“A Striking Contrast...
Where Perpetuity of Union and Exclusiveness is Not a Rule, at Least Not a Strict Rule”

PLAINS ABORIGINAL MARRIAGE
In his decision in the 1884 case *Fraser v. Pouliot*, heard before the Quebec Superior Court, Judge Alexander Cross found “the relations of male and female in savage life” to form “a striking contrast” to his own idealized version of marriage in a “civilized” or Christian country. The contrasts were so marked, that Cross found he could not regard this as marriage at all, but rather as “concubinage.” Aboriginal laws of marriage and divorce did indeed form a striking contrast, but I will argue in this chapter that the term “marriage” can apply, although in legal decisions and in the work of scholars to the present day this is disputed. Aboriginal people of Western Canada had marriage laws that were complex, diverse, flexible, and adaptable. They were not static and immutable but evolved and changed. Plains societies experienced a period of rapid and extreme change during the nineteenth century, and it is widely theorized that their marriage laws changed as well. Marriage was deeply embedded in the complex kinship systems that characterized Aboriginal societies, and which established patterns of co-operation and respect, as well as standards of conduct. Kin terms classified relatives, but more importantly they specified patterns of rights, obligations, proper conduct, and attitudes. In Aboriginal communities there was a consensus about proper behaviour and shared responsibilities of wives and husbands, daughters, sons,
sons-in-law, daughters-in-law, and other relatives. There were fundamental differences between the characteristics of the kinship systems of Euro-North Americans and those of Aboriginal North Americans.

A first step in understanding this, as anthropologist Raymond DeMallie has pointed out, is to think about biological categories and kin categories independently of one another. While the biological relationship between parents and children is universally recognized in Aboriginal America, an individual could have several people that he or she called “father,” “mother,” “son,” or “daughter.” The terms “mother” and “father” included a mother or father’s same-sex siblings and parallel cousins. “Thus in most American Indian societies,” DeMallie writes, “an individual has many mothers and fathers. This does not mean, for example, that mother’s sisters are like mothers; they are mothers. In other words the status of the mother is defined in terms of patterns of relations surrounding, but not limited to, the act of giving birth. The biological mother is no more or less a mother to her children than are all those women she calls sister.” Kin relationships that appeared “fictive” from a European perspective were considered genuine and permanent in Aboriginal societies.

Marriage was central to the kinship systems of Aboriginal societies, as relatives were divided into two basic categories: those related by marriage and those related by birth. The nuclear family of a wife, husband, and children was a fundamental unit, but extended families were also important social and residential units, and there were also polygamous families. Oral traditions along with foundational and teaching texts originated kinship and instituted marriage. The story of the White Buffalo Woman, for example, “presents a charter for the Lakota way of life.” The sacred woman of the story names the kin relationships and explains obligations among kin. Sexual intimacy between husband and wife, rather than promiscuity, is sanctioned in the story. For the Blackfoot and other Plains people there are similar foundational texts that institute marriage and teach kinship obligations and codes of behaviour. In the Piikani story of the origin of the sacred Worm Pipe, a devoted husband mourns for his deceased wife and the mother of their little
son. He goes a great distance and sees fearful sights in order to persuade the spirits to let her return to him. The husband stays four nights in the ghost world before his ghost father-in-law agrees to give him back his wife. The couple is also given the Worm Pipe that the wife carries back to their people. However, the husband is warned to “Take care, now, that you do as I tell you. Do not whip your wife, nor strike her with a knife, nor hit her with fire; for if you do, she will vanish before your eyes and return to the Sand Hills.” Shortly after their return the husband told his wife to do something, and when she did not immediately respond, he “picked up a brand from the fire, not that he intended to strike her with it, but he made as if he would hit her, when at once she vanished, and was never seen again.”

The Blackfoot’s story of the first marriage taught how men needed women’s skills, and that men should not make their choice of spouse on the basis of outward appearance and fine clothing. It begins during the time when men and women lived in separate camps—women on one side of Little Bow River and men on the other. The women lived in good lodges, had fine clothing, and possessed plenty of dried meat and berries. The men had no lodges, proper clothing, or moccasins because they could not tan skins and could not sew. The women invited the men to their camp in order to pick out husbands. The chief of the women had very dirty clothes on, and none of the men knew who she was. She picked Old Man (Napi) because he had fine clothes on. But Old Man thought she looked very common; he pulled back and broke away when she took his hand. The chief of the women went to her lodge and instructed the other women not to choose Old Man. When she returned she was in her best costume. Old Man did not recognize her and thought to himself, “Oh! There is the chief of the women. I wish to be her husband.” Although Old Man kept stepping in front of her, she picked out another for her husband. Old Man was very angry when all the men were picked except him. The story concluded with the chief of the women saying to him, “‘After this you are to be a tree, and stand just where you are now.’ Then he became a tree, and he is mad yet, because he is always caving down the bank.”
Any brief description of marriage law greatly simplifies a complex arrangement that involved far more than just the spouses. Among the Blackfoot marriages were extended family affairs, both sets of relatives had to give their consent as the families were from then on joined together in a web of kinship that had an influence on how all family members interacted in other social, political, economic, and religious roles. Marriages were generally arranged among the Elders—the parents, relatives, or close friends of the couple to be married. As Chief Red Crow of the Kainai informed Indian Agent R.N. Wilson, the usual custom was for the parents of a girl to choose a young man they thought suitable, and then a friend of the girl’s family interviewed the parents of the young man. The girl’s relatives first had to discuss the question of blood relationship—cousins of the first degree were ineligible. Age of marriage, according to hbc explorer David Thompson (who was familiar with the Plains people from the mid-1780s to 1812), was about twenty-two for men and, for women, sixteen to eighteen. A daughter might be pledged or betrothed at a young age although the marriage would not take place until she was older, generally in her later teens. An elderly Blackfoot widow, Elk-Hollering-in-the-Water, told anthropologist John Ewers in the 1940s that she was betrothed to a prominent war chief, Bear Chief, when she was seven, but she did not actually join him as a wife until she was seventeen. As will be discussed in detail later, it appears that marriages were contracted at a younger age for both women and men after the onset of the reserve era.

The marriage was validated and the reciprocal obligations of both parties and their extended families established through the exchange of gifts. Plains men did not “purchase” brides as outsiders commonly assumed. The elderly Blackfoot informants to Ewers took great care to remind him that wives were not purchased; rather, they stressed the importance of the exchange of gifts in the marriage ceremony. As Plains ethnologist Robert Lowie explained, “There was generally rather an appearance of purchase than the reality. The girl’s kin often gave back as much property as they received. The significant thing was an exchange of gifts between the two families. That exchange marked their sanctioning
the new bond and cementing a relationship between two groups rather than two persons.”

The nature of the gift exchange varied considerably depending on the wealth of the families involved. By the mid-nineteenth century the acquisition of horses, and involvement in the buffalo robe trade, had created social stratification in Blackfoot society. The wealthy had the most and the best horses, and they enjoyed greater access to the other good things in life, including the largest lodges and finest clothing. The poor had fewer or inferior horses and were not able to lavish gifts on prospective in-laws. Between persons of importance and wealth, the gift exchange was an elaborate affair, and it was a very simple matter among those of more humble rank. As Red Crow explained, when people were well-to-do, the daughter was sent away with a complete lodge, furniture, horses, saddles, travois, robes, and fine garments—the best their family could produce. Parents of a favourite (minipoka) or only daughter would impoverish themselves to send her off in such a style. The next day there was a return of gifts from the family of the son; in particular they strove to give better horses, and in greater numbers.

When it was first decided a couple would marry, it was customary for the parents of the woman to give a pair of moccasins to each member of her intended husband’s family. The man gave to his prospective wife many presents for her to distribute among her relatives. It became a matter of pride for the family receiving the first gifts to return gifts of greater value than those received. According to one of anthropologist Esther Goldfrank’s Kainai informants in the 1930s, the bride “gets gifts from her parents and other relatives, even friends if they like her and carries them to the boy’s parents. They then distribute gifts to their relatives and receive gifts in exchange from [the] boy’s relatives. These are given to girl’s parents who distribute them. The boy’s father tried to outdo the girl’s parents...gifts show how much you care for your son or daughter—so then you are a good parent.” Horses were the most prized gift of the pre-reserve nineteenth century. Goldfrank was told about the gift exchange of two minipokas, or favourite children, Wakes at Night, the daughter of White Buffalo Robe, and her informant, the son of Yellow Wolf: “She brought blankets and about fifteen pair of moccasins, enough for all the members of my family. She brought a pair for me.
She also brought two broken and six unbroken horses. When this gift was sent to White Buffalo Robe, my father-in-law, Wakes at Night, rode in front on a fine saddle horse. She wore a weasel-tail suit and a head-dress. A wagon was loaded with blankets and goods. They were all taken over to White Buffalo Robe.” In another example of the wedding of a minipoka, the daughter of Big Wolf, thirty head of horses and the Ancient Pipe [a sacred religious pipe] were given to the family of the groom, Parts His Hair, who gave in exchange fifty head of horses and another pipe. Such obligations were ongoing. A son-in-law was expected to share the proceeds from a hunt with his father-in-law and his family. On returning from a successful horse raid or war a husband would give the best horse to his father-in-law, and the second best to his wife’s brother. According to Goldfrank, second marriages (following the breakdown or divorce of first marriages) did not involve an exchange of gifts.

