormons continued to practice polygamy, steps were taken to amend the Criminal Code. As mentioned in chapter two, Mormon leaders were told at the time of their meeting with Prime Minister John A. Macdonald that they could not continue to practice polygamy, and they could not bring their present plural wives with them to Canada. There were suspicions, however, that plural marriages continued. “Representations” reached the Department of the Interior early in 1890 that the Mormons were engaging in “polygamy and unlawful cohabitation.” In a letter to Mormon leader Charles O. Card, Deputy Interior Minister A.M. Burgess warned, “There is likely to be a strong public feeling against your people unless it can be clearly established at once that these statements are absolutely untrue.” Burgess reminded Card that while in Ottawa he had given Sir John A. Macdonald and the minister of the interior assurances that the Mormons understood that they were coming to country where the law did not permit polygamy. Card’s reply was carefully worded, and did not likely provide the degree of reassurance sought by Burgess. He wrote, “It can be clearly established that the alleged crimes to which you refer of polygamy and cohabitation are not practiced either in or out of Cardston in Canada. About one third of our people live out upon
their ranches and all are scattered for several miles around. I am confident our people could not practice either polygamy or cohabitation without the North West Police knowing it.” Card further wrote that his people “understood too well the laws of the Dominion of Canada to infringe upon them.”

The Mormons understood the laws of Canada well, as Card maintained, and were aware that there was no statute that specifically prohibited polygamy, despite the confident assertions of Macdonald, Burgess, and one parliamentarian who declared, “Polygamy is forbidden by our laws, and whoever practices it infringes them.” It was the enterprising Anthony Maitland Stenhouse who publicly pointed out that while there was a law forbidding bigamy (and Stenhouse agreed with this, as bigamy meant criminal deception), polygamy according to the Mormon faith could be practiced “only with the consent of the women interested and is therefore sinless.” Stenhouse believed Canadian law could not prevent a man from marrying two women at the same moment, so long as neither of the wives preceded the other, and he declared that “as an undergraduate in matrimony, I propose to test the law as soon as I have found the ladies.”

At that time the Criminal Code stated that “everyone who being married, marries any other person during the life of the former husband or wife, whether the second marriage takes place in Canada or elsewhere, is guilty of a felony, and is liable to seven years’ imprisonment.” The law did not cover Stenhouse’s proposal, which was to marry two women “at the same moment.” He would not be already married, and therefore would not be marrying another person “during the life of the former... wife.” Legislation designed to address Mormon polygamy was introduced in the House of Commons on 7 February 1890. It was initially proposed that “this section shall not apply to any Indian belonging to a tribe or band among whom polygamy is not contrary to law, nor to any person not a subject of Her Majesty, and not resident in Canada,” but this was struck out. As one senator explained in the senate debate on the issue: “I think that is a very dangerous exception to make, because it may have the effect of excepting the very class to whom the Bill is intended to apply.” It is ironic that, as discussed in chapter six, the only person
The importance of being monogamous

The Act passed on 16 April 1890 was designed to address the situation proposed by Stenhouse, that of marrying two women at the same moment. Minister of Justice Sir John Thompson explained, “Section 8 [that became Section 10] is intended to extend the prohibition of bigamy. It is to make a second marriage punishable...whether the marriage took place in Canada or elsewhere, or whether the marriages takes [sic] place simultaneously or on the same day. In [the latter case]...the parties were not punishable under the present law.”

Every person found guilty was liable to seven years’ imprisonment. Section 11 dealt with polygamy and it was specifically directed at the Mormons. Canadian lawmakers examined the US legislation (Edmunds-Tucker Act), where it had proven difficult to get convictions, and aimed at convicting on the basis of cohabitation, attacking the Mormons’ private ceremonies.

The amendments to the Canadian Criminal Code stipulated that “Everyone who practices, or by rites, ceremonies, forms, rules or customs of any denomination, sect or society, religious or secular, or by any form of contract, or by mere mutual consent, or by any other method whatsoever, and whether in a manner recognized by law as a binding form of marriage or not, agrees or consents to practice or enter into a) any form of polygamy: or—b) Any kind of conjugal union with more than one person at the same time: or—c) What is known among the persons called Mormons as spiritual or plural marriage...is guilty of a misdemeanour and liable to imprisonment for five years and to a fine of five hundred dollars.”

