

# Judicial Patriarchy and Domestic Violence: A Challenge to the Conventional Family Privacy Narrative

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JUDICIAL PATRIARCHY AND DOMESTIC VIOLENCE:  
A CHALLENGE TO THE CONVENTIONAL FAMILY  
PRIVACY NARRATIVE

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ABSTRACT

According to the conventional domestic violence narrative, judges historically have ignored or even shielded “wife beaters” as a result of the patriarchal prioritization of privacy in the home. This Article directly challenges that account. In the early twentieth century, judges regularly and enthusiastically protected female victims of domestic violence in the divorce and criminal contexts. As legal and economic developments appeared to threaten American manhood and traditional family structures, judges intervened in domestic violence matters as substitute patriarchs. They harshly condemned male perpetrators—sentencing men to fines, prison, and even the whipping post—for failing to conform to appropriate husbandly behavior, while rewarding wives who exhibited the traditional female traits of vulnerability and dependence. Based on the same gendered reasoning, judges trivialized or even ridiculed victims of “husband beating.” Men who sought protection against physically abusive wives were deemed unmanly and undeserving of the legal remedies afforded to women.

Although judges routinely addressed wife beating in divorce and criminal cases, they balked when women pursued a third type of legal action: interspousal tort suits. The most prominent example of this response is *Thompson v. Thompson*, 218 U.S. 611 (1910), in which the U.S. Supreme Court refused to allow a wife to sue her husband in tort for assaulting her. Judges distinguished tort actions from divorce and

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criminal suits because tort's assertive legal posture and empowering remedy seemingly subverted established gender roles. In a world in which women appeared to be radically advancing in work and politics, male judges used the moral theater of their courtrooms to strongly and publicly address domestic violence but only in ways that reinforced gender and marital hierarchies.

## INTRODUCTION

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## INTRODUCTION

"A fine or imprisonment will do such a brute as you are no good," exclaimed Judge D. A. McKelvey to defendant Louis Sambolia after hearing evidence against him in a Hazelton, Pennsylvania court in 1907. "I am going to give you the punishment you deserve."<sup>1</sup> The infuriated judge seized Sambolia by the collar, dragged him outside the courthouse, stripped the clothing from his back, and handcuffed him to a post. Using a belt quickly provided by a bystander, the "young and strong" McKelvey vigorously flogged Sambolia until he fell to his knees and cried for mercy.<sup>2</sup> Sambolia's victim stood by with "evident satisfaction"<sup>3</sup> as the crowd applauded what they saw as the judge's speedy approach to justice.<sup>4</sup> The crime that prompted the judge to take justice into his own hands: wife beating.<sup>5</sup>

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1. *Wife Beater Whipped: Handcuffed to Post in Street and Publicly Chastised*, WASH. POST, Aug. 3, 1907, at 3 [hereinafter *Wife Beater Whipped*]. Sources described McKelvey as an alderman, squire, or judge. *See id.* (alderman); *Whipping Post Used at Hazleton*, WILKES-BARRE TIMES, Aug. 2, 1907, at 5 (squire); *Judge Publicly Gave Flogging to Wife Beater*, MACON DAILY TELEGRAPH, Aug. 4, 1907, at 11 (judge and alderman).

2. *Alleged Wife Beater Flogged*, FORT WORTH TELEGRAM, Aug. 3, 1907, at 1.

3. *Whipping Post Used at Hazleton*, *supra* note 1.

4. *Brief Bits of News*, ABERDEEN DAILY NEWS, Aug. 5, 1907, at 2.

5. *Id.*; *Alleged Wife Beater Flogged*, *supra* note 2; *Alderman Flogs Wife Beater*, CHI. DAILY TRIB., Aug. 4, 1907.

While this form of punishment was unusual, McKelvey's sentiment was common in the early 1900s.<sup>6</sup> Across the country, in cities large and small, judges joined legislators and outspoken citizens in condemning wife beating in strong and unambiguous terms.<sup>7</sup> Wife beaters were seen as "the meanest of cowards"<sup>8</sup> and were sentenced to considerable fines and months or even years in prison.<sup>9</sup> In some jurisdictions, legislators seriously considered the enactment of whipping post laws to physically punish these men,<sup>10</sup> a development endorsed by President Theodore Roosevelt during his 1904 annual address to Congress.<sup>11</sup> Newspapers approvingly covered the conviction and sentencing of wife beaters from all walks of life. For instance, the story of Sambolia's punishment was carried by papers across the nation,<sup>12</sup> and in the words of one newspaper, "the incident gives a fair idea of the popularity of wife-beating in this country."<sup>13</sup>

In addition to being criminally punished, wife beating was viewed as disgraceful.<sup>14</sup> In the words of *Yale Law Journal* editors, "[t]he social sting often goes deepest."<sup>15</sup> Perpetrators clearly felt this sting. In one instance, a man found guilty of wife beating tried to bribe the presiding judge to order newspaper reporters not to cover his conviction.<sup>16</sup> Other men brought libel actions against newspapers that labeled them as wife beaters,<sup>17</sup> and a jury awarded one successful plaintiff \$10,000.<sup>18</sup> Wife beating was seen as so despicable that it was even used in attempts to discredit male witnesses in cases that had nothing to do

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6. See *infra* Part III.

7. See *infra* Part III.

8. See, e.g., *\$17 Price of Wife Beating*, LEXINGTON HERALD, Aug. 31, 1910, at 4 [hereinafter *\$17 Price*]; *Cowardly. Women Beaten by Brutal Men: One Victim is Severely Hurt by Husband*, L.A. TIMES, Apr. 18, 1910, at III1 [hereinafter *Cowardly*].

9. See *infra* Part III.B.

10. See *infra* Part III.B.

11. President Theodore Roosevelt, Sixth Annual Message, Address to Congress (Dec. 6, 1904), available at <http://www.infoplease.com/t/hist/state-of-the-union/116.html>, archived at <http://perma.cc/9F5U-NW74>.

12. See, e.g., [No title], WILKES-BARRE TIMES, Aug. 6, 1907, at 4 ("Squire McKelvey is attracting widespread attention by his application of the unwritten law on the back of a brutal wife-beater.").

13. *Speedy Justice*, SAN JOSE MERCURY NEWS, Aug. 12, 1907, at 4.

14. Most men who beat their wives "though thinking it no degradation to strike a woman who submits, would be bitterly ashamed to have it said by the neighbors that, 'Him and his wife gets fighting.'" M. Loane, *Husband and Wife Among the Poor*, 144 ECLECTIC MAG. FOREIGN LIT. 431, 432 (Apr. 1905).

15. Simeon E. Baldwin, *Whipping and Castration as Punishments for Crime*, 8 YALE L.J. 371, 378 (1899) [hereinafter *Whipping and Castration*].

16. *Would Silence the Press*, MORNING WORLD-HERALD, Aug. 14, 1901, at 3.

17. See *Drebin v. Jewish World Pub. Co.*, 105 A. 58, 58 (Pa. 1918).

18. *Stokes v. Morning Journal Ass'n*, 73 N.Y.S. 245, 245-46 (N.Y. App. Div. 1901); *Stokes v. Morning Journal Ass'n*, 76 N.Y.S. 429, 436 (N.Y. App. Div. 1902).

with domestic violence.<sup>19</sup> Most dramatically, some wife beaters committed suicide.<sup>20</sup> As one reporter surmised, “the humiliation is evidently what caused him to take his life.”<sup>21</sup>

That wife beaters were publicly reproached and criminally punished at the beginning of the twentieth century directly contradicts current scholarly understandings of domestic violence history. According to the conventional narrative, domestic violence was ignored or even shielded during this time period as the result of the patriarchal prioritization of privacy.<sup>22</sup> The most influential book written about domestic violence history claims that a “lack of concern about [family

19. *Malone v. Stephenson*, 102 N.W. 372, 373 (Minn. 1905); *People v. Gotshall*, 82 N.W. 274, 276 (Mich. 1900); see also *Canfield Lumber Co. v. Kint Lumber Co.*, 127 N.W. 70, 71 (Iowa 1910).

20. See, e.g., *Killed-Himself*, GRAND FORKS DAILY HERALD, Oct. 28, 1905, at 2; *Wife Beater a Suicide*, BELLEVILLE NEWS-DEMOCRAT, May 4, 1909, at 5; *Wife Beater Takes Poison Before Arrest*, MORNING OLYMPIAN, Oct. 19, 1910, at 2; *Wife Beater a Suicide*, N.Y. TIMES, Aug. 18, 1908, at 9. For examples of unsuccessful suicide attempts, see *Tried to Leap to Death in Prison*, PHILA. INQUIRER, Sept. 7, 1910, at 3; *Summary of Pennsylvania News*, PHILA. INQUIRER, Mar. 17, 1901, at 4; *Tried to Die by Biting Wrist*, N.Y. TIMES, July 4, 1904, at 3.

21. *Wife Beater Ends Life Rather Than Serve Sentence*, MACON DAILY TELEGRAPH, July 15, 1908, at 1.

22. Scholars who claim that domestic violence was viewed as a private matter in the early 1900s rely on a trio of canonical sources: LINDA GORDON, *HEROES OF THEIR OWN LIVES: THE POLITICS AND HISTORY OF FAMILY VIOLENCE, BOSTON 1880–1960* (1989); ELIZABETH PLECK, *DOMESTIC TYRANNY: THE MAKING OF AMERICAN SOCIAL POLICY AGAINST FAMILY VIOLENCE FROM COLONIAL TIMES TO THE PRESENT* (1987); and even more commonly, Reva B. Siegel, “*The Rule of Love*”: *Wife Beating as Prerogative and Privacy*, 105 YALE L.J. 2117 (1996). Each of these sources contributes to the overall understanding of domestic violence history, but they do not support the proposition that domestic violence was ignored and even condoned by judges during the early 1900s.

In brief, Pleck’s book focuses on specific social movements and thereby overlooks evidence that undercuts her claim. Most significantly for this Article, Pleck’s chronological chapters move from discussion of whipping post legislation (which she dates to 1876–1906), PLECK, *supra* at 108–21, to domestic relations courts, which were extremely rare until the 1920s, *id.* at 125–44. Thus, even if Pleck is correct that these new domestic relations courts “decriminalize[d]” family violence, her book does not meaningfully address legal responses to wife beating in the first two decades of the twentieth century. (Pleck’s *Wife Beating in Nineteenth-Century America* offers a more thorough and complex account and even reaches conclusions similar to some in this Article, but it does not extend into the period studied here and has been less consistently utilized by other scholars. See Elizabeth Pleck, *Wife Beating in Nineteenth-Century America*, 4 VICTIMOLOGY 60, 61 (1979).)

Gordon’s book focuses on the physical abuse of children, so the manner in which some scholars have simplified her findings for usage in the wife beating context is unfair. Still, this usage is understandable because Gordon claims that public discussion of wife beating was not considered “legitimate,” GORDON, *supra* note 22, at 254, and suggests that criminal prosecution was not a real option for abused wives (even though she acknowledges that many of the women who sought assistance from social workers confided that their husbands had been previously incarcerated for beating them, and other women had withdrawn their criminal complaints despite police willingness to prosecute). *Id.* at 272–73. Gordon’s reliance on social work sources may have caused her to underestimate the availability of criminal remedies as well as public discussion of them in Boston and beyond.

Siegel’s article is discussed in the text of this Article.

violence] has been the normal state of affairs” in the United States, largely because of a “belief in domestic privacy.”<sup>23</sup>

Relying heavily on this scholarship, Reva Siegel reaches similar conclusions in her groundbreaking and oft-cited *Yale Law Journal* article, “*The Rule of Love: Wife Beating as Prerogative and Privacy*.”<sup>24</sup> Siegel uses domestic violence law as a case study to illustrate her well-known theory that status regimes find new rules and reasons to protect old privileges in a process she calls “preservation through transformation.”<sup>25</sup> She claims that, even after the right of husbands to physically “chastise” their wives was formally repudiated, legal authorities nevertheless “intervened only intermittently in cases of marital violence” and granted men formal and informal immunities “to protect the privacy of the family and to promote ‘domestic harmony.’”<sup>26</sup> Put more harshly: “[j]urists and lawmakers . . . responded to marital violence erratically—often condoning it, and condemning it in circumstances suggesting little interest in the plight of battered wives.”<sup>27</sup> This Article does not challenge the “preservation through transformation” framework as a conceptual theory of historical change. It does, however, show that the legal history of domestic violence that Siegel uses to support her thesis—and which countless subsequent scholars have incorporated in their own work<sup>28</sup>—tells only a partial and misleading version of domestic violence history.

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23. PLECK, *supra* note 22, at 5–7.

24. Siegel’s description of developments in domestic violence law in the nineteenth century closely follows Pleck’s. Siegel, *supra* note 22, at 2121–61. Siegel cites Pleck’s book and Pleck’s other scholarship at least twenty times. *See id.* at nn. 33, 34, 40, 45, 50, 51, 70, 74, 75 (two sources), 81 (two sources), 83, 84, 85 (two sources), 86, 192, 194, and 267.

25. *Id.* at 2119.

26. *Id.* 2118.

27. *Id.* at 2141. Siegel suggests condemnation, to the extent it occurred, may have been rooted in controlling minorities and immigrant groups. *Id.* at 2138–40. This suggestion is challenged in Part III.B., *infra*.

28. The following is a non-exhaustive list of scholarship that cites some combination of Siegel, Pleck, and Gordon for the proposition that domestic violence historically has been seen as private and not subject to criminal prosecution. LAWRENCE M. FRIEDMAN, CRIME AND PUNISHMENT IN AMERICAN HISTORY 223, 514 nn.56–59 (1993); KIRSTEN S. RAMBO, “TRIVIAL COMPLAINTS”: THE ROLE OF PRIVACY IN DOMESTIC VIOLENCE LAW AND ACTIVISM IN THE U.S. 22–57, 58 nn.2 & 5, 59 n.19 (2009); ELIZABETH M. SCHNEIDER, BATTERED WOMEN & FEMINIST LAWMAKING 13 & 233 n.4, 234 nn.8 & 12 (2000); JEANNIE SUK, AT HOME IN THE LAW: HOW THE DOMESTIC VIOLENCE REVOLUTION IS TRANSFORMING PRIVACY 13, 140 nn.22–25 (2009); Kimberly D. Bailey, *It’s Complicated: Privacy and Domestic Violence*, 49 AM. CRIM. L. REV. 1777, 1778, 1778 n.2 (2012); Marisa Silenzi Cianciarulo, *Batterers as Agents of the State: Challenging the Public/Private Distinction in Intimate Partner Violence-Based Asylum Claims*, 35 HARV. J.L. & GENDER 117, 136, 136 nn.100–01 (2012); Sally F. Goldfarb, *Reconceiving Civil Protection Orders for Domestic Violence: Can Law Help End the Abuse Without Ending the Relationship?*, 29 CARDOZO L. REV. 1487, 1494 & n.37 (2008); Jessica Marsden, Note, *Domestic Violence Asylum after Matter of L-R-*, 123 YALE L.J. 2512, 2520 & n.30 (2014); Melissa Murray, *Strange Bedfellows: Criminal Law, Family Law, and the Legal Construction of Intimate Life*, 94 IOWA L. REV. 1253, 1261 & n.26 (2009); Emily J. Sack, *Battered Women and the State: The Struggle for the*

The ten-year period studied in this Article demonstrates that the conventional historical narrative regarding domestic violence and privacy is in need of reexamination and revision. By analyzing hundreds of primary sources that have never before been cited by domestic violence scholars and by further contextualizing sources these scholars previously relied upon, a more nuanced and accurate portrayal of the treatment of domestic violence emerges.<sup>29</sup> This picture of the early twentieth century shows that the proper legal responses to domestic violence were routinely covered by newspapers and debated by concerned citizens.<sup>30</sup> It also demonstrates that many men received criminal sentences for wife beating, while judges and commentators puzzled over how to treat women who beat their husbands.<sup>31</sup>

One common reason that scholars have mistakenly concluded that judges in this period were unwilling to provide legal remedies

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*Future of Domestic Violence Policy*, 2004 WIS. L. REV. 1657, 1662, 1662 n.15, 1666 (2004); Jane K. Stoeber, *Enjoining Abuse: The Case for Indefinite Domestic Violence Protection Orders*, 67 VAND. L. REV. 1015, 1036–38, 1038 nn.110 & 112–13 (2014); Jeannie Suk, *Criminal Law Comes Home*, 116 YALE L.J. 2, 11, 11 nn.18–20, 12, 12 n.21 (2006); Deborah Tuerkheimer, *Breakups*, 25 YALE J.L. & FEMINISM 51, 64, 64 nn.90–91 (2013); Jennifer Wriggins, *Domestic Violence Torts*, 75 S. CAL. L. REV. 121, 180, 180 nn.354–57 (2001); *Developments in the Law: Legal Responses to Domestic Violence*, 106 HARV. L. REV. 1498, 1502, 1502 n.14 (1993).