An informant to anthropologists Lucien and Jane Hanks, who worked with the Siksika in the 1930s, gave a detailed description of the marriage between a young man and the daughter of a chief. Her father selected the suitable son-in-law, “some good warrior who gets meat, gets up early,” and then the chief sent an “old man” to take the proposal for union to the chosen man’s father. Sometimes such offers were refused, but if the father of the young man said, “That chief is good and wealthy; you’ll have a good wife;” then another old man would be chosen to take this answer back. “They then set a date. When girl is ready, they fix her up in beautiful clothes, give her a medicine, half of all her [father’s] horses, moccasins and buffalo hides…She goes over. Three days later, the man’s kin gives dresses (no moccasins) and horses back to her kin. Every one of the boy’s kin who gets a horse gives one back. They try to give more horses than they received to beat them.”

When a Blackfoot couple first married they stayed for the first months (until the fall generally, as marriages took place at the summer Sun Dance encampments) near the husband’s family but then lived close to her family. According to informants to the Hanks, this was done “so her family can do things for the bride.” “If a man has lots of [daughters],” an informant stated, “it is better because all the [sons-in-law] come to live with you, but if you have 6 sons they scatter and so you only have
visiting sons etc.”26 In a family of many sons, one or two might “stay with the old man,” but the others went to live with their fathers-in-law; thus it was rare for a group of brothers to live together.27 It could take longer for residence to become matrilocal, as “you don’t know what kind of a man your [father-in-law] is. If he is not so good, boy won’t change to [father-in-law’s] band, will stay. But a person can usually count on being in woman’s band eventually.”28 A husband became a member of his wife’s clan (referred to in the Hanks’ notes as the wife’s “band”), although this was flexible; if residence remained patrilocal, she became a member of his clan. A chief’s daughter might marry a poor man with no relatives, but only if he is a worker, a hunter, and “a great help.” The chief would “bring him over to his band,” and the son-in-law never left that band, even if the marriage broke up, as he had no other family to go to.29

Young men and women were not complete pawns at the hands of family matchmakers. There were “free” marriages, which were the result of personal inclination, and there were elopements, although these were frowned on.30 A daughter or son could request that their Elders initiate the necessary inquiries that were preliminary to a marriage. A young “virtuous” girl whose Elders had not acted on a marriage for her could “just go over to a man she’s in love with and sit there for him to take her.”31 Because of the ease with which divorce was acquired it was difficult to force a couple to marry. According to Red Crow, if a woman refused a match she would be allowed to remain with her parents and another match would be found.32 If the husband-elect did not like the woman he was to marry he sent her home. A degree of sexual freedom before marriage was tolerated, particularly for men, although it was regarded as a disgrace for unmarried women to become pregnant.33 The sexual escapades of young men were tolerated to a much greater extent, as these enhanced their masculinity and reputation, while virginity for girls was held in high esteem. There was a high premium placed on the “virtue” of married women. Women were reminded of the grave severity of infidelity to husbands in their teaching texts, in instructions from their parents, and through ceremonies such as the Sun Dance.
In the legend of the Woman Who Married the Morning Star, the Crane Woman had powers only because she has remained true to her husband. Because of this she was able to help the woman of the legend to bring the prairie turnip, the digging stick, and the songs that accompanied these things to the Blackfoot people. All of these were central to the Sun Dance ceremony. This was the major religious ceremony of the Blackfoot, and a woman was selected each year to lead it. But she had to have lived a virtuous life and be an upstanding example to others in order to qualify. Beverly Hungry Wolf called the Sun Dance the “tribal truth test for the virtuousness of women,” although she was careful to point out that the ceremony was about much more than that. Husbands could ask their wives to make the vow to hold the Sun Dance. If they refused it would be concluded that they were not chaste. If she lied when making the vow it could bring death and suffering. If a woman made the vow to hold the Sun Dance and for some reason things went wrong before, during, or after the ceremony, she would be suspected of being unchaste, and of having made a false vow. Such was the case with Good Hunter, the wife of a prominent Blackfoot named Big Swan, who was struck and killed by lightning in the midst of the ceremony when a violent storm from the Rockies moved over their camp. There were those who believed that this happened because she had falsely declared in her prayer that she was a pure woman. A false vow was thought to bring sickness and death to the people. Among the Blackfoot the adulterous wife risked very harsh treatment as her nose could be cut off. But it was also regarded as a masculine virtue to forgive an unfaithful wife. The husband could seek redress from the woman’s new partner, dispossessing him of his horses and other property.

Unsatisfactory marriages were dissolved fairly easily. Either a husband or wife could terminate a marriage. Red Crow stated that people separated through the fault or wishes of one party or another. Reasons included incompatibility, physical abuse, laziness, or failure to provide. However, divorce was not frequent after the birth of a child. The process was straightforward—the aggrieved party simply left their spouse. Abuse or misconduct by a husband could lead to the wife deserting and
returning to her father or brother’s lodge, or her people might rescue her from a bad situation. According to Red Crow, if a wife was dissatisfied she merely went back to her parents or some relatives and refused to return to her husband. The children could go with either parent after a permanent divorce or separation. According to a woman informant to the Hanks, they usually went with the mother, but if the father wished it they went with him. Laziness or adultery on the part of the wife were reasons for divorce from the husband’s perspective. A divorced woman took her property with her, which included her own horses, the tipi, and the household furnishings. There could be property negotiations and settlements following divorce and remarriage among the Blackfoot—some gifts might be returned to the parents, and a new husband of a woman might compensate her former husband.

Divorced persons were free to marry again. David Thompson wrote, “When contrariety of disposition prevails, so that [a married couple] cannot live peaceably together, they separate with as little ceremony as they came together, and both parties are free to attach themselves to whom they will, without any stain on their characters. But if they have lived so long together so as to have children, one, or both, are severely blamed.” As one non-Aboriginal observer of the nineteenth-century Blackfoot wrote, “Divorce was common and rested only upon mutual agreement. The wife, if dissatisfied, might return at will to her father’s lodge, or the husband might for a similar reason send her back. The parents also or the brother-in-law might reclaim their daughter and the husband had no redress. This was frequently done temporarily as a check to brutal treatment or an incentive to a lazy husband to better provide for his wife...The ease with which a wife might leave her husband greatly abridged his power over her.”

According to David Thompson, the greatest praise that could be given an Aboriginal man was that “he is a man of steady humane disposition and a fortunate hunter,” and he also wrote that “they seldom fail of being good husbands.” Wife beating was censured in the community. A wife-beater could not be a chief. Teaching texts and legends cautioned against such domestic violence. The Women’s Society or Ma’toki of the Kainai and another powerful society, the Horns, were said to have been
founded by a married couple consisting of a human male and a female buffalo in human form. She was a perfect wife but one day her husband struck her because she did not quickly prepare food for guests. When this happened the wife and their little son returned to their buffalo form and joined her herd. After a series of trials the chastened husband was reunited with his wife and child and the couple began these two societies. An informant to the Hanks was certain that the old way was better when the father picked out the son-in-law and made sure that he would not be mean to his daughter, saying that in more recent times husbands are inclined to be cruel to their wives. Formerly husbands and their relatives were not mean to wives, and if they were, according to this informant, the father would take his daughter right back. The husband’s “kin wouldn’t say anything because they knew the [father] was good and had chosen the [son-in-law]...[they] knew their man...had been unworthy, and wouldn’t say anything.” The husband’s friends and relatives might intervene and make several trips to attempt reconciliation and a father might relent and let his daughter return. Some husbands from then on were kind to their wives, fearing that they might leave again for good. According to Piikani Elder Three Calf, if a man was repeatedly mean to his wife, her brothers would go and take her back. “In this way, when the brothers think too much of their sister, she may have many husbands in turn, because her brothers are not satisfied with any of them and keep taking her away.”