The clause “recognized by law as a binding form of marriage or not” was perhaps intended to address Lord Penzance’s finding in the Hyde case, in which he decided that Mormon marriage, even if monogamous, was not marriage according to English law. The Hyde marriage might have been binding by lex loci—the place where it was contracted—but English law did not acknowledge it as marriage.

It is interesting to note that D.W. Davis was then the Member of Parliament for southern Alberta, where the Mormons were settling at the time of the debate about Mormon polygamy. He might have been somewhat uncomfortable with the condemnation of plural wives as
discussed earlier in the previous chapter, as he had recently abandoned or divorced according to Aboriginal law his first wife, and married a white woman. He did not contribute to the debate. Indeed, his most notable contribution to the House was an evening in April 1888 when, according to the *Calgary Herald*, he danced a “Blackfoot war dance... [jumping] along the table on which he was performing, uttering blood curdling yells. Sir John, who came in to witness the dance, enjoyed it immensely.”

To ensure that the Mormons had abandoned polygamy, the *nwmp* kept close surveillance on their communities, gathering information from their gentile neighbours. S.B. Steele of the *nwmp* reported in 1889 that almost everyone in the district believed the Mormons continued to practice polygamy in secret, and “there are many reasons for believing such to be the case, the number of women of the same age, or nearly so, in several of the houses, the fact that several of them have pretended to be married to certain parties who were away and although the men have been absent for more than a year, children being born in the interval, as many as fourteen months after the departure of the so-called husband... Constables and others have reported that they have seen members of the Mormon Church using the same room and bed as the women whose supposed husbands were away from the district. In 1890, following the amendments to the Canadian Criminal Code prohibiting polygamy, the Mormon Church announced that no further plural marriages would be solemnized. Yet suspicions continued, as did surveillance. A priest who worked with the Blackfoot was sceptical of government efforts to ensure that the Mormons were conforming to the law, reporting that government agents took great care to announce the day they would officially visit, permitting the Mormon men to disappear for a while with their “surplus” wives. It was well known by the police that some Mormon men had one wife in Canada, and others in the United States, but most were thought to be abiding by Canadian law. But the police suspected and gathered evidence to the effect that a few continued to marry and to have more than one wife resident in Alberta. Richard B. Deane of the *nwmp* reported in 1899 that Charles McCarty, a prominent man among the Mormons, “lived in one room last winter with two
women, sisters apparently, one of whom was known as Mrs. McCarty and the other as Mrs. Maude Mercer.” The previous summer the corporal who reported to Deane was introduced to the latter as “Mrs. McCarty,” which mistake, the corporal wrote, “appeared to cause some consternation and was explained away.” Also provided as evidence was an extract from the *Salt Lake Herald*, republished in the *Cardston Record*, which announced from the town of American Fork, Utah, that in January 1899 “Charles and Maude McCarty from Cardston, Alberta, Canada, are visiting here at present.” Evidence was also taken from a Cardston resident that McCarty had two wives. It appears no action was taken, however, as Deane noted that they needed to obtain evidence of the marriage ceremony to which Charles and Maude were parties, and that allegedly being sisters, the two women had a “reasonable excuse for living in one house, and further, no Mormon would give evidence in a case of this kind unless cornered very tightly.” Deane wrote, “These people are up to all kinds of dodges to shield polygamy, which necessity taught them in the U.S.A.”

There is evidence that a few continued to enter into plural marriages, particularly church leaders who circumvented the law by keeping a family in Canada, one in the United States, and one in Mexico, thereby “remaining...monogamist in the eyes of each country.” In her memoirs, the plural but abandoned wife of a leading Mormon educator who farmed in Alberta wrote that, around 1910, one of the younger wives of her husband “had been induced to leave the educational field where she was an eminent success, and move to the Canadian ranch where her work changed to supervising a kitchen and cooking for hired men.” Yet no Mormons were ever prosecuted in Canada for polygamy.