Other scholarship on wide-ranging topics also cites these works for general background about domestic violence history and privacy, further showing their canonical status and broad influence. See, e.g., Victoria Baranetsky, *Aborting Dignity: The Abortion Doctrine after Gonzales v. Carhart*, 36 HARV. J.L. & GENDER 123, 151, 151 n.184 (2013); Mary L. Heen, *From Coverture to Contract: Engendering Insurance on Lives*, 23 YALE J.L. & FEMINISM 335, 377, 377 n.268 (2011); Kaiponanea T. Matsumura, *Public Policing of Intimate Agreements*, 25 YALE J.L. & FEMINISM 159, 178–79, 179 nn.142–43 (2013); Alice Ristroph, *Criminal Law in the Shadow of Violence*, 62 ALA. L. REV. 571, 598, 598 n.135 (2011); Lior Jacob Strahilevitz, *Toward a Positive Theory of Privacy Law*, 126 HARV. L. REV. 2010, 2010 & n.1 (2013) (citing Siegel's article as a "prominent exception" to his observations about policy and academic debates regarding privacy); Jeannie Suk, *Is Privacy a Woman?*, 97 GEO. L.J. 485, 498, 498 n.92 (2009); Alexander Tsesis, *Gender Discrimination and the Thirteenth Amendment*, 112 COLUM. L. REV. 1641, 1663, 1663 n.101 (2012); Craig J. Konnoth, Note, *Created in Its Image: The Race Analogy, Gay Identity, and Gay Litigation in the 1950s–1970s*, 119 YALE L.J. 316, 360, 360 n.196 (2009).

29. For a more detailed and complex account that has received less attention, see DAVID PETERSON DEL MAR, *WHAT TROUBLE I HAVE SEEN: A HISTORY OF VIOLENCE AGAINST WIVES* (1996). By focusing on the history of Portland, Oregon, Peterson del Mar is able to construct a narrative that is sensitive to the many competing influences that shaped social and legal responses to domestic violence. And for an excellent study of an earlier period, see Ruth H. Bloch, *The American Revolution, Wife Beating, and the Emergent Value of Privacy*, 5 EARLY AM. STUD. 223 (2007).

30. See *infra* Part III.B.

31. See *infra* Parts III.B and IV. Some scholars have recognized the shortcomings of the canonical trio and have challenged its dominant place in the literature, but their revisionist accounts have not been able to dislodge the prevailing narrative. See, e.g., Carolyn B. Ramsey, *Domestic Violence and State Intervention in the American West and Australia, 1860–1930*, 86 IND. L.J. 185, 187, 187 n.8, 188, 188 n.12, 199–211, 213–21 (2011); Jerome Nadelhaft, "The Public Gaze and the Prying Eye." *The South and the Privacy Doctrine in Nineteenth-Century Wife Abuse Cases*, 14 CARDOZO J.L. & GENDER 549, 553–54 (2008).

to abused wives is a misplaced reliance on interspousal tort suits.<sup>32</sup> In Siegel's article, she explains that she shifts to using interspousal tort cases for evidentiary support in "the second half of the nineteenth century" because "[i]t was in the law of torts that privacy-based reasoning about marital violence flourished, before returning to shape the criminal law."<sup>33</sup> There are two main problems with this approach. First, the privacy reasoning judges used in the cited interspousal tort cases is less significant than Siegel claims: the privacy arguments were seriously challenged at the time, and there was actually a trend toward allowing the suits in the 1910s.<sup>34</sup> And second, Siegel never shows how the tort privacy rhetoric reentered criminal cases. Rather, she simply restates this conclusion before turning to a brief history of family courts.<sup>35</sup> As this Article will explain in the conclusion, there are critical reasons why tort and criminal law diverged when addressing domestic violence, so it cannot be assumed that the language in tort cases is indicative of judicial attitudes toward domestic violence more broadly.

The most prominent interspousal tort case used in domestic violence histories and in women's history more broadly is the 1910 case of *Thompson v. Thompson*, in which the U.S. Supreme Court construed a District of Columbia statute as not allowing a battered wife to sue her husband in tort.<sup>36</sup> Over a century later, this case has come to stand for the proposition that the Supreme Court, the judiciary more generally, or the entire legal system used privacy justifications to disempower battered women.<sup>37</sup> Distinguished women's historians

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32. Another error plaguing much domestic violence scholarship is conflation of the police force with the judiciary. This approach obscures the relevance of police history to the domestic violence narrative and seems to assume that police forces in the past were capable of the same interventions as those of today. Critically, police forces in the early 1900s were often politicized and corrupt, and ideas of "professionalism" were just beginning to gain currency. Hiring standards were lax, formal training programs rare, and supervision limited. CAROL A. ARCHBOLD, *POLICING: A TEXT/READER* 7 (2012); SAMUEL WALKER, *A CRITICAL HISTORY OF POLICE REFORM: THE EMERGENCE OF PROFESSIONALISM* 33, 39, 53, 70–71 (1977). The judiciary cannot address criminal conduct that is not brought before it, so scholars who claim that domestic violence was rarely addressed should be clear about whether they attribute this problem to judges or police officers. And, to the extent they view it as a problem with police, they should contextualize their observations with analysis of the very different nature of policing in their studied period. What may at first seem to be police unwillingness to address domestic violence may, upon closer inspection, be a reflection of general police capabilities.

33. Siegel, *supra* note 22, at 2161.

34. See Elizabeth Katz, Note, *How Automobile Accidents Stalled the Development of Interspousal Liability*, 94 VA. L. REV. 1213, 1215, 1229 (2008).

35. Siegel, *supra* note 22, at 2170. Siegel relies on Pleck for this history and consequently incorporates her time gap. The time gap is explained in note 22, *supra*.

36. *Thompson v. Thompson*, 218 U.S. 611, 618–19 (1910). Siegel quotes this case extensively. See Siegel, *supra* note 22, at 2165–66.

37. See, e.g., Marina Angel, *Criminal Law and Women: Giving the Abused Woman Who Kills a Jury of Her Peers Who Appreciate Trifles*, 33 AM. CRIM. L. REV. 229, 270 (1996);



see the case as one of “the most forceful Supreme Court decisions sustaining the power of husbands over their wives well into the twentieth century.”<sup>38</sup> The Court did not choose to disturb husbands’ prerogative to beat their wives because, according to one feminist legal scholar, “domestic violence was not regarded as a significant problem—the court considered the specter of ‘frivolous’ litigation to be far more serious—and society retained the attitude that the right to ‘discipline’ the wife was among men’s privileges in marriage.”<sup>39</sup> *Thompson*, according to the existing scholarship, seems to indicate that in the early 1900s the Supreme Court, both echoing and reinforcing public sentiment, placed men’s rights and “privacy” above wives’ physical safety.<sup>40</sup>

The first part of this Article provides critical historical context for the legal developments discussed. The second part of this Article challenges the dominant position *Thompson* holds in the domestic violence discourse. Far from being a strong or unified statement in favor of family privacy or against battered women’s legal rights, the case was decided by a four-Justice majority and pointed victims toward two very public alternative remedies: divorces with alimony and criminal prosecutions.<sup>41</sup> Additionally, as newspaper articles, law journals, and state supreme court decisions from the years after *Thompson* document, the three-Justice dissent in favor of allowing the tort suits was widely preferred by judges, legal commentators, and other observers.<sup>42</sup>

The third part of this Article evaluates the persuasiveness of the majority Justices’ suggestion that divorce and criminal prosecution were available remedies for female victims of domestic violence. The

Jaime Kay Dahlstedt, *Notification and Risk Management for Victims of Domestic Violence*, 28 WIS. J.L. GENDER & SOC’Y 1, 4, 4 n.11 (2013); Emily J. Sack, *The Domestic Relations Exception, Domestic Violence, and Equal Access to Federal Courts*, 84 WASH. U. L. REV. 1441, 1497–1500 & nn.291–310 (2006); Stoeber, *supra* note 28, at 1037–38, 1038 n.114.

38. LINDA K. KERBER, NO CONSTITUTIONAL RIGHT TO BE LADIES: WOMEN AND THE OBLIGATIONS OF CITIZENSHIP 380 n.5 (1998). For a more nuanced reading that nevertheless reaches similar conclusions, see NANCY F. COTT, PUBLIC VOWS: A HISTORY OF MARRIAGE AND THE NATION 162–63 & 273 n.7 (2000) [hereinafter COTT, PUBLIC VOWS].

[T]he court acted to preserve both marital unity and the husband’s dominance. . . . The court’s view of an ongoing marriage as an intimate zone insulated from legal interference offered the wife no resources, outside of her personal charms, to deal with a problematic relationship: she was either to endure or to seek a divorce.

*Id.* at 273 n.7. Cott notes that her “interpretation follows” Siegel’s. *Id.*

39. Lucinda M. Finley, *A Break in the Silence: Including Women’s Issues in a Torts Course*, 1 YALE J.L. & FEMINISM 41, 46–47 (1989).

40. For an article providing greater detail and contextualizing *Thompson* within the development of interspousal liability, see Carl Tobias, *Interspousal Tort Immunity in America*, 23 GA. L. REV. 359, 399–409 (1989).

41. *Thompson v. Thompson*, 218 U.S. 611, 619 (1910) (Harlan, J., dissenting).

42. *See infra* Part II.B.

number of divorces was on the rise in this period, with wives increasingly citing cruelty as a justification.<sup>43</sup> Even Mrs. Thompson secured a divorce for cruelty (a development other scholars have overlooked).<sup>44</sup> Moreover, divorce litigation brought friends, relatives, and neighbors to court to testify, while journalists reported intimate details to their readers. In the criminal domain, wife beaters were regularly charged and convicted, and the all-male judiciary imposed punishments including fines, imprisonment, and sometimes even corporal punishment. As with divorce suits, the criminal cases were public; community members attended trials, and newspapers published the testimony and sentences. Many citizens advocated for harsher remedies and even took justice into their own hands. They, like numerous judges, did not seem to view wife beating as a man's private prerogative within his own home.<sup>45</sup>

In sharp contrast to the treatment of wife beating, the type of domestic violence that was often overlooked, unpunished, or even mocked in the early twentieth century was husband beating. The final part of this Article examines the reactions of judges, legislators, and others in the relatively rare instances in which men came forward with allegations of abuse. Responses ranged from utter disbelief to harsh criticism of the husband for not meeting society's expectations for male behavior.<sup>46</sup>

This Article concludes that the two distinctions drawn here—between husband beating and wife beating, and between tort suits and other legal remedies—can be traced to the same causes: evolving ideas and concerns about sex roles, gender norms, and marital obligations in the late-nineteenth and early-twentieth centuries. As legal and economic developments appeared to threaten American manhood and traditional family structures, patriarchal judges intervened in domestic violence cases to reinforce appropriate male, husbandly behavior. Male perpetrators were punished and male victims ignored because they failed to conform to society's expectations for manliness and thereby threatened domestic patriarchy. Meanwhile, judges' understanding of wives as helpless and dependent led them to protect female victims of domestic violence in the criminal and divorce contexts but deny women relief in interspousal tort suits. Judges distinguished tort actions from divorce and criminal suits because tort placed married women in an aggressive legal posture and offered the possibility

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43. WILLIAM L. O'NEILL, *DIVORCE IN THE PROGRESSIVE ERA* 20 (1967); Lawrence M. Friedman & Robert V. Percival, *Who Sues for Divorce? From Fault Through Fiction to Freedom*, 5 J. LEGAL STUD. 61, 65–66 (1976).

44. See *infra* Part III.A.

45. See *infra* Part III.B.

46. See *infra* Part IV.

of an empowering remedy. In making these distinctions, judges fortified the gender hierarchy and patriarchal structure of marriage—a type of “preservation through transformation” that afforded abused women real legal protections.

### I. EVOLVING SEX ROLES AND GENDER NORMS IN THE EARLY TWENTIETH CENTURY

The decades surrounding the start of the twentieth century transformed many facets of American society. Industrialization and urbanization meant that men, women, and children worked and lived in new places. Many men faced job insecurity and earned an insufficient income to support their families, so married women joined the labor force in growing numbers and worked for wages outside the home.<sup>47</sup> It also became more common for young, working women to postpone or even forego marriage.<sup>48</sup> For those who did marry, marriage was increasingly seen as a partnership, albeit an unequal one. In the political arena, the women’s suffrage movement gained momentum, a development that many men feared, scorned, and fought.<sup>49</sup> Demographic changes also inspired concerns. Followers of the eugenics movement observed the declining white birth rate and rising tide of immigration and sounded an alarm of “race suicide.”<sup>50</sup> This, in turn, led to new pronatalist policies that idealized motherhood and challenged mothers’ involvement in the workforce; one symbolic example was Congress’s decision to make Mother’s Day a national holiday in 1914.<sup>51</sup> Because of these interconnected developments, women’s roles as wives, mothers, and citizens were thoroughly examined and passionately debated.

Amidst these many cultural, political, and economic developments, laws governing women and families were also in flux. Historically, under the common law doctrine of coverture, a married couple

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47. See Karen Manners Smith, *New Paths to Power, 1890–1920*, in *NO SMALL COURAGE: A HISTORY OF WOMEN IN THE UNITED STATES* 351, 351–412 (Nancy F. Cott ed., 2000). For deeper discussion of the links between motherhood, eugenics, pronatalism, and race suicide, see LAURAL LOVETT, *CONCEIVING THE FUTURE: PRONATALISM, REPRODUCTION, AND THE FAMILY IN THE UNITED STATES, 1890–1938*, 3–7, 78, 98 (2007). For discussion of the significance of the suffrage movement and the “link between [its] political and economic capacities,” see NANCY F. COTT, *THE GROUNDING OF MODERN FEMINISM* 3–10, 117–42 (1987) [hereinafter COTT, *MODERN FEMINISM*]. For more about the rates at which mothers entered the workforce and the resultant concern, see *id.* at 129, 183; ALICE KESSLER-HARRIS, *OUT TO WORK: A HISTORY OF WAGE-EARNING WOMEN IN THE UNITED STATES* 97–98, 108–10 (1982).

48. See *supra* note 47 and accompanying text.

49. See *supra* note 47 and accompanying text.

50. See *supra* note 47 and accompanying text.

51. See *supra* note 47 and accompanying text.

became one legal person, represented by the husband. A core component of this relationship was economic: husbands owned the right to their wives' property and labor but also had a reciprocal legal duty to financially support their wives and children.<sup>52</sup> In the nineteenth century, some aspects of this arrangement were challenged and gradually began to change. Married women's acts, first passed in the 1830s, were continually revised to slowly extend married women's control over their property, wages, and other aspects of their lives.<sup>53</sup> Laws pertaining to the dissolution of marriage were also modified.<sup>54</sup> Divorce law was relaxed, and the United States developed a worldwide reputation for its soaring divorce rate.<sup>55</sup> It was widely known that most divorces were requested by women, and judges began granting child custody to mothers.<sup>56</sup> Despite these changes, however, husbands' traditional obligation to provide for their families remained intact.<sup>57</sup>

Recognizing the dynamism of this period and the striking shifts from the Victorian Era, many historians have suggested that white American manhood entered a time of "crisis."<sup>58</sup> Although the accuracy of that characterization is still a subject of scholarly debate, it is undeniable that men's expectations, opportunities, and daily lives were remarkably altered.<sup>59</sup> As a result, their understandings of what it meant to be "manly" or "masculine"<sup>60</sup> also began to evolve and led to "divergent, potentially conflicting requirements."<sup>61</sup>

52. See COTT, PUBLIC VOWS, *supra* note 38, at 11–13; HENDRIK HARTOG, MAN & WIFE IN AMERICA: A HISTORY 156–57 (2000).

53. For an overview of "married women's property acts" and "married women's earning statutes," see COTT, MODERN FEMINISM, *supra* note 47, at 186; COTT, PUBLIC VOWS, *supra* note 38, at 168–69. For more detailed treatments, see Reva B. Siegel, *The Modernization of Marital Status Law: Adjudicating Wives' Rights to Earnings, 1860–1930*, 82 GEO. L.J. 2127, 2141–49 (1994); Richard H. Chused, *Married Women's Property Law: 1800–1850*, 71 GEO. L.J. 1359, 1361 n.3, 1424 (1983).

54. See ELAINE TYLER MAY, GREAT EXPECTATIONS: MARRIAGE & DIVORCE IN POST-VICTORIAN AMERICA 2 (1980); O'NEILL, *supra* note 43, at 26–29; RODERICK PHILLIPS, PUTTING ASUNDER: A HISTORY OF DIVORCE IN WESTERN SOCIETY 439, 461–73, 590–612 (1988).