Among the Plains Cree, “mean” husbands were reformed through gifts that brought social pressure to bear: “The husband might be mean and the girl would return to her parents. The father of the girl would send her back with clothing and horses to shame her husband into being kind to her. By that means many young men were stopped from being cruel to their wives.” A lazy husband might find himself the object of censure in the hope that he might reform his ways. One such man was chased about the camp by his wife’s grandmother because he was lazy and refused even to do odd jobs. Annie Sioux of the Manitoba Dakota said that women “won’t stand beating.” According to her a wife could leave and go to her sister, brother, or to her parents, and all of these, including her husband’s father, could try to straighten out the husband.
Plains Cree marriage was similar to that of the Blackfoot in many respects but with some variations. There appears to have been more tolerance of women’s sexual freedom before marriage, and less censure of adultery. Premarital pregnancy was accepted and no stigma was attached to the mother or child. Nor does there appear to have been the same high premium on wives’ fidelity to husbands. An adulterous wife could be “given” to her lover by her husband, who actually earned prestige by doing this rather than punishing his wife. Ethnologist David Mandelbaum wrote, “A brave man, upon discovering his wife’s infidelity, gave her to the lover. The lover, in turn, was obligated to reciprocate with a gift of a horse. Thereafter the woman was the other man’s wife and the two men formed a special relationship involving the exchange of gifts.” Cree elder Fine Day related this incident to Mandelbaum: “My mother’s brother once caught a man with his wife. He gave her to the other man. Later, he told us, ‘That was the only way I could get over it. It was a hard thing to do. I didn’t sleep for four nights; but if I hadn’t done it, I might have decided to kill that fellow. I loved my wife. She didn’t love me or she wouldn’t have done such a thing. Afterward I got over it and I never think about it any more.’”

The Plains Cree also practiced what Mandelbaum termed the “wife exchange.” If a young man was attracted to a married woman he could propose an exchange of wives to the woman’s husband. If the husband thought the man worthy he could give his consent, and such exchanges would happen from time to time. The two men became companions, exchanged gifts, and had a particular term for each other that meant “co-husband,” or “fellow husband.” Linguist H.C. Wolfart has a somewhat different interpretation of the term translated as “co-husband,” which he writes was “used reciprocally by men married to the same wife: where the wife of one has chosen to live with the other, and the first has demonstrated his [countenance] by accepting the arrangement.” Such husbands also had a term for each other: “nita-yim.” According to Mandelbaum, “This relationship reflected considerable honour upon the participants, for only the most stout-hearted of men could become intimate companions of their wives’ paramours.”
Among the Aboriginal people of the Canadian plains there were a variety of ideal types of conjugal union, not just one as in Euro-Canadian society. Lifelong monogamous unions were common, but there were other kinds of conjugal arrangements. Women did not have plural husbands, but they might serially have several husbands, and no stigma was attached to divorce and remarriage. Many of the leading men in Plains societies had more than one spouse. The term “polygamy” does not have a parallel in the Cree or Blackfoot languages, suggesting that it was seen not as a separate, distinct departure from “normalcy,” but as one of several possible forms of marriage resulting in desirable family units. Often sisters were married to the same man. A man might also marry his deceased brother’s widow, adopting the children and preserving the relationship with the grandparents and extended family. Only hard-working men of wealth and prestige could maintain these large households, so parents sought these marriages for their daughters. It was expected that wealthy men would have more than one wife and share the bounty. A second or more wives were brought into a family generally after consultation with the first wife, and with her approval. These domestic arrangements provided economic assistance, companionship, and enhanced status for the senior wife. Red Crow said that the first wives seldom objected to the presence of other wives, and it was very often they who proposed that sisters or other relatives become second or third wives.  

Cree Chief Fine Day provided a detailed description of marriage practices in 1934. Fine Day’s father had two wives, his mother being the second wife, and he said that the two got along well. Fine Day stressed that permission was required from the first wife and that the acquisition of a second wife was a joint decision in recognition of the needs of the first wife. If a wife found that she required assistance the husband would ask, “How would you like to have a helper?” If she said yes, they then both would pick out some likely girl. He would ask her again, ‘Would you be kind to her?’ She would say, ‘Yes, that’s why I want her.’ Then he would go and get the other woman. But the first wife was always the boss.” Fine Day stressed the authority of the wives to determine the size and nature of the family unit:
It was not a man’s abilities as a hunter that determined the number of wives he had, but upon the arrangements he made with his wife. Both a man and his wife paid for the second wife. Young girls would not want to be married to a man that was of no account. They wanted to marry a Worthy Man because they know that there would be no quarrelling—he would stop it. If a man wanted to take a third wife, his first would usually agree but his second would often say no. That usually would settle it.\textsuperscript{58}

If the permission of the wives had not been obtained there were consequences. Fine Day noted that if a man married a third wife without the permission of his first two they would never be friendly towards her. According to Red Crow, if a husband brought home a second wife to the disgust of the first she would “keep up a continual row until the newcomer was sent away.”\textsuperscript{59} A second (or third) wife could join a family because of kinship or friendship obligations. David Thompson wrote that “This is seldom a matter of choice; it is frequently from the death of a friend who has left his wife, sister, or daughter to him, for every woman must have a husband.”\textsuperscript{60}

David Thompson wrote:

Polygamy is allowed and practised [among the Piikani], and the Wife more frequently than the husband [is] the cause of it, for when a family comes a single wife can no longer do the duties and labor required unless she, or her husband, have two widowed relations in their tent, and which frequently is not the case; and a second Wife is necessary, for they have to cook, take care of the meat, split and dry it; procure all the wood for fuel, dress the skins into soft leather for robes and clothing...Some of the chiefs have from three to six wives, for until a woman is near fifty years of age she is sure to find a husband.\textsuperscript{61}

\textsuperscript{< Blackfoot women and their husband, 1870s. (GAA NA-1376–6)}
There were diverse circumstances under which second or third wives joined a family. One man of Thompson’s acquaintance wanted to remain monogamous but acquired three more wives. The man told Thompson that a close friend of his, who died of wounds inflicted in warfare, “when dying requested his parents to send his two wives to me, where he was sure they would be kindly treated...what could I do but grant the claim of my friend, and make them my wives.” A dying cousin similarly bequeathed his third new wife to him. In his life history told in 1938, South Piikani Elder Three Calf said that if a man’s wife’s sister’s husband dies, he asks the widow to marry him, and that a man would often marry his older brother’s widow. The widow would “rather marry him than a stranger, because she is already used to that family. If the brother-in-law is a great deal younger, he may not want to marry the widow, but his mother tells him he had better do it for the sake of the children.”

Polygamy ensured that there were very few unmarried women. A Siksika woman informant to the Hanks in the 1930s had this to say about one such woman:

She was crippled; her legs were paralysed and she had great big hands. She would pull herself around with her hands. The [men] would tease her about not having a husband and she would say to go look for one for her. She took the teasing well and she would tease back. She did good bead work and good skin work. But she would say she would not get married because she couldn’t do enough work, as carrying wood, putting up tents.

According to Kainai historian Beverly Hungry Wolf, women did a tremendous amount of work, and it was thought to be desirable for a young woman to marry a prominent man with several wives as this eased the burden of work. A single wife found it difficult to cope with all of the work in the home of a successful hunter, and so she welcomed the division of such work among new wives. A seventy-three-year-old Blackfoot woman, Middle Woman No Coat, who was interviewed in 1939, recalled the division of labour in her father’s household with five wives. “[The first two wives] are older and do all the tanning. Younger wives do the
cooking. In winter, all take turns getting wood; someone always present to take care of the fire.”

There were two wives, one her mother, in the family of Dakota Annie Sioux. The wives were half sisters. “All lived in one house and as far as a child noticed, got along well. She says her feelings were same for half as for whole siblings. It was a good arrangement. When one wife went to Brandon, the other stayed home with the children.” When her father died, Annie Sioux’s mother remarried and the two wives continued to live together. One woman did housework while the other got meals, and they took turns doing these things.

Other advantages for the co-wives were that women in polygamous marriages tended to have less children, and that the mothers of the sister co-wives were often part of the household. In their older age widowed wives continued to live together, assisting each other. A Manitoba Dakota man interviewed in the 1950s said that his father had two wives, and “both lived together as old women. They did quillwork and ribbon work on black broadcloth shirts, and made woven sashes. For a middle part of her married life one of these wives went away and lived alone with her son.”

Maxidiwiac (born circa 1839), also known as Buffalo Bird Woman of the Hidatsa, an agricultural Plains nation of present-day North Dakota, explained that sisters married to the same husband might not be sisters in the way Europeans used this term. Rather, they were relatives, sometimes adopted, who were regarded each other as sisters. Maxidiwiac grew up in a household where her mother, her mother’s sisters, and a cousin regarded as a sister were all married to her father. When she was six her own mother and one of the other wives died of smallpox, and she regarded and addressed the two surviving wives as her mothers. The mothers of the surviving wives, who had been raised together although not related by blood, also lived in the household, and she addressed both of these as grandmother.

The children of these plural marriages regarded themselves in every way as brothers and sisters regardless of the fact that they had different mothers. The prominent Plains Cree leader Poundmaker was the son of the Cree wife of an Assiniboine (Nakoda) man who also had three Assiniboine wives. When Poundmaker’s father died the wives each moved back to their own people but the eleven children of all four women
considered themselves brothers and sisters and they kept in touch with one another. One of the wives returned to her home band near Poplar Point, Montana, for example, and her sons continued to visit their brothers and sisters in Saskatchewan into the twentieth century.\textsuperscript{71}

Women who could not have children of their own were able to enjoy motherhood in polygamous marriages. A Siksika informant to the Hanks was the first wife of a man who later married her three younger sisters.\textsuperscript{72} She did not have children of her own but regarded all of her husband and sisters’ children as her children. The mothers fed the children, but she “did all the work of sewing, washing for the babies.” This informant was the “sits-beside-him” wife of her husband, and “she was the one who brought her sisters in, 1 by 1.” Eventually her brother and mother joined them as well. Among the Blackfoot the first and generally the oldest wife was known as the “sits-beside-him” wife, and this was a position of honour. She was the woman head of household and she had an important role in ceremonies such as those involving sacred bundles. She accompanied her husband to feasts and ceremonies, and she directed the other wives in their work. The other wives did not have as high a standing in the community as the “sits-beside-him” wife, but they also had fewer community or public responsibilities.