In the Alberta Mormon colonies, information about plural wives was kept from the following generations. According to historian Dan Erickson, “They limited public discussion; the church’s new policy was to suppress the memory of its polygamous past and to assimilate into pluralistic western society.” In the 1900 publication, *Picturesque Cardston and Environments: A Story of Colonization and Progress in Southern Alberta*, there is a great deal of discussion about how the Mormons, a “patriotic community,” battled against “bigotry and deviltry, for the rights of
conscience and against oppression,” but nothing at all about polygamy.\textsuperscript{105} Although polygamy may no longer have been officially sanctioned, however, the concept was still defended by prominent Mormons in Alberta into the twentieth century. In 1904 Mormon David H. Elton, editor of a weekly paper called the \textit{Alberta Star}, spoke to a journalist for the \textit{Toronto World} and said, “I believe in polygamy. I believe it is authorized by the Bible and by the revelations of the church,” but he insisted that “at no time has any Mormon lived, associated, or cohabited with more than one wife in Canada.”\textsuperscript{106} Elton denied that there were “More women around our homes than around the homes of Gentiles,” and declared that this was “another fallacy born of malice and hearsay.”

Through a 1901 amendment to the marriage ordinance of the North-West Territories, Doukhobors as well as Quakers were permitted to
marry “according to the rites and ceremonies of their own religion or creed.” No less than eight days notice of the marriage had to be given in writing by the parties to a marriage commissioner, and after the ceremony they had to sign a declaration of their marriage in the presence of two witnesses; within eight days this declaration had to be delivered to the marriage commissioner. The notice of intention and declaration would then be transmitted to the registrar of births, marriages, and deaths. As Nancy Cott explains of the tolerance of consent or self-marriages in the United States, this did not represent a retreat of the authority of the state. Rather, recognition of its validity drew the couples in question into the obligations set by the law for married people. There was debate, however, about the amendment in the assembly of the North-West Territories. The Attorney General explained that the object was to meet the aversion of the Doukhobors to the present law by allowing them to carry out their ceremonies in their own way. This would result in the enforcement of the marriage law; the Doukhobors would not have to disobey their own convictions, and would have no excuse for not obeying the laws of the country. R. B. Bennett (later prime minister), Calgary Member of the Legislative Assembly, was “opposed to making the marriage law too lax in order to conform to the views of different peoples; he held that we should rather make them conform to our laws.” Bennett understood from magazine articles that the Doukhobors left Russia “largely because of the marriage law,” and “he thought they ought to proceed carefully as it would be a dangerous thing to encourage indiscriminate marrying.” Doukhobors, “or any other kind of ‘boers,’” Bennett said, “should know that this country has institutions which must be respected.”

The amendment passed, however, despite Bennett’s objections. A similar measure was passed in the legislature of British Columbia, but not until 1959. Until that date, BC Doukhobor couples there were not regarded as married outside of their own community, and their children were technically “illegitimate.” Doukhobor divorce was not as easy to deal with, and they continued to practice their own laws of divorce. As with the Mormons, the Mounties were used to patrol the Doukhobor settlements in order to gather evidence. To discourage their divorce laws,
three Doukhobor “bigamists” were charged and convicted in Yorkton, Saskatchewan, in 1911. In one case the marriage of the accused and his first wife was celebrated through an event at her parent’s home. The groom lived with his first wife for two years and they had two children. When the first wife refused to leave their settlement and move to a farm with her husband, he subsequently remarried, although without ceremony, and he had a child with his second wife. The first wife gave evidence that as her husband left her she considered herself divorced and free to remarry. The second wife stated that she considered herself married to the accused. The Doukhobor women called to the witness box “call themselves by the name of their last male associate and regard the union as valid beyond dispute.” The interpreter called to the stand by the defence said that the agreement of the parties to live together, even without witnesses or other ceremonies, was enough to constitute marriage to the Doukhobors. Although the accused was found guilty, it was reported that “the general viewpoint seems to be that...bigamous Doukhobors should not be severely dealt with.” The trials and convictions were to serve as a warning that this would not be tolerated. There were calls for a commission to investigate Doukhobor marriage and separation.