55. MAY, *supra* note 54, at 2.

56. MICHAEL GROSSBERG, GOVERNING THE HEARTH: LAW AND THE FAMILY IN NINETEENTH-CENTURY AMERICA 250–53 (1985)

57. See COTT, PUBLIC VOWS, *supra* note 38, at 54–55, 169–71.

58. WILLIAM F. PINAR, THE GENDER OF RACIAL POLITICS AND VIOLENCE IN AMERICA: LYNCHING, PRISON RAPE, & THE CRISIS OF MASCULINITY 321–23 (2001).

59. For a historiographical overview of this debate, see *id.* at 321–31 (2001).

60. Gail Bederman suggests that "manly"/"manliness" and "masculine"/"masculinity" had distinct and changing meanings during this period; a simplified version of her argument is that Victorian "manliness" was eclipsed by Progressive "masculinity." GAIL BEDERMAN, MANLINESS & CIVILIZATION: A CULTURAL HISTORY OF GENDER AND RACE IN THE UNITED STATES, 1890–1917, at 18–19 (1996). Although this observation is interesting, the terms are used interchangeably in this Article to reflect their usage in other secondary sources and to avoid confusion with current understandings of the words.

61. Clyde Griffen, *Reconstructing Masculinity from the Evangelical Revival to the Waning of Progressivism: A Speculative Synthesis*, in MEANINGS FOR MANHOOD:

In the period studied in this Article, men were expected to act honorably and show “self-mastery and restraint,” while at the same time be tough, physically active, virile, and aggressive.<sup>62</sup> Under the period’s code of chivalry, a man “gained the authority, as well as the duty, to protect and direct those less manly than himself,” which for a married man included his wife.<sup>63</sup> The manly duties and characteristics merged with the husbandly responsibility to provide financial support in the person of the good husband,<sup>64</sup> who in turn became the virtuous male citizen.

Theodore Roosevelt captured these sentiments in speech delivered to his “fellow-citizens” in 1902: “[a] man, to be a good citizen, must first be a good bread-winner, a good husband, a good father . . .”<sup>65</sup> Similarly, as he explained a few years later in an address to the National Congress of Mothers, “the nation is in a bad way if there is no real home, if the family is not of the right kind; if the man is not a good husband and father, if he is brutal or cowardly or selfish. . . .”<sup>66</sup> Roosevelt did not approve of “the woman who submits to gross and long-continued ill treatment,” and found that of all the abhorrent wrongdoings a man could commit, “above all, brutality in any form toward [his family], should arouse the heartiest scorn and indignation in every upright soul.”<sup>67</sup>

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CONSTRUCTIONS OF MASCULINITY IN VICTORIAN AMERICA 183, 198 (Mark C. Carnes & Clyde Griffen, eds. 1990); BEDERMAN, *supra* note 60, at 11.

62. BEDERMAN, *supra* note 60, at 11, 17-19, 24; PETERSON DEL MAR, *supra* note 29, at 52; E. ANTHONY ROTUNDO, AMERICAN MANHOOD: TRANSFORMATIONS IN MASCULINITY FROM THE REVOLUTION TO THE MODERN ERA 5-6 (1993). Bederman describes these “contradictory” impulses as “civilized manliness” and “primitive masculinity,” and she argues that they were part of an overall strategy of white supremacy. *Id.* at 22-23.

63. BEDERMAN, *supra* note 60, at 47-48. Kristin Hoganson has persuasively documented how these conceptions of masculinity impacted international relations by influencing and justifying U.S. intervention in Cuba and the Philippines. KRISTIN L. HOGANSON, FIGHTING FOR AMERICAN MANHOOD: HOW GENDER POLITICS PROVOKED THE SPANISH-AMERICAN AND PHILIPPINE-AMERICAN WARS 10-11, 70-71 (1998).

64. HARTOG, *supra* note 52, at 165-66 (“The structure of reciprocity—of duty for obedience, rights for support—that appeared to organize the received law of coverture was less a distribution of rights between husbands and wives and more a way of conceptualizing the terms of being a husband. Men became husbands through their commitment, their allegiance, to that picture of who they were.”).

65. President Theodore Roosevelt, Speech at Bangor, Maine (Aug. 27, 1902) (*available at* <http://www.theodore-roosevelt.com/images/research/txtspeeches/21.txt>, *archived at* <http://perma.cc/98DY-QCZF>); *see also* THEODORE ROOSEVELT, HISTORY AS LITERATURE 22 (1913), *available at* <http://www.bartleby.com/56/4.html>, *archived at* <http://perma.cc/B2PR-BH87> (“The homely virtues of the household, the ordinary workaday virtues which make the woman a good housewife and housemother, which make the man a hard worker, a good husband and father, a good soldier at need, stand at the bottom of character.”).

66. THEODORE ROOSEVELT, AN AMERICAN MIND: A SELECTION FROM HIS WRITINGS 314 (Mario R. DiNunzio ed., 1994).

67. *Id.* at 316.

As the remaining sections of this Article will show, these widely held conceptions of masculinity and husbandly duty were critical in shaping legal and social responses to domestic violence. Ideas about manliness influenced judges' and other men's perceptions of their own roles in society, as well as their beliefs about the conduct of married men in their communities. When a man showed himself to be an unworthy husband by assaulting his wife, other men intervened in ways that were also proscribed by conceptions of manhood and patriarchal responsibility.

## II. DOMESTIC VIOLENCE AND INTERSPOUSAL TORT SUITS

The most commonly cited case involving domestic violence from the studied period, *Thompson v. Thompson*, has been read by historians and legal scholars as indicating that the Supreme Court was unwilling to provide meaningful legal remedies to abused wives.<sup>68</sup> The following sections challenge that understanding by exploring the majority Justices' reasoning, the minority Justices' scathing dissent, and public reaction to the decision.

### A. *Mrs. Thompson's Interspousal Tort Suit*

Jessie E. Eliot married Charles N. Thompson on December 7, 1905, in the District of Columbia.<sup>69</sup> Mr. Thompson owned property and voted in Loudoun County, Virginia, but the couple spent much of the year in the District of Columbia, where Mr. Thompson was a school teacher.<sup>70</sup> Their marriage was never a happy one. According to Mrs. Thompson, her husband began assaulting her the month after their marriage and continued abusing her even after he learned she was pregnant.<sup>71</sup> She counted seven assaults, with the final attack occurring on June 12, 1907.<sup>72</sup> The next day the couple ceased living together.<sup>73</sup>

Mrs. Thompson pursued two legal remedies. First, on July 29, 1907, she filed divorce proceedings in D.C., charging Mr. Thompson with extreme cruelty.<sup>74</sup> Over a month later (but before receiving

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68. See *supra* notes 37-39 and accompanying text.

69. Marriage Certificate, on file with author. See also *Thompson v. Thompson*, 35 App. D.C. 14, 15 (1910). This information is drawn from the Thompson's subsequent divorce litigation, which is discussed more fully at *infra* Part III.A.

70. *Thompson*, 35 App. D.C. at 15.

71. Transcript of Record at 1-2, *Thompson v. Thompson*, 218 U.S. 611 (1908) (No. 17).

72. *Id.*

73. *Thompson*, 35 App. D.C. at 16.

74. *Id.* Technically, Mrs. Thompson sought only alimony and not a divorce, pursuant to a special D.C. statute permitting such actions. However, both lay newspapers and law

service in Mrs. Thompson's suit), Mr. Thompson brought a divorce suit in Loudoun County, charging Mrs. Thompson with willfully abandoning and deserting him without cause.<sup>75</sup> He claimed that he had repeatedly entreated her to return home, but she had refused.<sup>76</sup> The Virginia court granted him a divorce the following month, on October 19, with no alimony requirement.<sup>77</sup> Afterwards, despite Mr. Thompson's repeated argument that the Virginia divorce was valid and binding, the D.C. court granted Mrs. Thompson a divorce with \$75 per month as "maintenance" for herself and their young daughter, plus \$500 in court costs.<sup>78</sup> The payments were to begin on July 15, 1909, but Mr. Thompson continued to contest the validity of the D.C. divorce decree.<sup>79</sup> The duel over which divorce decree trumped would eventually bring the couple to the Supreme Court a second time.<sup>80</sup>

Meanwhile, on January 1, 1908, Mrs. Thompson, perhaps concerned that Mr. Thompson would ultimately prevail in the divorce litigation or unhappy with her alimony amount, sued him in tort for assaulting her during their marriage.<sup>81</sup> Her claim was based on language contained in the District of Columbia's married women's act, which was designed to alleviate some of the legal disabilities D.C. women faced under the traditional doctrine of coverture: "[m]arried women shall have power . . . to sue separately. . . for torts committed against them, as fully and freely as if they were unmarried."<sup>82</sup> She demanded \$70,000 (\$10,000 per assault) plus court costs.<sup>83</sup>

The lower court held on February 28, 1908, that interspousal tort suits could not be maintained in D.C., and on June 9 the Court of Appeals of the District of Columbia affirmed.<sup>84</sup> Although D.C.'s married women's act allowed married women to sue "for torts committed against them, as fully and freely as if they were unmarried," the court

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review articles referred to this matter as an action for "divorce," and the distinction between divorce and alimony was not relevant to the legal questions facing the Supreme Court. This Article therefore describes Mrs. Thompson's action as "divorce" for the sake of clarity. See, e.g., *Counter Divorce Suit*, WASH. POST, Sept. 15, 2007, at 2; *Old Divorce Issue Up: Supreme Court Asked to Pass on State Jurisdiction*, NEW YORK TRIB., Nov. 9, 1912, at 6; *Conflict of Laws—Jurisdiction for Divorce*, 26 HARV. L. REV. 449 (1913).

75. *Thompson*, 35 App. D.C. at 16.

76. *Id.*

77. *Id.*

78. *Id.* at 16–17.

79. *Id.*

80. See *Thompson v. Thompson*, 226 U.S. 551, 557–60 (1913).

81. *Thompson v. Thompson*, 218 U.S. 611, 611 (1910).

82. *Id.* (citing D.C. Code § 1155, 31 Stat. at L. 1374, chap 854). For more detailed discussion of the changes brought by married women's acts, see Katz, *supra* note 34, at 1214.

83. Transcript of Record, *supra* note 71.

84. *Thompson v. Thompson*, 31 App. D.C. 557, 561 (App. D.C. 1908). Because the court's conclusion "is necessarily based upon the proposition that the parties to this action are one in law," it awarded no court costs. *Id.*

determined that Congress had not intended the legislation to allow wives to sue their husbands for personal torts.<sup>85</sup> Rather, the purpose of the act, like legislation passed in many other states, was “to further and promote the property rights and interests of married women, but not to interfere with or undermine the conjugal relations.”<sup>86</sup> The court continued: “[i]n our desire to accord to woman every right to which she is entitled, let us not undermine the basis of society by disregarding the sanctity of the home.”<sup>87</sup> Strangely, the court suggested that allowing such suits would “furnish grist for the divorce courts,”<sup>88</sup> although it did not clarify why allowing a wife to sue her husband for damages would increase the likelihood that she would also seek a divorce. The court concluded that “[l]itigation of this character between husband and wife is vicious in principle and contrary to sound public policy, and we believe not authorized by the Code.”<sup>89</sup>

Mrs. Thompson was determined to continue her suit, so on June 26, 1908, she appealed to the U.S. Supreme Court.<sup>90</sup> In her brief, her lawyer set out the D.C. laws that seemed to allow such suits to go forward.<sup>91</sup> Of particular interest, he also argued that “[t]he right to her earnings necessarily implies the right to maintain her *capacity* to earn. The right to sue any one (*the husband not excepted*) for *impairment* of that capacity is incidental thereto.”<sup>92</sup> Because Mr. Thompson “so injured her hand as to permanently prevent her from engaging” in her previous occupation of being a seamstress, she argued she should be entitled to damages.<sup>93</sup>

In Mr. Thompson’s brief, his lawyers stressed the precedent from other jurisdictions that reached their preferred result and argued that coverture still prevented interspousal torts suits.<sup>94</sup> In further support, they emphasized the lower court’s observation that if wives could sue husbands in tort, husbands must be able to sue wives, which was too “radical” a change for Congress to have intended it without

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85. *Id.* at 558, 560.

86. *Id.* at 559.

87. *Id.* at 560.

88. *Id.*

89. *Id.*

90. Mrs. Thompson, presumably like many other women, was unable to afford lawyers of the same quality as those secured by her husband. A Westlaw search for the lawyers’ names reveals that Mr. Thompson’s team of four lawyers appeared before the Supreme Court at least a dozen times in addition to the Thompson cases, whereas Mrs. Thompson’s sole attorney had never appeared before the Court for any other client.

91. Brief in Behalf of the Plaintiff at 3–4, *Thompson v. Thompson*, 218 U.S. 611 (1908) (No. 17).

92. Brief in Behalf of the Plaintiff in Error at 7, *Thompson v. Thompson*, 218 U.S. 611 (1910) (No. 17).

93. *Id.* at 8.

94. Brief for Defendant in Error at 1–12, *Thompson v. Thompson*, 218 U.S. 611 (1910) (No. 17).



being more explicit.<sup>95</sup> Anticipating this argument, Mrs. Thompson's lawyer had included in the Brief in Behalf of Plaintiff that there was not "any good reason why a woman of wealth should not respond in damages for wilfully [sic] and maliciously impairing her husband's earning capacity."<sup>96</sup>

In 1910 the U.S. Supreme Court, sitting as the highest court in D.C., affirmed the lower court's decision.<sup>97</sup> Justice Day, writing for a four-Justice majority, asserted that it was "obvious from a reading of the statute in light of the purpose sought to be accomplished" that Congress only intended to give married women "the right to sue *separately* [from their husbands] for redress of wrongs," not to give them a right of action *against* their husbands.<sup>98</sup> The majority worried that the contrary construction of the statute would "open the doors of the courts to accusations of all sorts of one spouse against the other."<sup>99</sup> They continued, "[w]hether the exercise of such jurisdiction would be promotive of the public welfare and domestic harmony is at least a debatable question."<sup>100</sup> If Congress intended to alter the common law in such a "radical and far-reaching" manner, it should do so "by language so clear and plain as to be unmistakable."<sup>101</sup>

Furthermore, the Court noted that the wife was not left without a remedy.<sup>102</sup> She could "resort to the criminal courts, which, it is to be presumed, will inflict punishment commensurate with the offense committed."<sup>103</sup> She could also sue for divorce or separation with alimony, and the court presiding over her divorce suit could "consider, and, so far as possible, redress her wrongs and protect her rights."<sup>104</sup> (Surprisingly, it does not appear from the parties' briefs that the Supreme Court was informed of the pending divorce contest.) The chancery courts were available to protect her separate property.<sup>105</sup> The Court therefore affirmed the lower court's decision.<sup>106</sup>

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95. *Id.* at 4.

96. Brief in Behalf of the Plaintiff in Error at 8, *Thompson v. Thompson*, 218 U.S. 611 (1910) (No. 17).

97. *Thompson v. Thompson*, 218 U.S. 611, 611 (1910).

98. *Id.* at 616–17.

99. *Id.* at 617.

100. *Id.* at 618.

101. *Id.*

102. *Id.* at 619.

103. *Thompson*, 218 U.S. at 619.

104. *Id.*

105. *Id.*

106. For discussion of why certain Justices may have decided as they did, based on analysis of their jurisprudence and judicial philosophies, see Tobias, *supra* note 40, at 401–09; see also Linda C. A. Przybyszewski, *Mrs. John Marshall Harlan's Memories: Hierarchies of Gender and Race in the Household and the Polity*, 18 LAW & SOC. INQUIRY 453, 473 (1993) ("Harlan's acceptance of legislative change in *Thompson* sprang more from his marital paternalism than from a desire to see women contracting to trade."); Alexander

Justice Harlan, joined by Justices Holmes and Hughes, dissented.<sup>107</sup> Justice Harlan first supplemented the basic facts provided by the majority. He added that the seven alleged assaults happened on different days and emphasized that several assaults occurred while Mrs. Thompson was pregnant, “as the husband then well knew.”<sup>108</sup> After presenting the text of the statute, Justice Harlan determined that Congressional intent to allow such suits was “plainly-expressed.”<sup>109</sup> In fact, the words of Congress were “so explicit” that there was not “any room whatever for mere construction.”<sup>110</sup> Under the majority’s approach, Congress “is put in the anomalous position of allowing a married woman to sue her husband separately, in tort, for the recovery of her property, but denying her the right or privilege to sue him separately, in tort, for damages arising from his brutal assaults upon her person.”<sup>111</sup> Noting that “with the policy, wisdom, or justice of the legislation in question this court can have no rightful concern,” the dissent concluded that the majority’s opinion would “defeat the clearly expressed will of the legislature.”<sup>112</sup> Notably, the dissent did not challenge the majority’s claim that criminal and divorce remedies were available to address this conduct.<sup>113</sup>

### *B. Widespread Criticism of the Thompson Majority Opinion*

The majority’s holding was far from surprising given that every previous state supreme court faced with the same question had refused to allow such suits.<sup>114</sup> Commentary in *The Yale Law Journal* noted that the case “represents the steady trend of American authority” even though “there have been some expressions of disapproval even when applying it.”<sup>115</sup> The unprecedented opinion came from the dissent, which quickly received praise from mainstream newspapers, legal journals, and other courts as the correct approach.