These plural marriages were not always successful. A Manitoba Dakota man had two wives (into the twentieth century) who were not related, and the second left him with two children “out of jealousy” although her husband still visited her, and she did not marry again until those children were grown.\textsuperscript{73} Non-Aboriginal observers usually assumed jealousy among wives. On 15 May 1889, Battleford’s \textit{Saskatchewan Herald} reported the following incident: “One day about a week ago a squaw who occupies the position of wife No. 2 to a hard case of an Indian known as The Carrot was paying a visit to a friend on Little Pine’s reserve. She left her horse and cart standing at the door of her friend, and while she went in and having a social time wife No. 1 thrust a knife into her rival’s horse, causing him to die in his tracks. No. 2 will probably prosecute No. 1 for maliciously killing her horse.”

Discord seems to have been the exception however, in an environment in which co-operation and sharing was vital, and in a society where
women did almost all of their work communally. Esther Goldfrank was told of a family in which the three wives were always quarrelling.\(^7^4\) The family was once out on the prairie and were short of water. One wife had water but refused to share with the others, and they stopped speaking at all to each other. One of the wives died, presumably as a result of the unwillingness to share water. This story was related almost as a cautionary tale, and in such a way as to suggest that it represented a departure from the behaviour that had to normally prevail in a family of several wives. According to Beverly Hungry Wolf there were occasions when a younger wife with a much older husband in a large household suffered from loneliness and a desire to be loved. Some older husbands sanctioned outside relationships as long as they were discreet and brought no public disgrace.\(^7^5\)

Anthropologist John H. Moore offered this conclusion in his study of the Cheyenne:

> From an American Indian standpoint, the institution of polygyny was seen to benefit both husbands and wives. For men, a larger household meant that they would have more children and more relatives, with concomitant increase in wealth and status in the community. For women, polygyny usually meant that they could maintain co-residence with their sisters as co-wives, could get daily help with child care and other household chores, and have an increased probability of keeping their mother in the household.\(^7^6\)

But how common was polygamy in Aboriginal Western Canada? Most of the documentary sources generated by Europeans are dubious and slanted on this issue. As discussed below, polygamy was condemned and its extent exaggerated by many outside observers, particularly in the nineteenth century. An 1838 HBC “Indian census” indicates that it was not particularly prevalent at that time, and that it was perhaps slightly more widespread among the people of the plains than the people of the more northerly regions.\(^7^7\) At Fort Resolution in the Athabasca district, for example, eight of eighty-two men had two wives. One man (François Beaulieu, described as a “half breed”) had five wives. At Fort Chipewyan,
fifteen of 129 had two wives, two had three wives, and one had four wives. At Île à la Crosse, twenty-four of 109 had two wives, two had three wives, and one had four wives. The more southerly locations, which would have included the Plains Cree and Ojibway (Saulteaux), were Fort Pelly, where fourteen of eighty-three had two wives, and two had three wives; Fort Ellice, where sixty of 308 had two wives, twenty had three wives, and one had five wives; at Lower Fort Garry none of fifty-eight had more than one wife. The census does not include any statistics on the Blackfoot, who had limited contact with the HBC at that time. David Thompson wrote with regard to the Cree, “each man may have as many wives as he can maintain, but few indulge themselves in this liberty, yet some have even three.”

Alexander Hunter Murray, founder of the HBC’s Fort Yukon, wrote in his journal of the Yukon in 1848 that the men of that district “treat their wives generally with kindness, but are very jealous of them. The principal men of the nation have two and three wives each, one old leader here has five, while others who have few beads (and beads are their riches) to decorate the women, remain bachelors, but a good fighter though a poor man can always have a wife.” As discussed below, one of the main explanations for the prevalence of polygamy among Plains people is that there were more women than men. An 1805–1806 census taken by Alexander Henry the Younger of the North West Company (NWC), which covered all of the “Departments” in which his company operated, listed a total of 16,995 Indian women, compared to 7,502 men, and the greatest imbalances were on the plains, particularly in the upper Saskatchewan region where there were 13,632 women to 4,823 men. Also to be discussed below, there is widespread agreement among social scientists that polygamy increased among the Plains people in the nineteenth century with very negative consequences for the multiple wives.

Aboriginal people of the plains also permitted marriages of people of the same sex. One of the spouses might be a “two-spirit” who took on the activities, occupations, and dress of the opposite sex, in whole or in part, temporarily or permanently. There was no insistence on con-formity to binaries of masculinity and femininity. Indian agents were
frustrated by their inability to tell men and women apart, and they made mistakes, or were misled, when describing certain individuals. Oftentimes they did note the flexibility of gender roles when they described individuals to which annuities were paid, as is evident in terms such as “wife shown as boy last year,” “boy paid as girl last year,” and “boy now a man formerly ran as a girl.” Clothing, hair, footwear, and personal décor did not differentiate men from women in the way that Euro-Canadians were accustomed to. Qu’Appelle storekeeper Edward J. Brooks wrote in an 1882 letter to his wife-to-be that “I saw a couple of pure blooded Indians down at the station a couple of days ago and could not tell whether both were Squaws or not but finally made up my mind that they were man and wife. They were both dressed as nearly alike as possible, had long braided hair, wore lots of jewellery and had their faced painted with Vermillion paint.” An English visitor to Western Canada named Edward Roper wrote in his 1891 book that “most of us found it almost impossible to tell the young men and women apart; they were exactly alike in face [the men had no ‘beards or whiskers’], and being generally enveloped in blankets the difficulty increased.” All wore similar beautifully decorated moccasins, bangles, and earrings, Roper wrote.

In Plains societies there were women who did not marry and pursued activities mostly associated with men. They hunted buffalo and went to war. An informant to Goldfrank described a woman warrior who was treated as a true leader. She was renowned for acts of bravery such as going into an enemy’s tipi and taking headdresses from behind the bed. “She used to leave her legging at the enemy camp and they would say ‘that woman has been here again.’ She always slept alone, while the men remained in camp. She would sleep on top of the hill and she sang a song. The next day she would know where to lead the party.” This may have been the warrior another informant identified as “Trim Woman,” saying that “that kind of woman is always respected and everyone depends on them. They are admired for their bravery. They are ‘lucky’ on raids and so the men respect them.” Another Kainai woman, Empty Coulee, had a story similar to Trim Woman’s, but she had more courage, killing enemies and capturing guns, while Trim Woman only captured
horses. After she became expert in raiding she changed her name to Running Eagle, a man’s name. She wore women’s clothing, but she “got respect as a ‘real man.’” She never married.⁸⁷

Some of the women who took on “manly” roles were married. In the book *Five Indian Tribes of the Upper Missouri*, Edwin Thompson Denig, a fur trader during the years 1833 and 1856, described a Gros Ventre woman who was a respected warrior, negotiator and hunter, and who was regarded as the third-ranked chief of her band. She had a wife. Denig wrote, “Strange country this, where males assume the dress and perform the duties of females, while women turn men and mate with their own sex.”⁸⁸ There were also married women who participated in “manly” activities with their husbands. A Kainai woman named Elk-Yells-in-the-Water went on several war raids with her husband. She gave her adopted mother a horse she captured when she accompanied her husband on a war raid.⁸⁹

The “manly-hearted women” of the Blackfoot excelled at feminine occupations, had the finest (women’s) clothing, and were always married, often several times, and had children. But they also displayed characteristics classified as “masculine”; they were aggressive, independent, bold, and sexually forward.⁹⁰ As Esther Goldfrank wrote, “the essential pattern of their lives always remains safely within the framework set for woman as a sex,” but a manly-hearted woman would “make advances in affairs of the heart; she may refuse to marry the man of her father’s choice; she will marry in her own time, and she will not hesitate to beat off an irate husband. She is usually an excellent worker. This as well as her passionate response to love make her a desirable mate despite her wilfulness and domineering ways.”⁹¹

There were also biological males who lived as women, many of whom married men. One Kainai named Pigeon Woman, who was biologically male, “from babyhood until death...lived a female life—like a widow—no husband—used female expressions,” according to Goldfrank’s notes.⁹² Informants to the Hanks described two men who acted like women, had husbands, and did women’s work. One of these “really acts like a woman. Dresses like a woman, has bracelets up to his elbows, rings on fingers and had a husband...He made clothes and tanned hides like other women.”⁹³
Another dressed and acted as a woman “from the start,” and he played with girls. His father and mother “were not shy about the way he was acting; all family knew he was a boy.” He “looked like a good looking woman” and was married several times. One man who dressed and acted as a woman was a renowned warrior who “sewed moccasins better than any woman, made buckskin suits and beaded blankets better than any woman.” He went on highly successful expeditions against the enemy Cree and Crow dressed as a woman. He had a devoted husband and was described as the only wife of the man. In his narrative of his many years spent among the Plains Saulteaux of southern Manitoba, John Tanner wrote about the son of a celebrated chief who was “one of those who make themselves women, and are called women by the Indians.” She (Tanner’s pronoun) had several husbands in the past and wanted to marry Tanner. When he refused, another man with two wives married her. When asked how they got married “if everyone knew they were not women,” a Hanks informant said, “No one said anything. Husbands knew and got them for wives. They knew but didn’t care if he was not a woman. Why have a woman like this? These husbands knew they were good at tipi and bead work. That is how they made up their mind. In every way they treated these men just like other women.”