Missionaries and Anglo-Canadian women’s organizations proposed a number of remedies for the alleged evils of Ukrainian marriage. Suggested measures included prohibiting the marriage of Ukrainian girls before the age of seventeen, as requested by a 1913 petition to the Alberta government from the Women’s Canadian Club of Calgary. They also asked for residential schools for Ukrainian girls where they could be taught domestic science. The Women’s Christian Temperance Union distributed leaflets in the Ukrainian language outlining the evils of child marriage. At one Methodist mission to Ukrainians in Alberta, suitable marriages were arranged by the missionaries. In 1915 a Methodist worker described how a husband was selected for their maid: “Last winter we had the experience of deciding the delicate question of a marriage proposal for our maid. After several suitors had come, a young Methodist Ruthenian came along and asked for Pokeetza in the presence of Miss Yarwood and myself. Being assured that Pokeetza would make a good wife for the right man, Kepha promised to love her and treat her well. The conclusion was
that in about two weeks they were married at her home by Rev. C.H. Lawford, M.D. Miss Yarwood and myself having the honor of being bridesmaids.\(^1\)

The west appears to have been a prime destination for those who wanted to start afresh and escape the confines and restrictions of marital rules and laws, but this freedom did not materialize. Government, churches, community pressure, and the law all reached out to ensure conformity. Rules regarding “mixed” religious marriages were not relaxed. This was behind a terrible 1899 tragedy in Edmonton when a young couple committed suicide together, poisoning themselves with strychnine in a swampy willow bluff northeast of the town. Lottie Brunette, twenty-one, was a Catholic, and W.P. Rowland, twenty-two, was a Protestant, and strong objections were made to their marriage. It was reported that in their last letters “they refer to these objections and state that if they cannot live together they will die together.”\(^2\)

For all of the newcomers, as well as the Aboriginal people of the North-West Territories, the Canadian Criminal Code, particularly the bigamy laws, and the near impossibility of obtaining divorces in Canada, as well as the refusal to recognize the validity of divorces obtained in the United States, combined to ensure the primacy of monogamy. As historian Cynthia Comacchio has written, “The inflexible divorce law was another available means to enforce standards of morality, domestic life, and sexual conduct, strengthening ‘norms’ and actively establishing the hegemony of the middle-class family model.”\(^3\)

Deserted spouses could not remarry unless “on reasonable grounds [he or she] believes his wife or her husband to be dead,” or if the “wife or husband has been continually absent for seven years…and he or she is not proved to have known that his wife or her husband was alive at any time during those seven years.”\(^4\) Even if a spouse, deserted for seven years, had no evidence at the time of a second marriage that her first husband was alive, she could be convicted if she “had the means of acquiring knowledge of that fact had she chosen to make use of such means.”\(^5\) Anyone committing bigamy was liable to seven years’ imprisonment.

Deserted spouses were in an unfortunate limbo, and for women this could be particularly difficult, as they often had children and had few
options for employment or support. Desertion was not considered grounds for divorce as Canadian legislators were determined to permit no grounds for divorce other than adultery. The 1890 case of Emily Herald Walker of Hamilton illustrates the indeterminate state a woman could find herself in. Reporting the case in the *Macleod Gazette* was a headline reading “Poor Emily Herald: She is Married and Yet Not Married, But Cannot Marry Again.” In 1884 Emily Herald and Alfred Percy Walker took the train from Hamilton to Dundas, Ontario, where they were married, and immediately after returned by train where they parted at the door of her family home. The marriage took place without the consent or knowledge of her mother, and her father had died two weeks earlier. She was some months under the age of twenty-one at the time of the marriage. Although Alfred visited Emily several times at her family home, the marriage was never consummated or—as delicately reported in the press—there were no “accompaniments of matrimony” beyond the ceremony. Walker left for Texas shortly after the marriage and Emily received one or two letters, but no indication that he “intended to claim her or treat her as his wife.” The case was debated at great length in the Senate and to a lesser extent in the House of Commons. The Senate Committee recommended that Emily Walker be granted a divorce. Those in favour argued that she was a minor, that there was no consent of the parents, that the marriage lacked consummation, and that the husband had deserted the wife. Senator James Lougheed (Calgary) argued that Alfred Walker had not done his husbandly duties, as he had “never provided for her a house; he never made any preparation to give her a home; he never intimated that he would support her; he never spoke to her about future intentions.” He had only casually visited and then deserted her altogether. Lougheed used the case to urge that Canadian divorce laws be relaxed. Supporters also argued that “this girl, driven to despair, might commit adultery, to get a legal divorce.” The case for the other side rested almost entirely on the argument that there were no grounds for divorce in Canada other than adultery, and that deciding otherwise would create a dangerous precedent. This side also attacked the character and integrity of Emily Walker, contending that she was disappointed with Alfred’s low income. Senator Kaulbach, who opposed granting a
divorce, argued that Emily Walker was “the transgressor.” She was not entitled to any sympathy, as “she has not shown that she has done her part to live with this man and to observe the solemn vows that she took on herself.” She had not performed her wifely duties: “It is a strange thing if, after being married, and he coming to the house some weeks or months afterwards, that there was no cohabitation. It seems to be contrary to the husband’s rights and duties, and contrary to the obligations imposed upon him and her by the marriage ceremony that there was no cohabitation. This is a matter which does not tend in her favor, but rather condemns her.”