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Bickel, *The Judiciary and Responsible Government, 1910–21*, in *THE OLIVER WENDELL HOLMES DEVISE: HISTORY OF THE SUPREME OF THE UNITED STATES* 315 (1984) (citing the case as an example of Justice Day’s conservatism, in contrast to his general reputation for being progressive); REBECCA S. SHOEMAKER, *THE WHITE COURT: JUSTICES, RULINGS, AND LEGACY* 60 (2004) (suggesting that the decision shows Justice Day’s “conservative streak” in some social legislation).

107. *Thompson*, 218 U.S. at 619 (Harlan, J., dissenting).

108. *Id.* at 620.

109. *Id.* at 621.

110. *Id.*

111. *Id.* at 623.

112. *Id.* at 623–24.

113. *Thompson*, 218 U.S. at 620–24 (Harlan, J., dissenting).

114. Katz, *supra* note 34, at 1224–29.

115. Comment, *Can a Married Woman Maintain an Action of Tort Against Her Husband for a Tort Committed During Coverture?*, 22 *YALE L.J.* 250, 251 (1913) [hereinafter *Can A Married Woman?*].

Newspapers began discussing the case immediately after it was argued. Papers across the country described the question presented to the Court in graphic terms: “[i]f a husband beats his wife until she is bruised and bleeding, even crippled for life, should she be allowed to sue him for damages, or would such suits violate the sanctity of the home and tend to break up civilization?”<sup>116</sup> Although the decision would only be binding in the District of Columbia, as one newspaper explained, “states having similar laws . . . will be concerned in the outcome of the suit.”<sup>117</sup>

About a month before the Court released its decision, *The Washington Post*, among other newspapers, devoted considerable coverage to the “World-Old Problem.”<sup>118</sup> “Attention wives!” one article began, “[t]here is now before the United States Supreme Court a case that is of vital importance to every one of you. . . . A wife has appealed to the highest tribunal in the land to know if her husband has a right to beat her.”<sup>119</sup> Although “[t]o the layman, and especially to the laywoman, it would seem that the woman might confidently expect a favorable decision,” precedent from other jurisdictions suggests “[she] may not succeed.”<sup>120</sup> After noting that “it is not so very long ago that it was considered perfectly right and proper for a husband to beat his wife whenever he happened to think she needed it,” the author continued, “[i]n these days, when women are really privileged beings, having many legal rights that men have not, it is really amazing to look back a few years and see in what abject slavery a woman placed herself when she was wedded.”<sup>121</sup> While before she was routinely discriminated against, “[n]ow the tendency of the law is to favor her.”<sup>122</sup> Given this trend in the law, the article suggested that “it is possible that [the Court] may, in its wisdom, take another step forward and declare that a woman has a right to sue her husband for damages.”<sup>123</sup>

After that possibility failed to materialize, *The Washington Post* reporter covering the decision was incredulous. “Curiously,” the writer

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116. The question was phrased almost identically by many newspapers across the country. See, e.g., *Wife's Rights in Court: Supreme Tribunal to Decide if Husbands Can Be Sued for Assault*, WASH. POST, Oct. 28, 1910, at 2; *Sues Husband for Damages: Supreme Court Must Decide If Wife Can Sue for Compensation for Assault*, N.Y. TIMES, Oct. 28, 1910, at 6; *Question up to Supreme Court: Should Wife Beaten by Husband Be Allowed to Sue Him for Damages?*, DULUTH NEWS TRIB., Oct. 29, 1910, at 15.

117. *If Husband Beats Wife: Can She Sue Him for Damages?—Supreme Court to Decide*, NEW-YORK DAILY TRIB., Oct. 28, 1910, at 4.

118. *May a Man Beat His Wife? U.S. Supreme Court to Rule*, WASH. POST, Nov. 14, 1910, at 8.

119. *Id.*

120. *Id.*

121. *Id.*

122. *Id.*

123. *Id.*; see also *Beat His Wife? The Question Now Before U.S. Supreme Court*, IDAHO DAILY STATESMAN, Nov. 20, 1910, § 3, at 1.

began, “it is the alleged wife-beater who makes the first successful stand against the latter-day tendency of lawmakers to enter the home and revolutionize the relations between husband and wife.”<sup>124</sup> The author found it “worthy of note” that the Congressional Act “tending to promote family division has a similar effect on the United States Supreme Court, which is a house divided against itself.”<sup>125</sup> Explaining further, the article observed, “it is most unusual for the dissenting members of the court to go so far as to say that the majority decision ‘defeats the clear will of Congress,’ and that the court virtually adds words to the law as it was passed.”<sup>126</sup> Finally, the article suggested, perhaps “it has come back to the normal point of view that the whipping post is a better institution than the action for damages or alimony.”<sup>127</sup>

Law journals were similarly critical of the majority’s holding. According to a representative law journal article, the Court “maintained the common law in the teeth of the words of the statute, because they consider it better public policy.”<sup>128</sup> The author declared that the minority view “that it is the province of the legislature to determine the question, is the sounder.”<sup>129</sup> Another legal commentator observed that the “decision leaves the law in a curious condition” in which the wife has a right to sue her husband regarding her separate property, “[b]ut her person—certainly more sacred and worthy of the care of the law—remains as it was at common law, absolutely the husband’s.”<sup>130</sup> That article concluded that the legislators who drafted the “broad” statute “never contemplated the construction of the act now placed upon it” by the Court.<sup>131</sup> About a decade later, scholars would point to the dissenting opinion as “[t]he first intimation that the tide was starting to turn” toward allowing the suits.<sup>132</sup>

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124. *A District Cause Celebre*, WASH. POST, Dec. 14, 1910, at 6.

125. *Id.*

126. *Id.*

127. *Id.* Other newspapers merely summarized the opinions, indicating that they believed the story would be of interest to their readers. See, e.g., *Wife Can’t Sue Husband: Supreme Court Decides Against Woman in Action for Assault*, NEW-YORK DAILY TRIB., Dec. 13, 1910, at 4; *Can’t Sue a Wife Beater: United States Supreme Court Decides Woman Cannot Ask Damages from Irate Husband*, BELLEVILLE NEWS-DEMOCRAT, Dec. 14, 1910, at 6.

128. *Can a Married Woman?*, supra note 115, at 255.

129. *Id.*; see also *Husband and Wife—Privileges and Disabilities of Coverture—Strict Construction of Statute Giving Separate Rights*, 24 HARV. L. REV. 403, 403–04 (1910). But see *Right of Wife Under Enabling Act to Sue Her Husband for a Tort*, 72 CENT. L.J. 75, 76 (1910) (finding the majority view more persuasive).

130. *Liability of the Husband to the Wife for an Assault Upon Her*, 16 VA. L. REG. 856, 857 (1911).

131. *Id.*

132. Comment, *Actions for Personal Tort by Wife Against Husband and Child Against Parent*, 33 YALE L.J. 315, 317 (1924).

State supreme courts also were largely unconvinced by Justice Day's opinion and, because the Supreme Court had been sitting as the highest court in D.C. rather than in its typical capacity, courts in other jurisdictions were not obliged to follow the decision. In fact, for the remainder of the decade, most state supreme courts hearing the issue as a matter of first impression sided with the dissent.<sup>133</sup> The Supreme Court of Oklahoma wrote that it was "impelled to say that the philosophy of this great jurist [Justice Harlan] appeals to us with more force and soundness and impresses us as more in harmony with the modern legislative intent."<sup>134</sup> In contrast, the majority opinion in *Thompson* was one of "[m]any carefully reasoned *though we cannot say well reasoned*" cases that refused to recognize interspousal suits.<sup>135</sup> Modern legislatures had acted in vain when they "attempted to break away from the common-law rule and to put the courts out of hearing of the still lingering echoes of barbaric days."<sup>136</sup> Even those courts following the majority approach often seemed critical of the majority opinion. For example, in the first relevant state supreme Court case heard after *Thompson*, the Supreme Court of Washington explained that Justice Harlan's dissent was based on a "special provision" unique to the D.C. statute.<sup>137</sup> The Washington Court was justified, therefore, in following the majority's approach even though the dissent was better reasoned.<sup>138</sup>

Most of the criticism and analysis, however, was not statutory; other courts did not find the Supreme Court's public policy rationales remotely persuasive.<sup>139</sup> One of the most common critiques of Justice Day's opinion was that it was nonsensical to disallow interspousal tort suits on the basis of privacy and marital harmony while at the same time encouraging public divorce and criminal suits as alternative remedies.<sup>140</sup> (Mrs. Thompson's Supreme Court brief had made precisely this point.<sup>141</sup>)

The Supreme Court of Connecticut, the first to allow interspousal tort suits, determined that "[t]he danger that the domestic tranquility

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133. Katz, *supra* note 34, at 1224–36.

134. *Fiedeer v. Fiedeer*, 140 P. 1022, 1025 (Okla. 1914); *see also* *Crowell v. Crowell*, 105 S.E. 206, 211 (N.C. 1920) (Allen, J., concurring).

135. *Fiedeer*, 140 P. at 1023 (emphasis added).

136. *Id.* at 1023; *see also* *Fitzpatrick v. Owens*, 186 S.W. 832, 834 (Ark. 1916).

137. *Schultz v. Christopher*, 118 P. 629, 630 (Wash. 1911).

138. *Id.* *But see* *Keister's Adm'r v. Keister's Ex'rs*, 96 S.E. 315, 319 (Va. 1918) (finding that the majority opinion "is sustained by the better reasoning").

139. This criticism can also be found in law journals. *See, e.g.*, Casenote, *Husband and Wife—Right of Wife to Sue Husband for Assault and Battery*, 27 YALE L.J. 1081, 1081 (1918).

140. *Fiedeer*, 140 P. at 1023; *Johnson v. Johnson*, 77 So. 335, 338 (Ala. 1917).

141. Brief in Behalf of the Plaintiff in Error, *supra* note 91, at 8.

may be disturbed” if the suits were allowed “is not serious.”<sup>142</sup> Obviously the parties would not bring suit unless domestic tranquility was already destroyed.<sup>143</sup> The Supreme Court of North Carolina queried, “if the unity does not prevent an indictment why should it prevent a civil action?”<sup>144</sup> And the Supreme Court of Oklahoma opined,

We fail to comprehend wherein public policy sustains a greater injury by allowing a wife compensation for being disabled for life by the brutal assault of a man with whom she has been unfortunately linked for life than it would be to allow her to go into a criminal court and prosecute him and send him to the penitentiary for such assault.<sup>145</sup>

It continued, “[n]or are we able to perceive wherein the sensitive nerves of society are worse jarred by such a proceeding than it would be to allow the parties to go into a divorce court and lay bare every act of their marriage relation in order to obtain alimony.”<sup>146</sup>

Marital harmony and privacy simply could not justify the denial of interspousal tort suits given the availability of divorce and criminal prosecutions to address the same behavior. Distinguishing between marital torts and other interspousal actions by offering a privacy justification was blatantly inconsistent.

### III. LEGAL AND SOCIAL RESPONSES TO “WIFE BEATING”

Because the majority Justices in *Thompson* based their opinion in part on the supposed availability of divorce and criminal remedies for abused wives, it is important to investigate whether this description of the legal landscape was fair or was instead merely an excuse for denying tort relief.<sup>147</sup> The following sections conclude that these remedies were often available and—perhaps more importantly for purposes of evaluating judges’ motivations in the tort context—they were widely *perceived* as available.

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142. *Brown v. Brown*, 89 A. 889, 891 (Conn. 1914).

143. *Id.* at 891–92.

144. *Crowell v. Crowell*, 105 S.E. 206, 209 (N.C. 1920).

145. *Fiedeer*, 140 P. at 1023–24.

146. *Id.* at 1024.

147. Sack argues that the Justices attempted to “mitigate the harshness of [the case’s] result” by pointing Mrs. Thompson to other remedies, but concludes that these other remedies were unavailable. Sack, *supra* note 37, at 1499. Citing her own earlier scholarship, which in turn cites Siegel, Sack writes: “[i]t has been well documented that prosecution of a criminal case involving domestic violence . . . in 1910, would have been virtually unheard of.” *Id.* at 1499, 1499 n.304. She also casts doubt on the feasibility and financial results of seeking a divorce with alimony. *Id.*

Moreover, the public nature of these legal options severely undercuts the prevailing understanding of domestic violence and privacy in this period. Judges hearing tort cases did not hide abusive men behind a veil of privacy; they directed abused wives to seek other forms of legal relief. And when wives entered divorce courts and criminal courts, they found vocally sympathetic and supportive judges. These judges were influenced by prevailing gender norms and motivated to reinforce them. As legal historian Michael Grossberg has perceptively suggested, in the nineteenth century, judges increasingly intervened in unstable families and assumed “the mantle of patriarch” to stabilize families and secure “male governance.”<sup>148</sup> By replacing fallen “domestic patriarchs,” judges “helped perpetuate, albeit in altered form, patriarchal authority within republican society.”<sup>149</sup> At the same time, judges used the public forum of their courtrooms to dictate and publicize acceptable male and husbandly behavior.

#### *A. Judicial Protection and Intervention in Divorce*

While declining to permit interspousal torts in D.C., the majority Justices directed Mrs. Thompson and other abused wives to the divorce courts, observing that “the perpetration of such atrocious wrongs affords adequate grounds for relief under the statutes of divorce and alimony. . . .”<sup>150</sup> This section finds that the Justices could have reasonably believed that divorce and alimony were realistic options for many abused wives, given the public perception that divorce was increasingly easy and common and the Justices’ own experiences hearing divorce appeals.

Since the mid-nineteenth century, the U.S. divorce rate had been steadily increasing among all classes and was rising dramatically each year.<sup>151</sup> Even as states attempted to curb the trend through legislative change, the rate continued to climb. Whereas in 1860 there were just over 7,000 divorces (1.2 per 1,000 existing marriages), by 1910 there were approximately 83,000 (4.5 per 1,000 existing marriages).<sup>152</sup> It was widely reported that the United States had the highest divorce rate in the world.<sup>153</sup> Conservatives were scandalized by

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148. GROSSBERG, *supra* note 56, at 300–01.

149. *Id.*

150. *Thompson v. Thompson*, 218 U.S. 611, 617 (1910).

151. Many scholars have documented developments in divorce law during this period, so only a brief discussion is included here. *See, e.g.*, HARTOG, *supra* note 52, at 40–92; Robert L. Griswold, *Divorce and the Legal Redefinition of Victorian Manhood*, in *MEANINGS FOR MANHOOD: CONSTRUCTIONS OF MASCULINITY IN VICTORIAN AMERICA* 96–110 (Mark C. Carnes & Clyde Griffen, eds. 1990); O’NEILL, *supra* note 43, at 11.

152. O’Neill, *supra* note 43, at 20.

153. *Id.* at 22; LAWRENCE M. FRIEDMAN, *A HISTORY OF AMERICAN LAW* 378 (3d ed. 2005); MAY, *supra* note 54, at 2, 5; PHILLIPS, *supra* note 54, at 439, 462–64.

these developments and feared for the future of the American family (especially the *white* American family, incorporating concerns about eugenics).<sup>154</sup> They founded organizations to combat divorce, and the issue was examined and debated in a broad range of mediums.<sup>155</sup>

States allowed spouses to end their marriages on grounds most commonly including adultery, desertion, and cruelty, and women increasingly cited cruelty in their petitions.<sup>156</sup> Despite the technical availability of divorce, however, obtaining a divorce was not an easy route for social, economic, and procedural reasons. As an article in *The Chicago Daily Tribune* observed, “[t]he wife can get a divorce in most states by asking for it, but where she is dependent on her husband she dislikes to do it.”<sup>157</sup> Alimony was not guaranteed.<sup>158</sup> And the requirements and procedures for divorce varied wildly by state, creating procedural and logistical hurdles.<sup>159</sup>

Many women were not deterred by these risks, however.<sup>160</sup> Wives used “expansive legal interpretations of marital cruelty” in divorce law to draw attention to a wide range of abuse.<sup>161</sup> They arrived in court accompanied by “scores of witnesses,”<sup>162</sup> and divorce proceedings were often “something of a public spectacle.”<sup>163</sup> Newspapers published the

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154. FRIEDMAN, *supra* note 153, at 381; LOVETT, *supra* note 47, at 7.

155. FRIEDMAN, *supra* note 153, at 378, 381; GROSSBERG, *supra* note 56, at 250–53; O’Neill, *supra* note 43, at 33–56; PHILLIPS, *supra* note 54, at 463–44.

156. Friedman & Percival, *supra* note 43, at 65. In some instances, cruelty may have been claimed because it was easier and less embarrassing than alleging adultery. *Id.* After 1920, cruelty became the most common justification. *Id.* at 66.