“Two Spirits” were believed to have special gifts among Plains societies. Manitoba Dakota Elder Eva McKay explained, “They were special in the way that they seemed to have more skills than a single man or a single woman...He is two persons, this is when people would say they have more power than a single person. They were treated with respect.”

Marriage among Plains people then did not always conform to the monogamous model; it was not always one man and one woman, and it was not always for life. Some scholars puzzling over all of this have wondered about applying the term “marriage” at all to the variety of conjugal unions, suggesting that “marriage” is not a universally applicable concept, that it denotes a particularly Western concept, and only some relationships in any Aboriginal society might approximate this. Are concepts such as “marriage,” “wife,” “husband,” and “divorce” categories of colonial control not commensurable with the practices of Aboriginal people? Have these concepts been imposed by colonial admin-
administrators, the courts, anthropologists, and historians to create order and clarity and to eliminate flexibility and diversity?

Certainly many Euro-Canadian observers did not see these as “true” marriages because they did not all conform to their most widely accepted definition of marriage as the voluntary union of one man and one woman for life to the exclusion of all others. They simplified and dismissed marriage among Plains peoples as a form of purchase, as an exchange of property in which fathers, husbands, and brothers struck bargains according to the market value of a woman. In 1877, James F. Macleod of the NWMP reported from Fort Macleod: “The marriage ceremony is very simple. Anyone can buy a wife for a number of horses or robes. The bargain being completed with the parents, the transfer is made with the girl’s consent, and she goes and lives with the purchaser, no further ceremony being necessary.”

There was an insistence that Aboriginal marriage enslaved women. There was no love, courtship, or ceremony; a commodity simply changed hands. As a Toronto Mail reporter wrote in 1886, women of the Piikani nation were very poorly treated since they were “sold like so many cattle to suitors, and whether willing or not, became the wives of those able to pay the price asked of them.” And if women had the ability to switch husbands with relative ease, were they truly “wives”? Many nineteenth-century observers concluded that they were not, and instead asserted that they were prostitutes. Unsympathetic observers saw the availability of divorce, and the rate of marital dissolution, not as a means through which the supposedly enslaved women could gain freedom, but rather as a sign of moral deficiency and dangerous autonomy. Non-Aboriginal observers did not see what they regarded as “true” marriage because marriage was not binding for life on either the husband or the wife. Marriages could be of short duration with frequent changing of spouses. Both were free to separate at any time, and thus marriage did not appear to be a binding contract in the European sense.

But as we know well in our own times, and as established in the earlier chapters of this book, there are diverse definitions of marriage, and these change over time. Marriage in Plains societies was not the same as marriage in Christian practice and English common law, but I
think the term, no matter how imperfect, can be used if it is understood that there were diverse definitions of marriage. Like the term “family,” there is no fixed or homogenous definition. According to historian and Cree-language scholar Keith Goulet, “there are words for grandparents, parents, in-laws, uncles, aunts, brothers, sisters, cousins, nephews, nieces, grandchildren and great-grandchildren but no family!” In an 1865 Cree dictionary, revised in 1938, it is noted beside the English word “family” that “there is no clear Cree word for this.” As presented in any undergraduate class today on the sociology of the family, marriage and family are “social constructs whose meanings have changed over time and from place to place.”

In an essay published in 1900 entitled “Indian Women of the Western Provinces,” Henriette Forget expressed many of the misunderstandings of marriage that were shared by non-Aboriginal people of this era, stressing the purchase of multiple wives who spent lives of ceaseless toil. “Their lot was indeed hard,” wrote Madame Forget. “Polygamy was the general practice. The richer an Indian was (his wealth being horses), the more wives he sought, or rather bought, for the maidens were sold by their paternal relatives to become the wives of those who proffered the greatest number of horses in exchange.” Indian men, according to Madame Forget, “often preferred quantity to quality: “Wives were chosen as we chose old plate, Not for their beauty, but their weight.” This author had a particularly close acquaintance with the issue of Aboriginal marriage (although not unique insight by virtue of this acquaintance), as she was married to Indian Commissioner Amedée Forget who led the 1890s campaign to eliminate polygamy in Western Canadian First Nations communities.

In one succinct paragraph botanist John Macoun bundled together many of the prevailing misrepresentations of Aboriginal marriage in his 1882 book, *Manitoba and the Great North-West*, in which he praised the agricultural potential of the southern plains. Aboriginal marriage meant patriarchal tyranny for the unfortunate wives, in Macoun’s view. He wrote, “Marriage amongst the Indians has never been looked upon by them in the same light as it has been by us. All Indian women are slaves, and they know it and act accordingly. The will of the man is supreme.
and no woman ever thinks of opposing him in the slightest. Men, as a rule, take as many wives as they can feed, and too often, when they are tired of them, ‘throw them off.’ This is the universal custom, and is practised from Lake Superior to the Pacific.”

These views were widely shared, disseminated, and often wildly embellished. In 1916, Oblate missionary Father Joseph Hugonnard gave a talk to the Regina Canadian Club on “Indians of the West,” and spoke about the lowly position of women, concluding that “Among pagan Indians, woman is considered as an inferior being; the name of ‘isquao’ which has been corrupted into ‘squaw’ means the lowest or last being. A woman had no choice in marriage; she simply belonged to the man who bought her and kept her during his pleasure. I know an Indian who is still alive who bought two sisters; he killed one and kept the other, who had to stay with him.”

Those with the deepest investments in the creation of the new capitalist and agricultural order in the Canadian West were the most critical of the position of women and of marriage in Aboriginal societies. Earlier non-Aboriginal observers, and a few others into the twentieth century, were not as condemning, and they often admired the power that Aboriginal women exercised. David Thompson described the wife of York Factory fur trader William Budge who was cooking one evening when a polar bear was attracted by the smell of the food. Budge climbed the tent poles leaving his wife and trader John Mellam to deal with the bear. The woman struck the bear with her axe with “an incessant storm of blows,” and the bear took off and was eventually shot. According to Thompson: “Budge now wanted to descend from the smoky top of the Tent, but the woman with her axe in her hand (2 1/2 lbs) heaped wood on the fire and threatened to brain him if he came down. He begged hard for his life, she was determined, fortunately Mellam snatched the axe from her, but she never forgave him, for the Indian woman pardons Man for everything but want of course, this is her sole support and protection, there are no laws to defend her.”

Traveller Anna Brownell Jameson similarly described the power of the Anishinabe wife in her 1837 book, Winter Studies and Summer Rambles in Canada. Jameson wrote: “I should doubt, from all I see and hear that
Indian squaw is that absolute slave, and nonentity in the community, which she has been described. She is despotic in her lodge, and everything it contains is hers; even of the game her husband kills, she has the uncontrolled disposal. If her husband does not please her, she scolds and even cuffs him; and it is in the highest degree unmanly to answer or to strike her. I have seen a woman scolding and quarrelling with her husband, seize him by the hair, in a style that might have become civilized Billingsgate, or Christian St. Giles’s, and the next day I have beheld the same couple sit lovingly on the sunny side of the wigwam.\textsuperscript{108}

In her 1909 book, \textit{The People of the Plains}, author Amelia McLean Paget, who was of Métis ancestry, challenged dominant representations of the “squaw drudge.” She presented polygamy in a sympathetic light, noting that the wives “called each other ‘sister’ and might, indeed, have been sisters in so far as their fondness for one another was concerned. They divided their labours equally, and tried in every way to cultivate mutual forbearance.”\textsuperscript{109}

Missionary, government, political, and legal authorities however, were particularly shrill in their condemnation of polygamy in Aboriginal societies. It was seen as deviant and morally depraved. Polygamy became a towering example of the shortcomings of Aboriginal societies that were understood to subordinate women, in contrast to the ideal of monogamous marriage, which was cherished as an institution that elevated women. Polygamy was viewed as a system that exploited and degraded women, depriving them of respect and influence. It was thought that jealousy and friction among the wives was inevitable. The husbands in polygamous marriages were seen as idle, debauched, and tyrannical. The sexual desires of the husband were seen as a main motivation for polygamy. As John Moore has noted, this notion probably tells us more about the sexual fantasies of European male observers than about the culture and values of Aboriginal people.\textsuperscript{110} The extent of polygamy was, I would argue, widely exaggerated to evoke indignant condemnation. It was not the “general practice” as described by Henriette Forget or the “universal custom” described by John Macoun. The HBC census clearly suggests otherwise. James F. Macleod did not have full knowledge of the facts, or exaggerated them, when he reported in 1877 from Fort Macleod.
that “Polygamy is universally practiced among them; every man has at least three wives and...[he]...knew one old fellow who rejoiced in the possession of eleven dusky helpmates.”