In the House of Commons, Minister of Justice Sir John Thompson opposed the divorce, stating that he objected to divorce on general principles, and in this case he argued that the divorce was requested “simply because she found that she was married to a person not able to support her as well as she hoped he would be.” Prime Minister John A. Macdonald also opposed any relaxation of the rule that divorces could be granted only with proof of adultery, and in this case maintained that there was no such proof. Macdonald declared, “I think it would be a great misfortune for this country, it would redound to its discredit, it would promote demoralisation to an enormous extent, it would bring on the evils we see on the other side of the line, if we did not adhere to the law of the land, and the law of Scriptures as well, that marriage can only be dissolved for the cause of adultery.” The divorce was refused, the application being defeated by a two-to-one majority in the House of Commons.

Letters from across the west from deserted spouses, asking if they were free to remarry, were frequently sent to the Department of Justice in Ottawa, and although responses were generally prefaced with “it would not be proper for the Minister of Justice to advise private citizens upon legal questions,” such advice was usually given. In 1921 Mrs. Hazel Cooke wrote from Drumheller, Alberta, asking if she could get a divorce as her husband deserted her and their child seven years earlier. She had not taken “one cent” from her husband, and pointed out that “I have not even known any thing of him or where he is or has been.” The
reply from E.L. Newcombe, deputy minister of justice, was that she
could not, under the laws of the Dominion, obtain a divorce on the
ground of desertion, “even if you have not heard from him for seven
years.” In 1912, Calgarian Florence Fraser sought advice from the
minister of justice as her husband had deserted her and she had learned
that he had married her under an assumed name. She asked, “Am I
legally married? If so, could I procure a divorce for desertion and non-
support?” In 1910, at Fort Macleod, she had married a member of the
NWMP who claimed his name was A.S. Fraser. They lived very happily
together until May 1911, when he was sent to the Royal Coronation in
London, England, and deserted the force shortly after landing. Florence
Fraser wrote, “He did not write for about 4 months, and then only said
how sorry he was etc. Since then I had about 2 letters, one admitting he
married me under a false name, and the other asking me for some money.
His correct name is Fred Jenkins. I can prove this. He has never sent me
support since he left for the Coronation.” The reply was that while the
minister of justice did not advise private citizens upon legal questions,
“I do not think the fact that your husband married you under an assumed
name would of itself render the marriage void.”

In 1913, Jeanne Josephine Ida Baussart, a Catholic, married Carl
Schlosser in a Protestant ceremony at Medicine Hat. Schlosser deserted
her one year later, and she knew only that he was living somewhere in
the United States. In 1917, J.A. Therien, an Oblate priest from St. Paul
des Métis, wrote to the minister of justice on behalf of Jeanne to say that
her family had concluded that the husband had left her for good, and she
had two children to support. He wanted to know if it was possible to
annul the marriage, as “according to the law of the Catholic Church this
marriage is not valid.” The priest stressed that the young woman was
poor and could not afford any legal costs. The reply from the deputy
minister was that Baussart/Schlosser could not be released from the
marriage bond except by a divorce, which would be “more expensive
and troublesome than this young woman or her friends would be able to
undertake. Lawyer’s fees would have to be incurred and formal proceed-
ings instituted, witnesses examined before the Senate Committee, etc.,
and I am afraid, and you yourself suggest, that such proceedings would be out of the question for these poor people.” The deputy minister did not believe that a petition of divorce would be granted in this case.