157. *The Wife Beater*, CHI. DAILY TRIB., Feb. 6, 1906, at 8.

158. It is unclear how frequently women received alimony in this period, and the rate undoubtedly varied by state. In her study of an earlier period, Norma Basch found that alimony was rarely requested in New York and Indiana and concluded that divorce led to “a new independence for men from the bonds of matrimony [rather] than to a new autonomy for women.” Norma Basch, *Relief in the Premises: Divorce as a Woman’s Remedy in New York and Indiana, 1815–1870*, 8 L. & HIST. REVIEW 1, 7–8 (1990). Peterson del Mar found an increase in the frequency of alimony awards in Oregon in the early 1900s. See PETERSON DEL MAR, *supra* note 29, at 92. Phillips observes that between 1887 and 1906, alimony was only requested in 13% of cases but was granted in 70% of those. PHILLIPS, *supra* note 54, at 601. Given that women of all classes sought divorce (often after desertion), it is unclear to what extent these numbers reflect realistic assessments of the likelihood of recovery versus some other explanation. *Id.*

159. Ernst Freund, *Unifying Tendencies in American Legislation*, 22 YALE L.J. 96, 107–10 (1912).

160. Women sought divorce more often than men for complex reasons, including that men more often deserted and that some men chivalrously allowed wives to bring suit where both parties wished to divorce. FRIEDMAN, *supra* note 153, at 379; GROSSBERG, *supra* note 56, at 251.

161. Griswold, *supra* note 151, at 97.

162. *Id.* at 98.

163. PETERSON DEL MAR, *supra* note 29, at 92; see also HARTOG, *supra* note 52, at 84 (“[B]y the 1850s divorce had become a cultural presence in public debates and in the scandal reporting of the penny press.”). For discussion of how much “private” information was



lurid details, and community members came to watch the testimony.<sup>164</sup> Trial court judges routinely granted battered wives relief,<sup>165</sup> so long as they presented themselves as embodying the traditional roles and characteristics of wives and mothers.<sup>166</sup>

As historian Robert Griswold has persuasively observed, divorce litigation became “a ceremony of sorts.”<sup>167</sup> The cases created a “public forum for a discussion of what was and was not appropriate family behavior” and to “clarif[y] gender norms.”<sup>168</sup> Consequently, “courts became a moral theater in which the contours of a new definition of manhood took shape.”<sup>169</sup> “[P]atriarchal, protective” judges held the reigns of this “theater,” and used their platforms to protect economically and socially vulnerable women and to chastise unmanly men.<sup>170</sup>

The public use of divorce litigation to define appropriate husbandly behavior continued at the appellate level.<sup>171</sup> There, judges affirmed and expanded on the range of conduct that constituted cruelty for purposes of divorce.<sup>172</sup> Judges issuing appellate decisions took the opportunity to criticize male perpetrators. For example, a Missouri appellate judge explained that the state’s “law looks with deep aversion upon the wife beater.”<sup>173</sup> He continued: “[n]o decent husband would strike his wife in anger except in necessary self-defense, and the courts of this state always have pronounced recreant the violator of this inflexible rule.”<sup>174</sup>

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revealed during divorce proceedings, see Naomi Cahn, *Faithless Wives and Lazy Husbands: Gender Norms in Nineteenth-Century Divorce-Law*, 2002 U. ILL. L. REV. 651, 662, 680 (2002).

164. For examples of graphic testimony covered by mainstream newspapers, see *Mother’s Petition: Sensational Charge Against Former Husband for Son’s Sake*, MORNING OLYMPIAN, May 24, 1905, at 1; *Study in Scarlet; A Sermon on Sin*, CHI. DAILY TRIB., Aug. 13, 1905, at 1.

165. PETERSON DEL MAR, *supra* note 29, at 92.

166. Cahn, *supra* note 163, at 654.

167. Griswold, *supra* note 151, at 99.

168. *Id.* at 99.

169. *Id.* at 97.

170. *Id.* at 97, 107; *see also* Cahn, *supra* note 163, at 661 (“Fault served to signal the policing of gender norms; fault constricted behavior and punished women and men who transgressed.”).

171. Griswold, *supra* note 151, at 101, 103.

172. *Id.* at 98, 100–01. For examples of appellate courts affirming divorce decrees granted to women who had suffered physical abuse, see *Rolfson v. Rolfson*, 115 S.W. 213 (Ky. App. 1909); *Drake v. Drake*, 131 N.W. 294 (S.D. 1907); *Westphal v. Westphal*, 83 N.W. 988 (Minn. 1900). For examples of appellate courts reversing lower courts’ denial of divorce decrees for abused women, see *Sharp v. Sharp*, 66 A. 463 (Md. 1907); *Martensen v. Martensen*, 186 S.W. 581 (Mo. App. 1916).

173. *Dimmitt v. Dimmitt*, 150 S.W. 1107, 1110 (Mo. App. 1912).

174. *Id.*; *see also* *Libbe v. Libbe*, 138 S.W. 685, 687 (Mo. App. 1911) (“American manhood abhors the wife beater, and by this act plaintiff grossly offended the dignity and proprieties of the marital relation.”).

Like many other appellate courts around the country, the Supreme Court routinely affirmed women's divorces, including on cruelty grounds. For example, just two years before the *Thompson* tort suit, it affirmed a divorce for cruelty in which the lower court awarded the woman alimony, attorney's fees, and child custody, basing its finding in part on the "reasonable" amount of the alimony.<sup>175</sup> This precedent and similar cases suggest that the Justices realistically expected that Mrs. Thompson and other women in her position could garner judicial protection in divorce courts.

The majority Justices' prediction that Mrs. Thompson could receive a divorce and alimony ultimately was only half fulfilled. She had no difficulty in securing a divorce, but a constitutional complication ultimately deprived her of alimony.<sup>176</sup> As introduced above, in the summer of 1907, Mr. and Mrs. Thompson filed divorce suits in different jurisdictions about a month apart.<sup>177</sup> Mr. Thompson's claimed domicile, Virginia, reached its decision first and entered a decree in his favor.<sup>178</sup> Mrs. Thompson's claimed domicile, D.C., later awarded her \$75 per month for maintenance and \$500 for attorney's fees.<sup>179</sup> These dueling divorce decrees brought the Thompsons within a decades-old line of controversial cases involving the determination of marital domicile and the impact of the full faith and credit clause in the context of divorce.<sup>180</sup>

Mr. Thompson appealed the D.C. decision, and the Court of Appeals reversed in his favor. The Court held that despite the couple's D.C. marriage and regular residence in D.C., their marital domicile was in Virginia.<sup>181</sup> The Virginia decree therefore was valid and entitled to full faith and credit, so it could not be superseded by the D.C. court's subsequent grant of alimony.<sup>182</sup> In January 1913, the Supreme Court affirmed.<sup>183</sup> Thus, just a few years after telling Mrs. Thompson that she likely could obtain a divorce with alimony, the Court upheld a divorce decree that did not provide any financial assistance.<sup>184</sup> (The

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175. *Bennett v. Bennett*, 208 U.S. 505, 512–14 (1908) (exercising appellate review over the Supreme Court of the Territory of Oklahoma).

176. *Thompson v. Thompson*, 35 App. D.C. 14, 25 (1910).

177. *Id.* at 16.

178. *Id.*

179. *Id.* at 17.

180. This issue first appeared on the Court's docket in 1858 and frequently reappeared. See Ann Laquer Estin, *Family Law Federalism: Divorce and the Constitution*, 16 WM. & MARY BILL RTS. J. 381, 384–97 (2007); see also, e.g., *Everett v. Everett*, 215 U.S. 203 (1909); *Sistare v. Sistare*, 218 U.S. 1 (1910).

181. *Thompson*, 35 App. D.C. at 14, 25.

182. *Id.* at 20.

183. *Thompson v. Thompson*, 226 U.S. 551, 552 (1913).

184. *Id.* at 562, 567. For early criticism of this approach to marital domicile including analysis of *Thompson*, see Herbert F. Goodrich, *Matrimonial Domicile*, 27 YALE L.J. 49, 58–59 (1917).

previous tort suit was mentioned in the parties' briefs, but it was not noted in the Court's decision.)

Although Mrs. Thompson's alimony award was ultimately voided, the more important lesson for purposes of present analysis is that Mrs. Thompson, like many other women, was able to obtain a divorce on the basis of her husband's cruelty in assaulting her. And, her home jurisdiction's maintenance award indicates that receiving alimony was not an implausible outcome. That divorce could be publicly and successfully pursued by abused women undercuts the argument that domestic violence was seen as private and not subject to legal ramifications. Moreover, the trend toward permitting and even expanding the range of conduct that justified a divorce for cruelty indicates that judges embraced their role as substitute patriarchs and willingly intervened in abusive marriages.<sup>185</sup>

### *B. Judicial Responses and Public Debate in the Criminal Context*

An additional or alternative option for abused wives was to pursue police protection and criminal sanctions. The research described below challenges existing scholarship about criminal responses to domestic violence by showing that from 1900 through 1910, criminal prosecution for wife beating was indeed a real and incredibly public legal remedy.<sup>186</sup>

At the outset, it should be noted that the sources analyzed in this section—primarily newspaper articles—do have certain drawbacks and limitations.<sup>187</sup> Perhaps most significantly, newspapers cannot reveal how often domestic violence was ignored by police or courts (or newspapers). Similarly, they provide little insight into the level of severity required to warrant police intervention.<sup>188</sup>

Newspaper sources also cannot provide the basis for a systematic or thorough analysis of variations based on region, race, nationality,

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185. See also Cahn, *supra* note 163, at 663 (“In supporting the institution of marriage, divorce provided support to a patriarchal institution.”).

186. These dates were selected because they immediately precede the *Thompson* decision. No articles identified in the search gave reason to believe 1900–1910 was different from surrounding years.

187. For general background about the form and purpose of newspapers in this period, see KEVIN G. BARNHURT & JOHN NERONE, *THE FORM OF NEWS: A HISTORY 181–218* (2001); MICHAEL SCHUDSON, *DISCOVERING THE NEWS: A SOCIAL HISTORY OF AMERICAN NEWSPAPERS 88–91* (1978).

188. See Siegel, *supra* note 22, at 2131 n.50 (“Because published opinions in such cases are scarce and much primary research remains to be done on the operations of the police courts that handled cases of marital violence among the poor, it is difficult to gauge the types of injury that elicited regular police response.”). A detailed study of police reports and court records would be beneficial but still would not answer all relevant questions and would make identification of nationwide trends extremely difficult.

or class (of the perpetrator, victim, or both).<sup>189</sup> Undoubtedly these characteristics led to biased policing and sentencing in many jurisdictions.<sup>190</sup> To the limited extent the sources themselves attempted to identify distinctions based on these traits, their conclusions are contradictory but indicate that race and nationality were perceived as relevant. For example, *The Macon Telegraph* reported:

As to the nationality of the offenders, the statistics are incomplete, but Americans, Irish, Germans, Englishmen, negroes, Hungarians, Welshmen and Scotch-Irishmen figure in the list. It is a pleasure to learn, on the authority of the district attorneys, that native Americans are less given to wife beating than the men of other nationalities.<sup>191</sup>

But according to an article in *The Los Angeles Times*, “Foreigners have formed the minority of offenders, most of whom have been Americans.”<sup>192</sup> *The Washington Post’s* report on Washington, D.C. statistics focused solely on race and concluded that “fully 95 per cent. of the cases of assaults upon women are those [committed by] negroes.”<sup>193</sup>

Although there are questions newspaper articles cannot address, they nevertheless provide significant information that previously analyzed sources do not. Perhaps most clearly, newspaper articles both illustrate and document that domestic violence was not seen as a private matter. A search just for the exact terms “wife beating” or “wife beater” in a selection of digitized newspapers that were regularly published from 1900 through 1910 identified several hundred

189. Even if newspaper articles indicated perpetrators’ race, nationality, and other characteristics in a manner that would allow detection of rates and patterns, it would remain impossible to determine whether any perceived variations were due to the bias of reporters, police, prosecutors, or judges or instead reflected true differences in behavior among diverse groups of men. Any seeming variations might also reflect differences in the thoroughness or style of newspaper reporting in different regions.

190. The three canonical sources suggest poor men, immigrants, and racial minorities may have been the targets of wife beating laws and punishments. GORDON, *supra* note 22, at 253; PLECK, *supra* note 22, at 109; Siegel, *supra* note 22, at 2134–41. However, Siegel also observes: “[i]t is difficult, if not impossible, to determine the frequency of wife beating during the nineteenth century, or to ascertain its incidence by class or race. Records of local law enforcement are scant . . . and no public or private entities monitored the problem in a systematic fashion.” Siegel, *supra* note 22, at 2140 n.86.

191. *A Wife-Beater Bill*, MACON TELEGRAPH, Jan. 21, 1905, at 4.

192. *Give Lash to Such Brutes*, L.A. TIMES, Sept. 27, 1908, at 119 [hereinafter *Give Lash*].

193. *Who Is Wife-Beater: Difficult Task Looking Up Police Court Records*, WASH. POST, Jan. 30, 1905, at 4. A search within a database of African American Periodicals (under the umbrella Archive of Americana) from 1896 to 1920 found only two articles that mentioned “wife beating” or “wife beater.” These articles merely listed “wife beating” as a crime that could be reduced through temperance, or as one of the rarer causes of lynching. See Booker T. Washington, *Prohibition and the Negro*, THE COLORED AMERICAN MAGAZINE, May 1, 1908, at 266–67; *The Lynching Industry*, THE CRISIS, Feb. 1, 1916, at 198–99.

articles recording men being arrested and charged for assaulting their wives.<sup>194</sup> These reports included the man's full name and frequently included his occupation and home address.<sup>195</sup> Hundreds of other articles from the same era document such men's punishments, which included long jail terms,<sup>196</sup> hefty fines,<sup>197</sup> and even whipping or flogging.<sup>198</sup>

That hundreds of articles from the early 1900s severely criticize wife beaters and either record or demand harsh punishments directly challenges the prevailing domestic violence narrative. Many of these reports detail the willing involvement of neighbors, friends, and relatives in physically intervening in attacks, seeking police assistance, and testifying in court.<sup>199</sup> Moreover, what these articles do not include is telling. These sources neither suggest that wife beating should be a private matter, nor report a perceived lack of arrests or punishments. Taken together, the frequency and consistency of the newspaper coverage paints a compelling image of societal and legal reactions to wife beating in the early 1900s.

Articles focused on wife-beating arrests and sentences fall into two main categories. In the first category, many articles merely list wife-beating arrests and sentences in a weekly column of police activity or court rulings along with a range of other crimes. These lists are useful because they are straightforward accounts that seem unlikely to be skewed by any reporting bias. The second category is comprised of narrative or argumentative articles in which the writers exercised greater discretion in their reporting or advocated for particular viewpoints. These accounts also support this Article's thesis because their more colorful and descriptive language shows that domestic violence was harshly condemned and not shielded as private. Although certain accounts may be sensationalized or exaggerated, these articles are still useful because they emphasize the righteous

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194. See *infra* Appendix, List A. Some reports specify that the legal charge was disorderly conduct, breach of the peace, or assault and battery, while others simply say "wife beating." Some men faced charges under a combination of these offenses. See, e.g., *Union Picket Beats Wife*, CHI. DAILY TRIB., June 24, 1906, at 2 ("[C]harges of disorderly conduct, assault and battery, and wife beating."). This Article uses all types of legal charges so long as wife beating was clearly the conduct being addressed.

195. See *infra* Appendix, List A.

196. See *infra* Appendix, List B.

197. See *infra* Appendix, List C.

198. See *infra* Appendix, List F.

199. See, e.g., *Charged with Wife Beating: Charles Owens Confined in County Jail Without Privilege of Making Bond*, THE COLUMBUS ENQUIRER-SUN, Sept. 24, 1909, at 1; *Wife Beater Roasted: Howard Judge Scores Man Who Thrashed His Spouse*, ABERDEEN DAILY NEWS, June 25, 1909, at 2; *Give Lash*, *supra* note 192; *Will Pay High for His Fun*, MORNING WORLD-HERALD, Oct. 1, 1906, at 2; *Goes to Prison on Wife Beating Charge*, DULUTH NEWS TRIB., Feb. 11, 1909, at 8.

anger of the judge, the cowardice of the abuser, and the innocence of the victim. If wife beating were not seen as serious, it might be expected that these reporters would instead have written articles that made sentences seem unjust or wives seem provoking (or perhaps would not have written about wife beating at all).