Missionaries were among the most outspoken critics of Aboriginal marriages. They were deeply concerned about the propriety of a host of customs involving sexuality, marriage, and divorce. But polygamy topped the list of forces that allegedly degraded women. As Methodist missionary John Semmens wrote in his 1884 memoirs, multiple wives were “general slaves, subject to the behests of the most thoughtless and relentless of taskmasters.” Many of the stories included in Methodist missionary John Maclean’s collection entitled The Warden of the Plains dealt with the cruelties and indignities Aboriginal women suffered through their “sale or marriage” and by becoming plural wives. In one story a chief arranged for his young and beautiful fourteen-year-old daughter Asokoa to become the fourth wife of an old man named Running Deer. She was not informed or consulted but was suddenly told “she was now his wife and must dwell with him for the future.” The other wives were jealous of her and saw her as an intruder, but Asokoa did not stoop to their level, and did not engage in “family brawls.” She kept herself clean and neat unlike other “women in the camps [who] after marriage generally become careless and untidy, and in some instances filthy.” Asokoa ran away with a lover, and fortunately escaped the cruel “cut nose” penalty for women adulterers, but her lover died in battle. She married once again but soon learned what it was like to suddenly find, with no warning, a new wife in her home. “Greater sorrow had never fallen upon Asokoa. Her love and pride were hurt by the knowledge that she had been superseded by another...the days which followed the arrival of the new wife were a dull round of drudgery and sorrow.” The story concludes with her death soon afterwards.

It is important to note that there were dissenting views among the missionaries. Maclean and Semmens’ Methodist missionary contemporary John McDougall, who was much more deeply acquainted with Aboriginal Western Canada, did not condemn polygamy and Aboriginal marriage in the same way as his colleagues, although he could not have
condoned the perpetuation of the practice. Describing domestic life in a 1914 article entitled “The Red Men of Canada’s West Yesterday and Today,” McDougall wrote:

These people were both monogamous and polygamous. This was altogether optional with both men and women. There were no marriage customs or rights. Quietly and without any fuss men and women went together and became man and wife. Sometimes this was arranged by their friends and again it was the parties [sic] mutual choice and arrangement. Monogamy was more common among the mountain and wood Indians and on the other hand polygamy was frequent among the plains people. War decimated the male population of the plains tribes more than that of the mountain and wood people. The remarkable quiet and concord of a family of from two to ten women and one man living together in a big buffalo skin lodge was the regular condition and anywhere to be met with among these people 30, 40 or 50 years ago and doubtless for many ages previously.117

But condemnations of polygamy and Aboriginal marriage laws were much more common throughout the imperial world in the late nineteenth century than the sympathetic views expressed by such as McDougall. In a book entitled Women of the Orient, author Rev. R.C. Houghton described his thoughts on polygamy:

Deceit, bickerings, strife, jealousies, intrigues, murder and licentiousness have followed in its train; true love has, in its presence, given place to sensual passion, and woman has become the slave, rather than the companion of man. The word home, as symbolical of confidence, sympathy, rest, happiness and true affection, is not found in the vocabulary of polygamous lands. Polygamy is subversive of God’s order; and, beginning by poisoning the very sources of domestic and social prosperity, its blighting influences are felt and seen in every department of national life.118
In a chapter entitled “Women and Missions: Female Degradation in Heathen Lands,” in the book *Woman, Her Character, Culture and Calling*, readers learned that “Girl-life among more than half the population of the globe seems the cheapest thing in the dust-bin of human possessions.” Polygamy was one of the “devices of the devil which intensify the misery of heathen women...How very much like the Mormon ideas, which are copied from heathendom, and devised originally by the devil!” By favourable contrast to the supposed domestic despotism under polygamy, the monogamous model of lifelong marriage was held up as an institution that elevated rather than enslaved women, placing them on a pedestal while allowing them a high degree of liberty. As Inderpal Grewal has written about India, the discourse of the “caged” woman became the “necessary ‘Other’ for the construction of the English woman presumably free and happy in the home.” All of this served as significant indicators that the colonizers were introducing a superior civilization at the core of which was the “proper” gender identities embedded in the cherished marriage model.

Anthropologists and ethnologists of the twentieth century have suggested several reasons for polygamy among Plains people, and most have tended to continue in the tradition of condemnation, particularly with regard to the status and treatment of women in these marriages. These social scientists appear to harbour the assumption that monogamy and the nuclear family is the universal norm, or the “traditional” unit of domestic production, and polygamy is perceived as a departure from this norm. Anthropologist John Ewers explained polygamy as a custom that offered protection and a home to “surplus” single women. He estimated that among the early nineteenth-century Blackfoot, adult women exceeded the number of men by a ratio of about five to three. Ewers wrote that polygamy was “a practical means of caring for the excess of women created by heavy war losses.” Other scholars have taken a dimmer view of polygamy, describing it as a practice that diminished rather than protected women. Alan Klein and David Nugent have concluded that multiple wives became a necessity to Blackfoot males in the nineteenth century when they became heavily involved in the market economy based on the buffalo robe and hide trade, and as an emphasis
on the accumulation of individual wealth became more entrenched. These scholars perceived growth in the frequency of polygamy from the early nineteenth century when women were increasingly required as processors of buffalo products. A male hunter could amass great wealth and acquire the guns and other European products necessary to sustain wealth by providing unprocessed hides to more than one woman worker. Polygamy therefore increased, and women declined into a subordinate position in a previously more egalitarian society. David Nugent found that with a rise in polygamy, “the formerly homogenous social category of ‘married woman’ became clearly differentiated into ‘first or favourite wife,’ and ‘subsidiary wife.’” The subsidiary wife had a much lower position within the household, according to Nugent. Anthropologist Oscar Lewis similarly condemned polygamy in his scholarship on the northern Piikani, writing that there was a sharp contrast in status between upper and lower wives, with the lower wives being treated little better than slaves. He maintained, “If a poor, lower wife became troublesome and bossy, she would be beaten unmercifully until cowed or sent away.”

An emphasis on the wretchedness and misery of Plains women in plural marriages has been taken to new heights in Pekka Hämäläinen’s article, “The Rise and Fall of Plains Indian Horse Cultures,” in which he stresses the “bleak undercurrent” of harmful effects that horses had on the socio-economic systems of Plains people and the environment. Horses led to the concentration of wealth and power in the hands of a few:

[This] had a particularly strong impact on the lives of women who married into large polygynous households; Blackfeet used the term “slave wife” to refer to any additional wife beyond a man’s first three. Such women worked hard feeding and watering horses, scraping and tanning hides, and cutting and drying meat, and yet, unlike women in general, often had subordinate positions in the households. They had few personal possessions, wore inferior clothes, and were frequently abused by their husbands, who relied on violence to control their growing labor pool. Many of them
also married very young, bore children while still in puberty, and consequently ran a high risk of losing their lives while giving birth. Exploited, controlled, and hoarded by the male elite, the extra wives were considered less companions than instruments of production.\textsuperscript{126}

While Hämäläinen noted in a footnote that contemporary non-Aboriginal accounts of the workload and status of Aboriginal women of the plains must be used with extreme caution, as they were often “distorted by the male observers’ cultural premise that women should be sequestered and protected,” he nevertheless asserts that “it seems clear that the ‘extra wives’ in large polygynous households suffered widespread abuse.”\textsuperscript{127}

Despite all of the critics, the validity and legality of Aboriginal marriage law (when marriage was found to be monogamous) was upheld in the courts until the late nineteenth century when this began to erode. But curiously, as we will see in subsequent chapters, Canada’s Department of Indian Affairs became a staunch supporter of the validity of Aboriginal marriage law, or Aboriginal marriage ceremonies (if these marriages conformed to the monogamous and lifelong model), well into the twentieth century despite the change in legal climate. Of particular importance to their position was the case of Connolly v. Woolrich and Johnson et al. of 1867. At the age of seventeen in 1803, William Connolly, an employee of the NWC, married Suzanne “Pas-de-Nom,” a Cree woman, “in the manner of the country” at Rivière-aux-Rats in Athabasca Country. They were married for twenty-eight years, “without violation or infidelity on either side,” had six children together, and lived in dozens of locations together across the west and north.\textsuperscript{128} William Connolly retired from the fur trade in 1831 and took his family to settle in his birthplace of Lachine, Quebec. There Suzanne was introduced by William as “Mrs. Connolly,” and was generally known as such, but then Connolly suddenly married his cousin Julia Woolrich. They had two children together and lived in Montreal, while Connolly continued to support Suzanne, who by then lived in a convent in Winnipeg. When Connolly died, he left his entire estate to Julia and their two children. Julia died in 1864 and the
lawsuit involved Connolly’s children by Suzanne and his children by Julia. The estate was large—one of the largest ever probated in Quebec up to that time.\textsuperscript{129}