Matilda Manderfield, originally from Sweden, arrived with her husband Peter from Minnesota in 1913, and they homesteaded together at St. Victor, Saskatchewan. In 1915 he deserted her and their three-year-old daughter. She remained on the land, carrying out the homestead requirements to gain patent to the land, but was ultimately refused. To receive a patent she had to be naturalized as a British subject, and she was notified in 1920 by the office of the secretary of state for Canada that “being a married woman you are in a state ‘of disability’ under the terms...of the Naturalization Act for 1919, and are therefore ineligible for naturalization.” Peter Manderfield was born in Wisconsin and was thus a citizen of the United States. If she could prove that he was naturalized, then she would automatically also be naturalized, but she had not heard from him since he left. The injustice of the case deeply disturbed Judge C.E.D. Wood of the District Court of Weyburn, Saskatchewan, and he wrote in 1921 to the undersecretary of state for Canada to explain Matilda Manderfield’s predicament. He was aware, however, that little could be done beyond changing the legislation, or presuming her husband’s death after an absence of seven years in order that she could be deemed a widow, and the disability as a married woman could subsequently be removed. Both took time, and “she would probably have lost all rights to the land under the Dominion Lands Act, and her work on the land would be thrown away.” Yet this special plea must have helped Matilda Manderfield, as she did receive title to this land.

A husband or wife could decamp to the United States and acquire a divorce there, but the deserted spouse in Canada was not free to remarry. Such a case was cited in Crankshaw’s Criminal Code of Canada. A woman obtained a divorce in Michigan, and shortly thereafter her first husband in Ontario received the divorce decree. Believing himself divorced, he married another woman, and was found guilty of bigamy as the American divorce obtained by his first wife was ruled invalid. Even if an accused “honestly believed the divorce was valid and that he was free
to marry again, it was recognized that this was no defence in law, the divorce in fact being invalid according to English law.\footnote{140}

This was the same situation that Regina resident Harry Miller Ingram described in his 1916 letter to the minister of justice.\footnote{141} In 1907 he had married Hope Jessie Hall in Toronto. In 1908 the couple moved to Regina and that year she deserted Ingram, securing a divorce in Fargo, North Dakota, in 1910. Although Ingram received a summons from his wife’s attorney to appear at the hearing, he did not attend, although he wrote for and received a letter indicating that the divorce had been granted. He wrote to ask if he “was compelled by the laws of Canada to remain unmarried the rest of my life,” or could an annulment be granted after seven years of separation. He wanted advice as to the “proper procedure for clearing myself of this unnatural and unfair handicap which my own country has placed upon me. I am a loyal Canadian but loyalty demands protection in return for protection.” The Department of Justice declined to advise Ingram, suggesting only that he consult a solicitor.

The churches did not accept American divorces or subsequent remarriages. No divorces were permitted or recognized in the Catholic faith. American divorce and remarriage would be considered by this faith to be “living in adultery,” and Catholics who attempted such a course of action faced another level of public humiliation—excommunication. A Kingston, Ontario, woman was excommunicated from her church in 1889 because she had been “notoriously defying the laws of God and the church by living in adultery with a man not her husband.”\footnote{142} In her defence the woman had produced a bill of divorce procured from a court in the United States, and she also produced a marriage certificate from the ceremony undergone by herself and partner by a Protestant minister in a neighbouring town. However, “this but added religious insult to her immorality for there is no such thing as divorce under the Christian law.” The effect of the woman’s public admonishment was “visible upon the congregation in various forms of emotion and has caused great consternation to marriage under similar circumstances amongst persons of high social standing.”
Wives did not always wish to accompany their homesteading husbands and undertake years of arduous labour, and these men were, of course, not free to remarry. B. Switzer, a farmer at Court, Saskatchewan, who was originally from New York, was in just such a situation. He wrote to the Department of Justice in 1916 to say that he had sent for his wife from time to time, but she refused to accompany him. Four of their children lived in Saskatchewan, in “different boarding houses,” and two remained with her in New York. He claimed his wife was living an “immoral” life, and he wanted to remarry in Canada and settle down with his children on the farm. Switzer was afraid, however, that his wife would lay a charge of bigamy against him. “P.S.,” he concluded in his letter, “On account that I have not any money is the reason I cannot go to the U.S.A. to apply for a divorce in the proper legal manner.” Once again the reply was simply that Switzer should seek a reliable solicitor, but there was likely very little that could be done for him, as he would have been guilty of bigamy under Canadian law should he have remarried.