The newspaper articles that report specific punishments show that jail sentences, which often included hard labor on chain gangs or in workhouses, ranged from ten days to ten years.<sup>200</sup> The most common sentences were sixty days or three months, but there were enough lengthier sentences that the average was actually about seven months.<sup>201</sup> Fines varied considerably, from \$1 to \$1,000. The most common fine was \$50, or \$1,350 today, and the average was approximately \$68, or \$1,830 today.<sup>202</sup> The court costs added to these fines could be substantial. For example, in one case court costs of \$21.65 were added to a \$50 fine.<sup>203</sup> Those unable to pay were sent to jail.<sup>204</sup> For instance, a wife beater who was unable to pay his \$300 fine instead had to “serve one day for each two dollars of the fine.”<sup>205</sup> Some men were jailed because they were unable to pay fines as light as \$1.<sup>206</sup> When courts reduced fines in difficult economic times, they still gave wife beaters the maximum permitted.<sup>207</sup> In the harshest jurisdictions, men were given both a fine and a jail sentence.<sup>208</sup> Many of these sentences involved a year or more in jail and either a \$500 or \$1000 fine.<sup>209</sup>

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200. See *infra* Appendix, List B.

201. Calculated using Appendix Lists B and D. Months were calculated as 30 days and years as 365 days.

202. Calculated using Appendix Lists C and D. Calculation based on converting 1905 (the middle of the years used) to 2012 (the latest year available), using the Consumer Price Index because it measures the change in price of goods, which seems relevant to understanding the harm these fines might cause to families' budgets. Other measurements, such as those comparing income or economic power, lead to even higher dollar values. Samuel H. Williamson, *Seven Ways to Compute the Relative Value of a U.S. Dollar Amount, 1790 to Present*, MEASURINGWORTH (2013), <http://www.measuringworth.com/uscompare/>, archived at <http://perma.cc/XP8J-3H2T>.

203. *Wife Beater Must Pay \$50 and Costs*, BELLINGHAM HERALD, May 8, 1906, at 5. Because newspapers rarely specified the amount of court costs, these costs were not included in calculating the average fine.

204. See *infra* Appendix, List D.

205. *Wife Beater Gets His Sentence*, IDAHO DAILY STATESMAN, Dec. 13, 1907, at 3. *But see Fifty Days in Jail on Wife Beating Charge*, LEXINGTON HERALD, July 19, 1907, at 6 (“Squire Oldham would not give Watson the alternative of a fine, and after listening to the testimony sentenced him to fifty days in jail.”).

206. See, e.g., *Negro-Wife Beater Jailed*, LEXINGTON HERALD, Mar. 22, 1910, at 12.

207. *Cuts Fines in Hard Times*, N.Y. TIMES, June 12, 1908, at 1.

208. See *infra* Appendix, List E.

209. See *infra* Appendix, List E. These sentences were not used in calculating the averages because their hybrid nature might distort the results.

No segment of society was immune from criminal prosecution. Charges were brought against men from all stations of life, including barbers, postal workers, policemen, businessmen, doctors, lawyers, farmers, a famous artist, a Yale professor and former golf champion, a former Vice Presidential candidate for the Socialist Party, “one of the most prominent ministers in Georgia,” a black Democratic leader in New York, a Civil War hero, and a Browns pitcher.<sup>210</sup> They included men with varying ties to the prosecuting community, from immigrants and men who traveled from town to town to those who were “well-known,” had been longtime members of their communities, and were even “well-to-do.”<sup>211</sup> In the words of a Los Angeles prosecutor, “men in almost every walk of life” beat their wives, and “[t]hey ought to be served alike and given the lash.”<sup>212</sup>

Although criminal suits were sometimes limited by wives’ refusal to testify against their abusers,<sup>213</sup> this reality is a far cry from the

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210. *Fined a Wife Beater*, GRAND FORKS DAILY HERALD, Sept. 24, 1909, at 2 (“barber”); *Policeman Held for Wife Beating*, PHILA. INQUIRER, Nov. 21, 1906, at 1; *Lawyer Shaw Guilty of Wife-Beating*, L.A. TIMES, Oct. 25, 1901, at 10; *Charged with Wife Beating: J.W. Lynch, a Traveling Optician, Arraigned in Police Court*, KAN. CITY STAR, Sept. 6, 1905, at 5; *Postoffice Clerk Arrested*, CHARLOTTE DAILY OBSERVER, Aug. 24, 1906, at 5; *In Police Court*, LEXINGTON HERALD, Dec. 15, 1909, at 8 (“Dr. Walker”); *Used Singletree Is Wife’s Charge: Owen White Gives Bond to Answer Wife Beating Complaint*, LEXINGTON HERALD, Nov. 2, 1909, at 8 (“a farmer residing on the Richmond pike”); *Sussex County Snapshots*, PHILA. INQUIRER, Oct. 5, 1909, at 6 (“a business man”); *Socialist Maquire a Wife Beater*, N.Y. TIMES, Sept. 30, 1906, at 9; *Waddell Signs Pledge: Promises Judge Pollard to Abstain from Use of Liquor*, PHILA. INQUIRER, June 28, 1910, at 10 (“the suspended pitcher of the Browns”); *Golf Marriage Fails: Yale Professor’s Temper Not Improved by Exercise*, SUNDAY OREGONIAN, Sept. 18, 1910, at 12 (“Professor William Kent Shepard, of Yale, twice golf champion of Connecticut”); *Defends Self*, WASH. POST, Dec. 14, 1910, at 4; *Pastor Whips Jealous Wife: When He Is Arrested She Gives Bond to Keep Him from Jail*, WASH. POST, April 1, 1907, at 1 (“one of the most prominent ministers in Georgia”); *Given Fine and Jail Sentence: H.G. Bostwick Ordered to Pay \$200 and Serve 60 Days for Wife Beating*, IDAHO DAILY STATESMAN, Nov. 1, 1910, at 6 (“the ex-policeman”); *Negro Leader Jailed for Wife Beating*, N.Y. TIMES, Nov. 3, 1910, at 3 (“the colored Democratic leader in the Twentieth Assembly District”); *Artist Earle Beats Soul Mate*, BELLINGHAM HERALD, Aug. 26, 1908, at 1; *Old Soldier Charged with Wife Beating*, PHILA. INQUIRER, March 23, 1908, at 3 (“Hero of Civil and Boer Wars”).

211. *Farmer in Jail for Wife Beating*, N.Y. TIMES, Jan. 7, 1909, at 18 (“a well-to-do retired farmer”); *I.W.W. Talker in Law’s Grip: Part of “Ceremony,”* L.A. TIMES, Feb. 17, 1910, at 11 (“a stolid and dull countenanced Russian”); *Model Man When Sober May Go to Penitentiary*, THE STATE, Nov. 5, 1909, at 4 (“prominent young man of Warrenton and is exceptionally bright”); *Charged with Wife Beating*, PHILA. INQUIRER, Feb. 19, 1908, at 14 (“Two well-known Dover men Robert W. Ewing, a jeweler, and Joseph Smith, a can-maker.”); *Accused of Wife Beating: Thomas Godin Was Arrested Yesterday Afternoon for Beating His Wife*, GRAND FORKS DAILY HERALD, Dec. 24, 1910, at 3 (“a resident of this city for some time”).

212. *Give Lash*, *supra* note 192.

213. *See, e.g., Wife Beating Charged, Druggist Was Released in Similar Case on Wife’s Denial of Assault*, WASH. POST, Aug. 15, 1906, at 4; *Favors a Whipping Post: Magistrate*

allegation that judges did not wish to protect battered wives. Rather, wives' unwillingness to provide the evidence needed to secure convictions left judges and prosecutors frustrated by their inability to effectively intervene. A city prosecutor was vexed that "[t]he woman is always ready to forgive the beast who beats her"; after their husbands are prosecuted, "these women later get down on their knees and beg that their husbands be kept out of jail."<sup>214</sup> Similarly, one judge complained, "[f]rom ten to fifty badly whipped wives come here daily for warrants for their husbands, and then, when the brutes are arraigned, the women plead for forgiveness for them, refuse to prosecute and all I can do is to turn them loose."<sup>215</sup> His proposed solution, far from attempting to keep these suits out of his court, was to introduce a whipping post.<sup>216</sup> Other judges refused to suspend the sentence of a wife beater despite the wife's request.<sup>217</sup> Police reacted to wives' refusal to testify by charging wife beaters with other crimes. For example, when a wife refused to testify against her husband after he was arrested for wife beating, he was instead charged with and convicted of drunk and disorderly conduct.<sup>218</sup>

Judges and other law enforcement officials expressed no sympathy for these men and often emphasized the unmanliness of their conduct. In the words of one sheriff, "I think a man who beats his wife is one of the most despicable of God's creatures, and no punishment can be too severe for him."<sup>219</sup> A Missouri judge told a wife beater who pled for leniency, "[t]he wife beater gets the highest fine in this court the very first time he comes in, and no promises taken. . . . It's mistaken kindness to show mercy to a man who hits the woman he ought to protect."<sup>220</sup> An Idaho judge sentencing a wife beater delivered "[t]he most scathing rebuke ever administered to a guilty man," according to one newspaper.<sup>221</sup> After expressing his regret "that the

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*House Says One Is Needed in Harlem—Warns Wifebeater*, N.Y. TIMES, Aug. 9, 1909, at 4 [hereinafter *Favors a Whipping Post*]; *Not Held for Wife-Beating: Evidence Against Millen, Ga., Preacher Adjudged Insufficient*, COLUMBUS ENQUIRER-SUN, April 3, 1907, at 2.

214. *Give Lash*, *supra* note 192.

215. *The Need of a Whipping Post*, KAN. CITY STAR, Aug. 9, 1909, at 3.

216. *Id.*

217. *A Whipping Post: John Lavander Told That it Was Just What Was Needed in His Case*, GRAND FORKS DAILY HERALD, May, 4, 1906, at 6 [hereinafter *John Lavander*]; *Regret Lash is Obsolete; Rawhide for Wife Beaters*, CHI. DAILY TRIB., Aug. 31, 1907, at 7 [hereinafter *Regret Lash*].

218. *Arrested for Beating Wife; She Pays Fine*, DULUTH NEWS TRIB., Dec. 11, 1907, at 2.

219. *Wifebeaters: Will be Punished by Their Own Victims*, BILOXI DAILY HERALD, May 23, 1905, at 5.

220. *"Fixed" the Wife Beater: A Macon, Mo., Judge's Remarks to a Culprit*, KAN. CITY STAR, Nov. 22, 1905, at 2.

221. *Wife Beater Gets His Sentence*, *supra* note 205.



state has no statute that fixes a commensurate sentence for wife beating," the judge said to the man,

You took a solemn vow that you would protect and shield her and yet your wife is today in the home of a stranger, where, wounded, crippled and bleeding, she crawled for protection from you, and while she is lying there I apprehend that her bodily pains sink into insignificance in comparison with the mental anguish she suffers from the fact that this protection you promised has ceased.<sup>222</sup>

He announced to the room full of onlookers, "[t]he commonwealth of Idaho is proud of the valor of its men, but it loathes and despises such as you."<sup>223</sup>

Appellate judges also found occasion to condemn wife beating. According to a federal district court judge explaining the concept of moral turpitude in the context of a slander case, "[m]oral standards change with the ages," moving in an "upward" direction.<sup>224</sup> For example, he continued: "[w]hat in the old common law would be termed moderate correction of the wife by the husband is now execrated as wife-beating, and punished as a despicable crime."<sup>225</sup> A Justice on the North Carolina Supreme Court made a similar observation when he broached the topic of wife beating in the context of explaining why a husband was no longer entitled to possess the money damages awarded when his wife was injured by a third party.<sup>226</sup> After summarizing the evolution of the law in his state, the Justice emphasized a critical 1908 decision, "since which time no man has had legal authority to slander, or assault and beat, his wife in North Carolina."<sup>227</sup> He continued with a quip: "[a]nd thus passed away another vested right or rather *another vested wrong*."<sup>228</sup>

In the opinion of many, this widespread condemnation of wife beating was not adequately reflected in the authorized criminal sentences. A judge who committed a wife beater to ten years at hard labor "took occasion to say that he was sorry the law did not provide proper

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222. *Id.*

223. *Id.*

224. *Sipp v. Coleman*, 179 F. 997, 998 (C.C.D.N.J. 1910).

225. *Id.* at 998–99.

226. *Price v. Charlotte Elec. Ry. Co.*, 76 S.E. 502, 503–04 (N.C. 1912) (Clark, J., concurring).

227. *Id.*

228. *Id.* (emphasis added). Justice Clark was an early advocate for women's suffrage, child labor laws, and other progressive causes. See Willis P. Whichard, *A Place for Walter Clark in the American Judicial Tradition*, 63 N.C. L. REV. 287, 304–08, 311–14, 322–23 (1985).

punishment . . . that he ought to be hanged instead.”<sup>229</sup> After a wife beater alleged “he had to strike his wife or take a beating himself,” a Kansas City judge told him he “ought to be sent to jail for life. . . . But unfortunately I can only send you for 130 days.”<sup>230</sup>

It was unclear, however, whether increasing fines and jail time would be an effective approach. Newspapers emphasized that many of these criminals were repeat offenders; fines and jail time did not seem to deter them.<sup>231</sup> Furthermore, increasing the severity of the existing sentences would harm families by depriving them of their breadwinner.<sup>232</sup> “What a tragico-farcical law it is,” one newspaper editor observed, “which sends the wife-beater to idle away weeks or months in jail, supported by the community, while the helpless victims of his brutality are left to starve.”<sup>233</sup> The victimized wife was required to work to support the family; “[s]he actually pays for her own beating!”<sup>234</sup> One judge confided to a victim, “I am sorry for you, but what can I do? If I send your husband to jail you and your family will starve. He is a brute and we want to punish him, but how can we without making you and the children suffer?”<sup>235</sup>

Because of these concerns, some jurisdictions experimented with other remedies that would better preserve the financial health of the family. It was frequently suggested that when men were forced to work during their jail time, “every dollar of the earnings [should be] turned over to their families.”<sup>236</sup> Similarly, some judges directed that men’s fines be given to their victims, rather than to the court.<sup>237</sup> One newspaper reported that judges in McKeesport, Pennsylvania had found a “novel and effective method” of dealing with wife beaters: “[I]n brief, it consists of making the wife the treasurer of the family.”<sup>238</sup>

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229. *Ten Years for Wife Beating: In Passing Sentence Upon Joe Wade Judge Gage Said Wife Beaters Should Be Hanged*, THE STATE, Jan. 28, 1905, at 1.

230. “*Man-Afraid-of-His-Wife: The Excuse a Kansas City, Kas., Husband Gave for Wife Beating*,” KAN. CITY STAR, Jan. 19, 1909, at 7.

231. *The Premium on Wife-Beating*, DALL. MORNING NEWS, Jan. 12, 1904, at 6.

232. *Id.*

233. *Id.*

234. *Id.*

235. *Hard Labor for Wife Beaters*, N.Y. TIMES, Jan. 25, 1903, at 25; *see also, e.g., This Wife-Beater Puzzles Justices*, PHILA. INQUIRER, March 9, 1903, at 3; *Judge Regrets No Whipping Post*, OLYMPIA DAILY RECORDER, Feb. 3, 1909, at 1.

236. *See, e.g., The Champion Wifebeater*, FORT WORTH TELEGRAM, Feb. 21, 1904, at 14; TD Burley, *Make Wife Beaters Work Out Fines*, CHI. DAILY TRIB., Oct. 25, 1903, at 21; *see also The Whipping Post*, WOMAN’S TRIB., Nov. 24, 1906, at 92 (praising plan to replace whipping post with “a term at hard labor, and . . . a cash payment of \$1.00 a day to the family during the imprisonment of the guilty man”).

237. *Turns Fine Over to Wife*, PHILA. INQUIRER, Dec. 9, 1910, at 1; *Wife Beater’s Fine Put to Wife’s Credit in Bank*, DULUTH NEWS TRIB., Nov. 5, 1909, at 12.

238. Edwin A. Nye, *Heart to Heart Talks*, BILOXI DAILY HERALD, Oct. 26, 1909, at 8.

Other jurisdictions employed tactics designed to increase deterrence, rather than focusing on family finances. One of the more popular alternatives in the Midwest was to banish wife beaters from the city.<sup>239</sup> Another option was to make jail time harsher, rather than longer. In Plainfield, New Jersey, wife beaters were “placed in an iron cage in a deserted stable . . . and sentenced to seven days of solitary confinement on a diet of bread and water.”<sup>240</sup> Jurisdictions that did not already put prisoners to work proposed building a city workhouse,<sup>241</sup> or decided to “shackle [wife beaters] with ball and chain and put them to work on the streets.”<sup>242</sup> Several Nevada wife beaters were sentenced to “[s]tanding tied to a post for two hours each day for the next month, with a placard bearing the announcement, ‘Wife beater,’ hung from [their] neck[s].”<sup>243</sup> Other jurisdictions tried a far milder option, allowing perpetrators to sign pledges promising better conduct. These pledges were seen as effective because the men “kn[e]w that if they violate[d] their parole a word from their wives or neighbors [would] bring them back here in within an hour to serve out suspended sentences in solitary cells.”<sup>244</sup> Immigrant perpetrators were denied citizenship because “the public generally [was] growing tired of the imported wife beaters.”<sup>245</sup> These alternatives to standard fines and jail sentences were sparsely used, however, and all had their own shortcomings.