The lawsuit, according to legal historian Sidney L. Harring, was “carefully framed and brilliantly argued by what was probably the best legal talent then available in Montreal.” The decision was authored by Justice Samuel C. Monk, originally of Halifax, whose father had been Indian commissioner of Nova Scotia for some twenty years. The lawyer for Suzanne’s children argued that their parents were legally married under Cree law, as well as under existing English and French law, and that the second marriage was null and void. Lawyer Alexander Cross argued the opposing side, representing Julia’s children. He cast Suzanne as a concubine, and her children as illegitimate, and argued that these fur-trade unions were not binding or valid without consecration. The Cree were presented as “barbarians” with “infidel laws,” and it was further argued that a Cree marriage could never be valid in Canada because it was potentially polygamous and therefore barbaric. A version of this same argument was used with respect to Mormon marriage in the Hyde case, and accepted by Lord Penzance in his 1866 decision, which decided that Hyde’s Mormon marriage, although monogamous (and Hyde was himself opposed to polygamy), was invalid as “Mormon monogamous marriages always had the potential of becoming polygamous ones.”\textsuperscript{130}

In the Connolly case many witnesses were called and contradictory evidence given as to the binding nature of marriages according to the custom of the country, and precisely what ceremony, if any, was involved. Englishman and HBC trader John Edward Harriott described his marriage to the daughter of Chief Trader John Pruden as an agreement between father-in-law and son-in-law, which he regarded as valid and binding: “We lived as married people when married this way...I was married after the custom of the country myself...when I took a wife as above mentioned, I made a solemn promise to her father to live with her and treat her as my wife as long as we both lived.”\textsuperscript{131} By contrast former NWC employee Joseph Laroque gave evidence that marriage according to the custom of the country was not regarded as legally binding. He claimed that “according to reputation,” Susanne was not married to Connolly;
“that is, he was married according to the custom of the country there—that is taking a woman and sending her off when he pleased. When I say the custom of the country, I mean that the people did that as a common practice in those days. There was not a legal binding marriage.”

In his decision, described recently as “the boldest and most creative common law decision on Indian rights in nineteenth-century Canada,” in which he “gave as much recognition to Cree law as he possibly could have,” Justice Monk quoted ethnographers on the topic of Indian marriages, and he also quoted at length from US Chief Justice John Marshall’s opinion in *Worcester v. Georgia*, describing the Indians as “a distinct people, divided into separate nations, independent of each other and of the rest of the world, having institutions of their own, and governing themselves by their own laws.” Justice Monk “recognized not only the marriage but the Cree law that governed it.” He argued that there was nothing to be found in either the 1670 HBC Charter or the Royal Proclamation of 1763, “abolishing or changing the customs of the Indians...nothing which introduced the English common law into these territories. When Connolly went to Athabaska, in 1803, he found the Indian usages as they had existed for ages, unchanged by European power of Christian legislation. He did not take English law with him.”

Monk found that English law was not in force at Rivière-aux-Rats in 1803. In his verbal remarks reported in the Montreal press, Monk stated, “it was only in modern civilization that it was necessary to register the marriage. In this Indian territory there were no registers and no priests. It was quite preposterous to call this a pagan marriage...it would be different if it were only intended to be a fugitive connection for the purpose of concubinage.” In his written judgement Monk wrote, “[marriage] between a Cree Squaw, without any religious or civil ceremony, but according to the custom of the Cree Indians, and followed by constant co-habitation and repute and bringing up of a numerous family, during a series of years is valid...if the right of divorce or repudiation be not exercised whilst the parties reside in the territory in question.” Nor could Connolly “invoke the Cree law of divorce at will” in Quebec. Justice Monk wrote that Connolly could not “carry with him this common law of England to Rat River in his knapsack, and much less could
he bring back to Lower Canada the law of repudiation in a bark canoe.” Justice Monk mocked the notion that English common law “followed the flag,” and he recognized the legitimacy of Cree law in Cree territory, just as English common law functioned in British territories.

Monk dismissed the argument that the marriage was invalid because it was potentially polygamous. It was proven to his satisfaction that polygamy was not a necessary accompaniment of marriage. Although it was found that some of the chiefs took three or four wives, the evidence provided no evidence of any “European taking two Indian wives; but, on the contrary, it was established that Europeans when they took an Indian to wife, restricted themselves to one wife.” Monk concluded that the case had nothing to do with polygamy.

According to Harring, Monk also “made fun of the legal opportunism of Connolly’s Quebec heirs: on the one hand, they wanted to apply the English common law of marriage to Rat River, but they also wanted to apply the Cree law of divorce in Quebec to end Connolly’s twenty-eight-year-old marriage without formal legal action.” The case therefore also dealt in part with Cree law of divorce, which was recognized as a law of divorce with the clear suggestion that it was valid in Cree country.

Justice Monk declared that Suzanne’s children had the right to inherit, and he went further, holding that the second Roman Catholic marriage was bigamous and void, making Julia’s children—members of elite Montreal society—illegitimate. A dissenting judge provided a sense of the indignation this decision was greeted with in Montreal circles, as Julia had “contracted with him [Connolly] a marriage ratified by religious and civil authority and under the protection of public law. How could she be removed from her place, deprived of her station and see her children disgraced as bastards and replaced by those who had always been considered illegitimate, and see her own place occupied by the Indian woman, it is this that appears unjustifiable to me.”

Yet Justice Monk did not recognize the validity of the diverse forms of Cree law and it was not an unqualified vindication of marriage according to Cree law. As historian Jennifer S.H. Brown has written, Monk’s decision was “a recognition of Indian custom as ius gentium (law of the people), that is as customary law valid in a region where more
formal legal structures were absent.” He found the Connollys to have had a valid marriage because it conformed to the monogamous model. It was determined that the marriage of Suzanne and William exhibited voluntariness, exclusivity, and permanence.

Connolly v. Woolrich and Johnson et al. is interpreted today as the leading case respecting recognition of Aboriginal marriage law, as a recognition of a nation-to-nation relationship, as an early recognition of Aboriginal self-government, as evidence that our laws are written and unwritten, and that sources of law are diverse and include Aboriginal law. As legal scholar Douglas Saunders has observed, however, the case is meaningless as a precedent, and “could not govern the legality of later custom marriages.” The William and Suzanne Connolly marriage preceded the first British Imperial or Canadian legislation for the introduction of English law to the Northwest. Later cases denied the legality of Aboriginal marriage law. In 1884 the Quebec Superior Court came to the opposite decision in the case Fraser v. Pouliot in which two sets of children contested the considerable fortune of their fur-trader father, Alexander Fraser.

In 1788 Fraser had married Angelique Meadows in the Northwest “in the manner of the country.” Their children together took Fraser’s name, and several were taken to Quebec for baptism. Fraser retired to Quebec in 1806 and built a small house near his manor home for Angelique and children. Meanwhile, he fathered seven more children with two house servants, whom he never married. He had six children with one of these, Pauline Michaud. Angelique’s children won in the trial court, but the case was appealed to the Quebec Court of Queen’s Bench. Alexander Cross, the losing attorney in the Connolly case, wrote the majority decision in the case, and he completely denied the validity of Aboriginal marriage law, even among Aboriginal people, finding that marriage had to be contracted “in a Christian sense.” He understood there to be no contract and no marital obligations; in his view the union was nothing more than an arrangement made by “savages in a state of nature.” Cross was concerned that Angelique had admitted to having another husband before Fraser, he was not satisfied that this man was dead, and he believed that “It is a well known fact that polygamy prevails
among pagan Indians." Cross pronounced upon the legality of Aboriginal marriage laws, casting them in an unfavourable light compared to his idealized view of marriage in his own society: “Civilization introduces obligatory duties, for the protection of women and children. In Christian countries, the relation of husband and wife is distinguished by an amplification of reciprocal, obligatory duties and consequences, as affecting property... forming a striking contrast to the relations of male and female in savage life, where perpetuity of union and exclusiveness is not a rule, at least not a strict rule.”