While the monogamous model of marriage was successfully imposed on the diverse peoples of Western Canada through the Criminal Code, legislation, the churches, print media, community censure, and other means, there were organized, vocal critics of the inequities and the injustices who achieved a measure of success. Early twentieth-century reformers across the prairie provinces advocated the reinstatement of dower to ensure that women were not economically dependent on their husbands. They were not objecting to the institution of monogamous marriage; rather, they wanted men to live up to the vows they made. As one dower rights supporter wrote, “how can a man say or think he is doing right by his wife (the one he has pledged himself to do right by with the most sacred ties) and has also solemnly said ‘with all my worldly goods I thee endow,’ when he sells the home over her head and that of his children, thinking they have no right to one dollar of it, after she has worked with him through years of poverty and helped him get what he now calls his?” Significant reforms were achieved across the west in the years of the First World War and immediately thereafter, although the legislation was not satisfactory or far-reaching enough to satisfy many reformers.
The homesteads-for-women campaign, which materialized around 1907 and all but disappeared by 1914 was completely unsuccessful. The leaders of this campaign had decided on the strategy of asking that the privilege of homesteading be granted to “all women of British birth who have resided in Canada for one year,” and not to “foreign born” women. This may have narrowed the appeal of their cause, but the responses of the legislators and politicians they had to approach for redress indicate that women were not to be permitted to deviate from the ideal of proper femininity embodied in the idealized monogamous model of marriage in Western Canada.

Monogamous marriage was not ancient, universal, and immutable in the west when that region joined Confederation, and it was only becoming entrenched elsewhere in North America and Europe at that time. Until the mid-nineteenth century informal, consent marriages persisted, particularly among the non-elites, and there were also means of community recognition of divorce and remarriage. The work of banishing informal marriage and divorce, and imposing monogamous, heterosexual, exclusive and intra-racial marriage on the diverse peoples of the west called for a wide variety of strategies, and there was no single force behind this initiative. Rather, a combined cluster of laws, religious institutions, print media, and community pressure spurred it on. Powerful social mores stigmatized Aboriginal women and their non-Aboriginal partners. The land policy that unified the arable west exemplified and was intended to replicate the gender roles encoded in the monogamous model, of patriarchal heads of family and dependent wives. This was cast as the “natural” gender system that had to be preserved. A variety of pressures and inducements to marry, including bachelor balls and a “rebate” scheme, were placed on single white men, and some, such as government farm instructors, were compelled to marry. Single women who had ambitions other than marriage were discouraged as immigrants to the west, although large numbers were imported as domestics on the understanding that they would not remain single for long.

It took a great deal of time and effort to deal with the challenge of Mormon polygamy. An amendment to the federal Criminal Code was required, and when that did not satisfy suspicions, the NWMP kept close
watch on their communities. Legislation was required for the Doukhobors and Quakers, permitting them to marry according to their own customs while drawing them into the obligations set by the state for married people. For all Canadians the divorce and bigamy laws and other associated legislation ensured the ascendancy of the monogamous model. Deserted spouses were in an unfortunate limbo, unable to divorce or to remarry. The highest officials in the land, including prime minister John A. Macdonald, opposed any relaxation of the rules of divorce, as it would “bring on the evils we see on the other side of the line,” as quoted earlier. Aboriginal marriages and divorces presented the most substantial body of dissenters from the monogamous model, and their marital terrain appeared the most chaotic. As will be seen, efforts to alter this conjugal landscape and impose the monogamous model were the most concerted and insidious.