Dissatisfaction with the statutory sentences led judges to condone extralegal violence against wife beaters, even occasionally participating in such violence themselves. This hands-on approach was celebrated, often in ways that emphasized the manly aggression of the judge’s conduct. For example, Alderman John F. Donahue, a judge in

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239. See, e.g., *A Wife Beater Banished*, KAN. CITY STAR, March 15, 1904, at 5; *City Wins by His Move*, IDAHO DAILY STATESMAN, Nov. 19, 1910, at 6; *Husband Frees Dove of Peace*, DULUTH NEWS TRIB., April 7, 1908, at 5.

240. *Diet of Bread and Water for Wife Beater*, EVENING NEWS, Jan. 22, 1904, at 8.

241. See, e.g., *City Needs a Workhouse*, OMAHA WORLD HERALD, published as MORNING WORLD HERALD, Sept. 14, 1903, at 2.

242. *For Kansas Wife Beaters*, KAN. CITY STAR, Feb. 17, 1904, at 10.

243. *Wife Beating Penalty: Culprit Must Stand Tied to Post Bearing Placard Each Day for a Month*, FORT WORTH TELEGRAM, Aug. 3, 1906, at 6; see also *Indian Is to Be Tied to a Post for Wife Beating*, EVENING NEWS, Dec. 31, 1903, at 6; *Pillory for Wife Beater*, MORNING OLYMPIAN, Aug. 12, 1906, at 3.

244. *Pledge Paroles Adopted at Bridewell—Good Results Follow*, CHI. DAILY TRIB., Jan. 26, 1902, at 8. This option of signing a pledge in lieu of prison was available to other types of criminals, too. *Id.*

245. See, e.g., *Citizenship Is Denied*, L.A. TIMES, May 28, 1910, at 11; *Commendation*, IDAHO DAILY STATESMAN, Feb. 12, 1909, at 11; *Wife Beaters Not Wanted*, CHI. DAILY TRIB., May 28, 1910, at 3; *Wife Beating Aliens May Be Banished Home*, DULUTH NEWS TRIB., Aug. 20, 1909, at 1.

Wilkes-Barre, Pennsylvania, became famous “all over the country and in Europe, too” beginning the day “he first descended from the bench, tore off his coat, and soundly thrashed a chronic wife beater.”<sup>246</sup> He “received scores of letters from men and women thanking him for what he has done for oppressed and abused wives,” and even received numerous awards from humane societies.<sup>247</sup> In Donahue’s view,

“You can usually knock all ideas of violence out of a man’s head by treating him violently, and if every wife beater was thrashed, was bruised and pained to the same extent as he bruised and pained his wife, and a little more for good measure, there would be less wife beating.”<sup>248</sup>

Acknowledging that his approach was illegal and that he could be arrested, Donahue pointedly asked, “where is the judge or jury who would convict a man for thrashing a wife beater?”<sup>249</sup> Far from being indicted, after twenty-eight years on the bench, he was elected to another five-year term.<sup>250</sup> Newspapers covered other judges who followed his lead.<sup>251</sup>

Some judges thought that justice demanded that the victim or her family be allowed—or perhaps even instructed—to give wife beaters “some of their own medicine.”<sup>252</sup> One such judge ordered a wife to go into the “ante-room and strike [your husband] as often and as hard as he struck you.”<sup>253</sup> As a writer for *The American Lawyer* astutely observed, “[w]hether this will promote the future domestic harmony of the couple is, however, another question.”<sup>254</sup> In Portland, Oregon, where the whipping post was an available remedy, the sheriff announced he would deputize any woman maltreated by her

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246. *A Justice Who Whips Wife Beaters in Court*, FORT WORTH TELEGRAM, March 11, 1904, at 7.

247. *Id.*

248. *Id.*

249. *Id.*

250. *Id.*; see also *Cure for Wife Beating*, DALL. MORNING NEWS, May 5, 1901, at 6; *Justice Versus Law*, BILOXI DAILY HERALD, March 30, 1902, at 7.

251. See, e.g., *A Righteous Judge*, L.A. TIMES, Dec. 25, 1910, at VIII; *Competition for Donahue’s Glory*, WILKES-BARRE TIMES, July 28, 1904, at 3; *Husband Spanked for Wife Beating*, N.Y. TIMES, Sept. 28, 1907, at 9; *Justice Piles Lash on a Wife-Beater*, MACON DAILY TELEGRAPH, Dec. 4, 1910, at 2.

252. *Jersey Wife-Beating Cure: The Court Orders Mrs. Demetris to Slap Her Husband’s Face*, N.Y. TIMES, July 12, 1906, at 7 (quoting Recorder Hyman Lazarus).

253. *Wife Betear [sic] Had Tables Turned*, WILKES-BARRE TIMES, July 12, 1906, at 2; see also *Jersey Wife-Beating Cure*, N.Y. TIMES, July 12, 1906, at 7; *Wife Beater is Given Beating*, FORT WORTH TELEGRAM, Aug. 26, 1906, at 13.

254. *A New Punishment for Wife Beaters*, 14 AM. LAWYER 345, 345 (1906).

husband to do the whipping.<sup>255</sup> Another judge ordered a wife beater to be “released from jail and sent home to his mother-in-law” after being told by the wife that she and her mother “could look after the offender.”<sup>256</sup> The man so dreaded what his mother-in-law planned to do that “[h]e mumbled that he’d rather stay in jail, but an unfeeling policeman said: ‘Move on now, Ma’s waiting for you.’”<sup>257</sup> One of the newspaper articles that covered this story facetiously concluded: “[t]he mother-in-law is at last a legally recognized instrument of punishment in New Jersey.”<sup>258</sup>

Law enforcement turned a blind eye, or even explicitly approved, when family members took “justice” into their own hands. A “fiendish husband” who beat his wife in Wisconsin was “the most badly beaten up specimen of mankind the local police have ever seen” after his brother-in-law got his hands on him.<sup>259</sup> Nevertheless, the police “refuse[d] to arrest” the brother-in-law and still planned to charge the wife beater “as soon as he is able to be moved from his cell.”<sup>260</sup> After a wife beater in Delaware was injured so badly by his 82-year-old father-in-law that he had to go to the hospital, the judge told the wife beater that the father-in-law “did right.”<sup>261</sup> He continued, “he ought to have beaten you within an inch of your life. I have no patience with a hound like you.”<sup>262</sup> The judge sentenced him to a year in the workhouse for assaulting the elderly man and held him on \$1000 bail until the appropriate court could hear the wife-beating charge.<sup>263</sup> “I wish that I could give you more,” the judge concluded.<sup>264</sup>

Reflecting these sentiments, a *Yale Law Journal* article observed, “the man who beats his wife and is cowhided for it by her father or brother is thought by all to have received his just reward.”<sup>265</sup> And a newspaper article printed: “[t]he Washington Post suggests that as long as we do not have the whipping post, the big brother will

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255. *Wife Beaters Will Be Punished by Their Own Victims*, BILOXI DAILY HERALD, May 23, 1905, at 5.

256. *Stiff Sentence Is Given Wife Beater*, SAN JOSE MERCURY NEWS, published as EVENING NEWS, Nov. 8, 1909, at 1.

257. *Id.*

258. *Ma-in-Law Gets Man from Jail*, BELLINGHAM HERALD, Nov. 4, 1909, at 4.

259. *Fiendish Husband Beaten: Frightful Story of Abuse Told by La Crosse Woman*, DULUTH NEWS TRIB., Aug. 30, 1907, at 9.

260. *Id.*

261. *Wife-Beater Thrashed by 82-Year-Old Man: Father-in-Law Sends Brutal Husband to Hospital and Appears Against Him in Court*, PHILA. INQUIRER, April 24, 1909, at 3.

262. *Id.*

263. *Id.*

264. *Id.*; see also *His Father-In-Law Was by Far Better Man*, COLUMBUS ENQUIRER-SUN, April 25, 1909, at 1.

265. *Whipping and Castration*, *supra* note 15, at 377.

continue to serve as a substitute in wife-beating cases. But, unfortunately, there are wives with small brothers and some with no brothers at all.”<sup>266</sup>

Vigilante violence was not limited to family members.<sup>267</sup> In scenes reminiscent of the longstanding tradition of *charivaris*,<sup>268</sup> some wife beaters were attacked by furious mobs of anywhere from half a dozen to hundreds of people.<sup>269</sup> Male neighbors, posses, and crowds faced with a wife beater “thumped” him,<sup>270</sup> whipped him,<sup>271</sup> or lashed him and dunked him in water.<sup>272</sup> They attempted to tar and feather him and drown him in his jail cell,<sup>273</sup> horsewhipped and shot him,<sup>274</sup> and attempted to lynch him.<sup>275</sup> They took eggs to the jail and “pelted him with spoiled hen fruit.”<sup>276</sup> They forced him to “run a gauntlet of men with blacksnakes”<sup>277</sup> and drove him to the outskirts of town “and told him to keep going.”<sup>278</sup> They “battered down the door” of his home and “threw a noose about his neck and after dragging him a block thru the streets tossed the rope over the cross arm of a

266. *Echoes of the Post*, WASH. POST, Jan. 30, 1905, at 6.

267. Scholars have attributed vigilantism to the Ku Klux Klan, but that does not seem to explain all incidents identified in this Article. See, e.g., GORDON, *supra* note 22, at 279; Siegel, *supra* note 22, at 2136; PLECK, *supra* note 22, at 109–10. For an insightful description of how women in a slightly later period “manipulated the Klan’s ideology of chivalry” to gain protection from domestic abusers, see NANCY MACLEAN, *BEHIND THE MASK OF CHIVALRY: THE MAKING OF THE SECOND KU KLUX KLAN* 123 (1994).

268. For a description of how crowds shamed and attacked wife beaters in Europe and colonial America, see PHILLIPS, *supra* note 54, at 335.

269. See, e.g., *Crowd Maddened by Wife Beater*, DULUTH NEWS TRIB., Aug. 23, 1908, at 9; *Mob Alleged Wife Beater*, PHILA. INQUIRER, July 7, 1905, at 3; *This Wife Beater Beaten*, KAN. CITY TIMES, June 30, 1908, at 1.

270. *Wife-Beater Is Thumped*, MORNING OREGONIAN, May 24, 1910, at 6.

271. See, e.g., *Wife-Beater Badly Beaten*, L.A. TIMES, March 20, 1907, at 11; *Wife Beater Whipped byirate Citizens*, DULUTH NEWS TRIB., Dec. 13, 1907, at 2; *Wife Beater Gets Fifty Lashes*, N.Y. TIMES, Oct. 21, 1901, at 1; *Whitecaps Flog Alleged Wife-Beater*, PHILA. INQUIRER, June 16, 1900, at 4.

272. See, e.g., *Wife Beater Is Ducked*, MORNING WORLD-HERALD, July 24, 1900, at 7; *Telegraphic Notes*, BELLEVILLE NEWS-DEMOCRAT, March 2, 1905, at 2.

273. *Would Drown Wife Beater*, BELLINGHAM HERALD, July 13, 1905, at 2.

274. *Wife-Beater Whipped and Shot*, MORNING OREGONIAN, Feb. 13, 1908, at 3.

275. *Y.M.C.A. Members Would Be-Lynchers*, COLUMBUS ENQUIRER-SUN, June 21, 1908, at 2; *Broke His Wife’s Leg and Was Nearly Lynched*, WILKES-BARRES TIMES, July 16, 1904, at 2; *Mob Beats a Wife-Beater: Police Narrowly Avert Lynching at South Cumberland*, WASH. POST, June 17, 1908, at 12.

276. *Accused Wife Beater Egged*, ABERDEEN DAILY NEWS, May 11, 1910, at 4; *Northwest Briefs*, DULUTH NEWS TRIB., May 10, 1910, at 2.

277. *Wife Beater Nearly Lynched by Miners*, ABERDEEN DAILY NEWS, Aug. 13, 1908, at 1; see also *Mob Attacks Wife Beater: Dakota Miners Force Him to Run Gantlet of Blacksnake Whips*, N.Y. TIMES, Aug. 2, 1908, at 10.

278. *Banished for Wife Beating*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, July 1, 1904, at 2.

telegraph pole and started to hang him,” with policemen only intervening after “he had been choked into unconsciousness.”<sup>279</sup> Women sometimes participated in these activities as well, but their involvement was far less frequent.<sup>280</sup>

Physical violence against wife beaters was generally seen as acceptable and even “heroic.”<sup>281</sup> Likely the most famous example of this approval came directly from President Theodore Roosevelt. When a reporter came to interview Roosevelt shortly after he left office, the man had bandages on one of his hands.<sup>282</sup> Upon asking how the man was injured, Roosevelt “was told that the reporter had sprained his hand whipping a foreigner who had struck his wife.”<sup>283</sup> President Roosevelt responded, “[t]hat’s an honorable wound. I’m proud of you American men, who will not permit wife beating.”<sup>284</sup>

For those who preferred not to take the physical punishment of wife beaters into their own hands, one popular alternative was to advocate for the introduction of whipping post laws to punish convicts physically.<sup>285</sup> Between 1876 and 1906, a dozen states considered enacting such legislation for wife beaters.<sup>286</sup> The motivation behind these proposed statutes was to “call[] on the state to step in as a moral father and punish the ‘brutish son-in-law.’”<sup>287</sup> The fact that some of these jurisdictions also contemplated introducing the same

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279. *Mob Wife Beater: Police Rescue Man From Enraged Neighbors Bent on Lynching*, FORTH WORTH TELEGRAM, Sept. 22, 1907, at 3; *Wife-Beater Strung Up*, WASH. POST, Sept. 16, 1907, at 4.

280. See, e.g., *Women Scourge His Bare Back*, L.A. TIMES, Feb. 28, 1907, at 11; *Mitchell Women Beat Wife Beater*, GRAND FORKS DAILY HERALD, July 1, 1908, at 1; *Women Tar and Duck*, FORT WORTH TELEGRAM, May 26, 1908, at 10.

281. *Women Whip Cruel Husbands*, CHI. DAILY TRIB., March 29, 1902, at 10. Participants in vigilante violence were generally only punished when the result of their actions was death. See, e.g., *Beat Wife Beater to Death*, N.Y. TIMES, July 10, 1906, at 2; *Mob Killed Wife Beater*, WASH. POST, July 10, 1906, at 1.

282. *Roosevelt Proud of Him*, ABERDEEN DAILY NEWS, July 7, 1910, at 2.

283. *Id.*

284. *Id.*; *Teddy Praises Reporter Who Hits Wife Beater*, WILKES BARRE TIMES-LEADER, July 6, 1910, at 5. For extensive discussion of Roosevelt’s usage of manhood to promote racial supremacy and imperialism, see BEDERMAN, *supra* note 60, at 170–215.

285. Pleck casts whipping post advocacy as an attempt to control the lower classes. PLECK, *supra* note 22, at 109. She also suggests that “[o]ne of the reasons interest in the whipping post reemerged in the 1890s was because of increased fears of black criminals.” *Id.* at 116. Although race and class were likely relevant factors in the whipping post debates, these issues do not fully explain the nationwide interest in and serious consideration of these laws. Very few sources suggest a focus on any particular group. And one fictional depiction of a man being whipped for wife beating shows a white man. See *Whipping Husband Beaters in New Jersey*, CHI. DAILY TRIB., Feb. 10, 1901, at 46.

286. Siegel, *supra* note 22, at 2137.

287. ANGUS MCLAREN, *THE TRIALS OF MASCULINITY: POLICING SEXUAL BOUNDARIES, 1870–1930*, at 15 (1997).

punishment for child molestation and incest<sup>288</sup> shows how deeply deplorable they considered wife beating. Although the whipping post bills for wife beaters were ultimately only adopted in Maryland (1882), Delaware (1901), and Oregon (1906),<sup>289</sup> the discussion surrounding their proposal demonstrates the attention and seriousness wife beating received.

Concerned citizens wrote letters to the editor urging the adoption of the laws,<sup>290</sup> newspaper editors expressed support,<sup>291</sup> police officers and prosecutors advocated for this type of corporal punishment,<sup>292</sup> and many legislators acted diligently on their constituents' behalf to propose the legislation.<sup>293</sup> The existing punishments, whipping post advocates argued, were insufficient: "[t]he police have arrested these men, the justices have fined them, or sent them to prison, the newspapers have denounced them as ruffians and in many cases they have lost their positions, but their punishment has not been a lesson to others."<sup>294</sup> Fines and jail time simply deprived the man's family of needed financial support.<sup>295</sup> Wife beaters could only be reached "through their hides."<sup>296</sup> The goal was to "strike fear into the hearts of others who are in the habit of abusing their wives."<sup>297</sup>

The possibility of using the whipping post for wife beaters was discussed in D.C., particularly after President Roosevelt requested the enactment of a whipping post law during his December 6, 1904, address to Congress.<sup>298</sup> Roosevelt declared: "[t]here are certain offenders, whose criminality takes the shape of brutality and cruelty towards the

288. *Id.*

289. Siegel, *supra* note 22, at 2137.

290. See, e.g., W.A. Jarrel, *Open Letter to the Legislature*, DALL. MORNING NEWS, Jan. 20, 1907, at 18; J.E. Brown, *Spare Not the Lash: Abolition of the Whipping Post Declared to Be a Mistake*, WASH. POST, Jan. 9, 1905, at 9.