An 1889 case heard before the Supreme Court of the North-West Territories, however, upheld the legality of Aboriginal marriage when the man and the woman were both of that ancestry. In the case of Regina v. Nan-e-quis-a-ka, a man was tried on a charge of having committed an assault and inflicting bodily harm. The man had two wives, and the question arose as to whether the first wife of the accused was a wife in law, and therefore neither compellable nor competent to testify against her husband. The first wife (identified only as “Maggie”) was dismissed as a witness because Justice Edward L. Wetmore accepted that she was the man’s wife, as there was found to be sufficient evidence of a legally binding marriage. Her husband had promised to keep her for all her life, and she had promised to stay with him. Wetmore decided that “marriage between Indians and by mutual consent and according to Indian custom since 15 July 1870 [when the laws of England came into effect] is a valid marriage, providing neither party had a husband or wife as the case may be, living at the time.” It was further found that it would be monstrous to hold that the laws of England relating forms and ceremonies of
marriage were applicable in the North-West Territories, “quoad the Indian population and probably in any case.” As discussed in the next chapter, Wetmore also interpreted the Indian Act, with its numerous references to marriage, wives, husbands, and widows, as recognizing Aboriginal marriages. He wrote, “I cannot conceive that these references were intended only to Indians married according to Christian rites. No doubt there are many such Indians, especially in the East, but I think these expressions were intended to apply to all Indians, Pagan and Christians alike. If so they amount to a statutory recognition of these marriages according to Indian custom in the Territories.” Respect for Aboriginal marriage law only went so far, however. The evidence of the second wife, Keewaseens, was admitted, as she was not regarded as a legally valid wife.

A case that assisted to diminish the legal rights of an Aboriginal woman married to a non-Aboriginal man, involved Nicholas Sheran and a Piikani woman, Awatoyakew, or White-Tailed Deer Woman, also known as Mary Brown. The Sheran family name, which set such a sterling example of the “progress of civilization” through Marcella’s 1877 marriage (mentioned in chapter two), was forever to be associated more publicly with another marriage, or as the court found, an invalid marriage. Marcella’s brother Nicholas operated the first commercial coal mine in Lethbridge and he had amassed a considerable fortune. Before that he had served in the US Civil War, and then as a whiskey trader, trapper, and prospector in the Fort Whoop-Up region. Very shortly after Marcella Sheran married Joseph McFarland, Nicholas Sheran began to court Awatoyakew, who was then living at Fort Macleod with her sister, who was married to a white man. They began to live together in 1878. According to Awatoyakew’s testimony at the trial, “When we went to live together it was agreed between us, that I was to have no other husband during his life, and that he was to have no other wife during my life.” When a visiting Protestant minister christened their eldest son Charles, Sheran promised her that they would get married “in the white man’s way,” but Sheran drowned in 1882 as he attempted to cross the Old Man River. Six months later their second son, William, was born.
Marcella McFarland was appointed administrator of her brother’s estate. She listed as heirs herself, a brother, and a sister, indicating that Nicholas had died a bachelor. At some point Awatoyakew gave up the care of her sons to Marcella McFarland who placed them in the Sisters of Charity Orphanage in St. Albert. Nicholas Sheran died intestate, and in the 1899 court case, heard in the North-West Territories Supreme Court, his two sons claimed entitlement to the estate as next of kin. Marcella died in 1896, and the only surviving Sheran claimant aside from the two sons was a sister named Ellen. Mary Brown, as Awatoyakew was referred to in the court documents, did not make claim to any portion of the estate for herself. J.R. Costigan, lawyer for the Sheran sons, argued that the marriage was a voluntary union of one man and one woman for life to the exclusion of all others, and that such a union constituted a binding marriage according to the laws of England. Mary Brown testified that she never saw a Roman Catholic priest in all the years they lived together. One Father Lebret stated that if they were married by clergy of another denomination this would infringe on the rules of the church. (According to historian Alex Johnston, Father Constantine Scollen, who had married Joseph and Marcella McFarland, was not permitted to perform the sacrament of marriage in later years.)

Joseph McFarland testified that it was generally known that they were cohabiting as man and wife, although he said that she was referred to as “Mary” and not as “Mrs. Sheran.” He further stated, “Nicholas Sheran told me on several occasions that he intended to marry her whenever a clergyman came along.” McFarland said that while there was no resident Catholic clergyman in the neighbourhood, Sheran could have made an effort and obtained the services of a clergyman.

As in the Fraser case it was decided that Nicholas Sheran and Awatoyakew did not have a legally valid marriage. Justice Scott ruled that if it had been intended to be a legally valid marriage, the services of a clergyman would have been obtained. Scott found that the North-West Territories was not “strictly barbarous” in 1878 when the couple formed their union; there was a form of government from the 1875 North-West Territories Act, and provision made for the administration
of civil and criminal justice, as well as the August 1878 “Ordinance Respecting Marriage.” There was a police force and stipendiary magistrates had been appointed. It was held that the Connolly case did not apply, as at that time there were no priest or clergymen in the North-West Territories, and the only form of marriage that was possible was marriage per verba de presenti. The judge found that no ceremony of any kind took place—the evidence of Agent R.N. Wilson on Kainai marriage was found not material, as there was no evidence of any marriage according to Aboriginal law. Ellen Sheran was awarded the mine and all other assets of the estate. Sheran’s sons were given no consideration at all in the judgement, even though no one disputed that they were his children. The Sheran sons never received any direct returns from their father’s estate, nor did Awatoyakew. The last record of Charles and William Sheran was their applications for Métis scrip in 1900. Awatoyakew was married again in the 1890s to a Kainai man, and they had three sons who became respected Elders in that community.

It is interesting to compare the decision in the Sheran case with a similar case heard in 1894 in the circuit court in Seattle. Thirty-three year old Rebecca Lena Graham, whose mother was from the Duwamish First Nation, claimed that her father was Franklin Matthias, a wealthy white settler who died in 1891 leaving a substantial fortune. Although the evidence of witnesses differed as to whether Graham’s parents were married or just living together, her lawyers argued she was Matthias’s “legitimate child, by virtue of a good and valid marriage between the parents, contracted at a time when this was Indian country and Indian customs prevailed here,” and that she was the child of a common-law marriage when these were recognized in Washington territory. Graham testified that from what her mother and others told her, she had always regarded herself as the daughter of Frank Matthias. As in the Sheran case, the deceased’s relatives claimed that he had never married and had no children. The decision however, was very different from the Sheran judgement. The judge found that though the couple were never legally married, they had lived together as man and wife for a time, and that Frank Matthias was the father of Rebecca Graham, and she was his legitimate heir. The judge stated that “The law does simple justice to
the innocent offspring of men and women who live together as if they were married." The decision in the Connolly case was closer to the “simple justice” of the Matthias case, but in Canada by the late nineteenth century unions of Aboriginal women and non-Aboriginal men did not produce legitimate heirs, as the Sheran case demonstrated.

Plains Aboriginal marriages were far removed from the narrow definition described in English common law—they were not necessarily one man and one woman, nor were they necessarily for life. A man might have several wives at the same time, and women, as well as men, could have a sequence of spouses. Marriages were generally arranged by Elders, but people could not be forced to marry. People could be either monogamous or polygamous, and the choice was theirs. The ease with which divorce was acquired precluded coercion. Both parties could refuse to marry. Once married either party could terminate a marriage. Parents and siblings intervened if they thought a daughter or sister was not happy in a marriage, or was not well-treated. Gifts were exchanged between the families of the bride and groom but women were not “sold” into marriage. Polygamous marriages were seen as desirable arrangements, to both the men and women involved, and their parents. Polygamy ensured that there were marital options for women who were divorced or widowed, and in such military societies, widowed women were common. Men added to their households by marrying a deceased brother’s widow, for example, and the children remained within that family. Women who could not or did not have biological children of their own could enjoy motherhood in polygamous families as they too were mothers of the children of the household. Same-sex marriage was permitted, and altogether there was not the same pressure to conform to binaries of masculine and feminine in behaviour or appearance.

While I argue in this chapter that the term “marriage” can apply to this variety of conjugal unions, scholars do not agree on this point, and in the nineteenth century, Euro-Canadian observers did not see “true” marriages in Aboriginal societies, as they did not conform to the definition of the voluntary union of one man and one woman for life to the exclusion of all others. The Aboriginal wife was perceived as a slave, a commodity that was bought, sold, and forced into these arrangements.
Critics were particularly strident in their condemnation of polygamy, a tradition which has continued in academic studies to the present day, with an emphasis on the wretchedness and misery of plural wives in Plains societies. Despite these criticisms, however, the validity and legality of Aboriginal marriage (when it closely matched the definition of marriage acceptable to jurists) was upheld in the courts in mid-nineteenth-century Canada. The decision in the 1867 Connolly case is critical to understanding the approach of the DIA to Aboriginal marriage and divorce well into the twentieth century. An 1889 case heard before the Supreme Court of the North-West Territories (Regina v. Nan-e-quis-a-ka) upheld the legality of Aboriginal marriage when the man and woman were both of that ancestry. The judge in this case also interpreted the Indian Act, with its numerous references to marriage, as recognizing the validity of Aboriginal marriage. By the late nineteenth century however, as demonstrated in Fraser v. Pouliot and to some extent in the Sheran estate, Aboriginal marriage law was not regarded as valid, and the children of these marriages were not legitimate heirs. As demonstrated in the next chapter, however, the DIA relied on the Connolly decision (ignoring subsequent decisions) in devising their policy, and they were galvanized into articulating a policy on Aboriginal marriage because of sensational allegations that emerged in 1886 of a “traffic in Indian girls” in southern Alberta.