291. See, e.g., *The State of Oregon*, FORTH WORTH TELEGRAM, May 31, 1905, at 4; *Seven Thousand Wives Beaten in Pennsylvania*, OLYMPIA DAILY RECORDER, Jan. 27, 1905, at 2; *A Wife-Beater Bill*, MACON TELEGRAPH, Jan. 21, 1905, at 4.

292. See, e.g., *Give Lash*, *supra* note 192; *John Lavander*, *supra* note 217.

293. See, e.g., *50 Lashes for Wife Beaters: Senator Henson to Introduce Bill Establishing Whipping Post for Offenders*, CHI. DAILY TRIB., Jan. 16, 1907, at 7; *Has a Whipping Post Bill: Minnesota Legislator Favors Lashing for Those Guilty of Wife Beating or Nonsupport*, CHI. DAILY TRIB., Jan. 31, 1905, at 1; see also *Work for the Legislature*, 9 AM. LAWYER 101, 102 (1901).

294. *Give Lash*, *supra* note 192.

295. *Hard Labor for Wife Beaters*, *supra* note 235.

296. *Give Lash*, *supra* note 192.

297. *Id.* At least some wife beaters preferred the whipping post so they could continue to provide for their families. See, e.g., *Prefers Whipping Post*, WASH. POST, April 28, 1909, at 9.

298. See, e.g., *Whipping Post for the Wife Beater: Indorsed by Officials; Opposed by Women*, WASH. POST, Jan. 28, 1906, at SM2.



weak, who need a special type of punishment.”<sup>299</sup> He continued, “[t]he wife-beater, for example, is inadequately punished by imprisonment; for imprisonment may often mean nothing to him, while it may cause hunger and want to the wife and children who have been victims of his brutality.”<sup>300</sup> He therefore suggested, “[p]robably some form of corporal punishment would be the most adequate way of meeting this kind of crime.”<sup>301</sup> His message was met with “warm approval” and “caused widespread interest in Washington.”<sup>302</sup>

Following the President’s recommendation, Congress asked the D.C. police court to compile statistics about wife beating cases in the District. The police court’s report showed an increase in wife beating cases that led *The Washington Post* to name 1905 the “Year of Wife-Beaters.”<sup>303</sup> A bill was then proposed in Congress and widely debated.<sup>304</sup> Although it originally was met with enthusiasm,<sup>305</sup> a year later the discussion deteriorated into “the funniest ‘stunt’ pulled off in the hall of the House in many a long day,”<sup>306</sup> with Congressmen openly mocking the fifty-seven-year-old bachelor Congressman who had introduced the bill, suggesting that there should also be punishment for never marrying.<sup>307</sup> The more serious objection raised by some Congressmen, covered less prominently by newspapers, was that the whipping post was an inappropriate punishment.<sup>308</sup>

Although the bill was not successful, the discussion it generated around the country suggests that the politicians who took the discussion lightly were not representative of their constituents’ attitudes.<sup>309</sup> Congress’s levity in discussing the bill and the “personal remarks” about the bill’s sponsor “were in very bad taste,” according

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299. President Theodore Roosevelt, *supra* note 11.

300. *Id.*

301. *Id.*

302. *Capital Needs Whipping Post*, WASH. POST, Dec. 25, 1904, at 4.

303. *Year of Wife-Beaters*, WASH. POST, Feb. 1, 1905, at 10.

304. *Discussed by House: Whipping-post Bill Causes Interest Among Members*, WASH. POST, Jan. 7, 1905, at 4.

305. *Id.*; *Wants the Whipping Post*, WASH. POST, Jan. 6, 1905, at 4.

306. *Lashes for Adams: Tongue Variety Dealt in House Proves Stinging*, WASH. POST, Feb. 13, 1906, at 4.

307. *Whipping Post Bill Sidetracked*, PHILA. INQUIRER, Feb. 13, 1906, at 11; *House Hazes Bachelor on Whipping Post Bill*, N.Y. TIMES, Feb. 13, 1906, at 5; *Wife Beaters Are Safe*, CHI. DAILY TRIB., Feb. 13, 1906, at 4.

308. *See, e.g., House Hazes Bachelor on Whipping Post Bill*, N.Y. TIMES, Feb. 13, 1906, at 5.

309. The events in Congress were widely covered. *See Col. Adams Urges Use of the “Cat,”* PHILA. INQUIRER, Jan. 7, 1905, at 9; *House Plea for Whipping Post*, CHI. DAILY TRIB., Jan. 7, 1905, at 4; *The President for this Bill*, KAN. CITY STAR, Dec. 15, 1905, at 15; *Would Lash Wife Beaters*, N.Y. TIMES, Feb. 3, 1905, at 6

to one newspaper article.<sup>310</sup> Most discussants treated the possibility of a whipping post as a serious option worthy of evaluation, even if they ultimately thought it was not a good solution.<sup>311</sup> Similarly, law review contributors weighed the benefits and disadvantages of corporal punishment for wife beaters objectively, even if they concluded that use of whipping posts should be limited.<sup>312</sup>

Many judges expressed support for the whipping post.<sup>313</sup> A trial judge hearing a wife beating case in Harlem delivered “a caustic lecture on the subject of wife-beating,” in which he said that “a whipping post was sorely needed in [New York], as that form of punishment is about the only one he can think of that will stop such brutality.”<sup>314</sup> Illinois Circuit Judge Murry F. Tuley felt strongly enough that the whipping post was “the only true remedy for the habitual wife beater” that he published an article advocating for corporal punishment in *The Biloxi Herald*. In Judge Tuley’s opinion, “[t]he man who commits this crime is a vile coward at heart and only does so because he is the stronger of the two, and because his wife is unable to resist his brute strength.”<sup>315</sup> Although he opposed physical punishment generally, a man so “low and vile” as a wife beater deserved “anywhere from 10 to 50 lashes on his bare back, at least after the second or third offense.”<sup>316</sup>

A Cook County, Illinois, judge writing a counterpoint to Judge Tuley’s article did not differ in his contempt for wife beaters. Rather, he opposed the whipping post for *any* crime.<sup>317</sup> Indeed, many of those who opposed the whipping post for wife beaters did so because they were against corporal punishment in general, not because they did not take wife beating seriously.<sup>318</sup> A Texas police chief provided a

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310. *Wife Beating in The District of Columbia*, PHILA. INQUIRER, Feb. 15, 1906, at 8.

311. See, e.g., *A Wife-Beater Bill*, MACON TEL., Jan. 21, 1905, at 4; *The Wife Beater*, CHI. DAILY TRIB., Feb. 6, 1906, at 8.

312. See, e.g., *The Whipping Post*, 10 VA. L. REG. 735, 735–36 (1904) (“We agree that the whipping post should be used only in extreme cases and after milder means have been exhausted . . .”); *Whipping and Castration*, *supra* note 15, at 377–78, 382 (observing that the whipping post would degrade criminals).

313. See, e.g., *Regret Lash*, *supra* note 217, at 7.

314. *Favors a Whipping Post*, *supra* note 213, at 4. Another newspaper reported that this judge declared, “[w]hat this state needs is a whipping post for wife beaters, and I am willing to head a movement to establish it.” *The Need of a Whipping Post*, KAN. CITY STAR, Aug. 9, 1909, at 3.

315. *For and Against the Whipping Post as a Corrective Measure: For by Judge Murry F. Tuley*, BILOXI DAILY HERALD, Feb. 14, 1905, at 2.

316. *Id.*

317. *For and Against the Whipping Post as a Corrective Measure: Against by Judge Orrin N. Carter*, BILOXI DAILY HERALD, Feb. 14, 1905, at 2.

318. See, e.g., *Whipping Post for the Wife Beater: Indorsed by Officials*, *supra* note 298.

compelling explanation. Upon returning from the International Convention of Chiefs of Police, where the issue was discussed, the chief told a newspaper, “[b]ecause it savors of the nature of slavery the whipping post is not in favor, though it is effective.”<sup>319</sup>

Others suggested that the whipping post was just a substitute for identifying and solving the real underlying problems: poverty and alcohol abuse<sup>320</sup> or “the marriage of people tainted with disease.”<sup>321</sup> Ultimately, the view that the President’s suggestion was “cruel” persevered.<sup>322</sup> “To a great many people here,” one newspaper astutely observed, “the presence of the whipping post seems a deeper disgrace than the presence of wife-beaters.”<sup>323</sup>

Far from being hidden from view in a man’s castle, wife beating was seen as a socially unacceptable act committed by “none but the meanest of cowards.”<sup>324</sup> The “classic feminist critique charg[ing] that privacy doctrines powerfully facilitated the abuse and subordination of women”<sup>325</sup> is thus due for a serious revision. Male judges hearing criminal domestic violence cases used their courtrooms as moral theaters in which they could castigate men who violated society’s norms for male behavior. Rather than prioritizing privacy, these judges enthusiastically embraced the role of judicial patriarch.<sup>326</sup> They reinforced conceptions of women as weak and helpless, while punishing men who violated society’s ideals for husbandly behavior.<sup>327</sup>

#### IV. LEGAL AND SOCIAL RESPONSES TO “HUSBAND BEATING”<sup>328</sup>

In contrast to the often severe punishments meted out to wife beaters, husband beaters usually went unpunished or, at most,

319. *Police Discuss Whipping Post: Method of Punishment Urged in Convention*, FORT WORTH TELEGRAM, Apr. 14, 1906, at 8.

320. Mrs. M.A. Turner, *Causes of Wife-Beating*, WASH. POST, Feb. 6, 1905, at 9; Clarence W. Mead, *The Black Bottle and Wife Beating*, BILOXI DAILY HERALD, May 30, 1902, at 2; [No Title], WOMAN’S TRIB., Oct. 13, 1906, at 78.

321. Mme. L. MacDonnall, EDITOR POST, WASH. POST, Jan. 16, 1905, at 5.

322. *Wife-Beating the Topic: President Stirs Washington*, CHARLOTTE DAILY OBSERVER, Jan. 9, 1905, at 7.

323. *Id.*

324. §17 *Price*, *supra* note 8; *see also Cowardly*, *supra* note 8.

325. David D. Meyer, *The Constitutionalization of Family Law*, 42 FAM. L. Q. 529, 554 (2008).

326. GROSSBERG, *supra* note 56, at 301.

327. *Id.*

328. Historical examination of female-on-male domestic violence is extremely limited. *See GORDON*, *supra* note 22, at 274 (“For differing reasons, both feminists and sexists have been reluctant to recognize or acknowledge women’s physical aggression.”).

received light sentences and stern warnings.<sup>329</sup> This result seemed appropriate to most observers. In the words of one newspaper article, “[a] Baltimore judge fined a man \$15 for beating his wife, and the same day fined a woman \$3 for beating her husband. He is a just judge.”<sup>330</sup> This part analyzes the reactions men faced when they alleged they had been physically abused by their wives and shows that their treatment, legally and socially, was starkly different from that experienced by female victims.

Although these differences may be partially explained by a perception (whether accurate or imagined) that husband beating was rare and caused less harm than wife beating, the tone of the sources suggests that other factors, such as societal gender and marital expectations, were also relevant. One particularly notable example of the gendered nature of judicial opinions is contained in the sole case in which a state supreme court in this period heard an interspousal tort suit brought by a male plaintiff.<sup>331</sup> The husband in the case claimed that his wife engaged in a “systematic campaign . . . of cruel and inhuman treatment” designed to harm his reputation, business, and physical person, including hiring “private detectives to waylay and beat him up, which would have resulted seriously had not third persons interfered for his protection.”<sup>332</sup> Although the court dismissed the case on the ground that the state’s law did not permit interspousal tort suits, the court tellingly (and needlessly) described the wife’s conduct as “what is commonly known and understood as nagging.”<sup>333</sup>

Like the wife beating section of this Article, this part relies heavily on newspaper sources.<sup>334</sup> While no newspaper article from this period can be taken at face value, interpretation of husband-beating sources is particularly difficult.<sup>335</sup> The tone is frequently

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329. A similar observation has been made regarding gendered reactions to spousal murder. See Carolyn Ramsey, *Intimate Homicide: Gender and Crime Control, 1880–1920*, 77 U. COLO. L. REV. 101, 101 (2006) (“[M]en accused of killing their intimates often received stern punishment, including the death penalty, whereas women charged with similar crimes were treated leniently.”).

330. *Other Editors*, MACON DAILY TEL., Oct. 19, 1913, at 3 (citing the *New Orleans Picayune*).

331. *Drake v. Drake*, 177 N.W. 624, 624–25 (Minn. 1920).

332. *Id.* at 624.

333. *Id.*

334. The shortcomings of newspapers, addressed in the wife-beating section, also apply here.

335. Far fewer sources are available to capture the understandings of and reactions to husband beating, as compared to wife beating, in the studied period. This section includes sources from outside 1900–1910 to provide fuller analysis. The dearth of sources likely reflects the relative rarity of this conduct.

jocular or sarcastic, even when the source is describing severe physical harm and minimal punishments.<sup>336</sup> The extreme manifestation of this tendency is the common inclusion of husband beating in columns containing quips, jokes, and offbeat news stories.<sup>337</sup> For instance, one newspaper published a quip reading: “Mrs. P.A. Wilson of Arkansas is a self-made widow. In other words, she beat her husband to death.”<sup>338</sup> This use of humor likely masks deep anxieties about husband beating; the seeming reversal of gender roles may have been unnerving to many men.<sup>339</sup> Moreover, women’s embrace of masculine characteristics like violence and aggression was sometimes seen as part of their overall push for equality, adding an extra layer of concern.<sup>340</sup> Humor based on reversed sex roles seems to fit what one psychologist from the period described as arising from “contradiction” or “incongruity.”<sup>341</sup>

It is also possible, though, that the humor infusing these sources indicates that the writers, readers, and judicial actors truly did not think domestic violence against men was problematic. Perhaps husband beating was merely an entertaining novelty to be exploited for comedic value. A study of the sociology of humor observes that “there have always been strong wives and weak husbands and a certain degree of delight is found by raising consciousness about that reality.”<sup>342</sup> And an article about the psychology of humor from 1907 notes that “we laugh at all sorts of littleness, discomfitures, unworthiness and so forth, provided that they are not serious enough to excite compassion, to offend our sense of decency or evoke other incongruous feelings.”<sup>343</sup>

Although the intent of certain articles in this section is unclear and susceptible to multiple interpretations, reviewing the sources as

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336. See [No Title], DALL. MORNING NEWS, June 18, 1897, at 4.

337. See *id.*

338. *Id.*

339. Cf. PHILLIPS, *supra* note 54, at 334–35 (In Europe in the 1500s, husband beating “was considered socially reprehensible not because of the violence itself but because it represented a reversal of what was held to be the ‘natural’ relationship between wife and husband”).

340. Cf. LAURA L. BEHLING, THE MASCULINE WOMAN IN AMERICA, 1890–1935, at 121–22 (2001) (observing that humor was used to mock and combat “women who wanted to usurp men’s traditional behaviors” in the context of advocating for women’s suffrage).

341. L.W. Kline, *The Psychology of Humor*, 18 AM. J. PSYCHOL. 421, 423 (1907).

342. MARVIN R. KOLLER, HUMOR AND SOCIETY: EXPLORATIONS IN THE SOCIOLOGY OF HUMOR 267 (1988). Koller also notes that humorists may have myriad goals, ranging from degrading others to elevate their own status to using jokes to provoke thought. *Id.* at 9, 23.

343. Kline, *supra* note 341, at 422 (quoting JAMES SULLY, THE HUMAN MIND 150 [no publication year provided]).

a whole is revealing. Many themes and tropes are repeated throughout. And notably, the tone and content of most of these sources is dramatically different from those written about wife beating, thereby providing a fascinating foil.

As in the wife-beating context, society viewed domestic violence against men through the lens of gender stereotypes and expectations.<sup>344</sup> Because being physically harmed by a woman was seen as unmanly, male victims were overlooked, stigmatized, and mocked.<sup>345</sup> A masculine husband should be able to protect himself, rather than seeking the protection of the court.<sup>346</sup> In the words of one newspaper's "Pith" section: "[a] New York woman has been sentenced to three months in jail for beating her husband. The lesson to be gathered from the incident is that no man should be permitted to marry until he is capable of defending himself."<sup>347</sup>

The notion that unmanly men deserved abuse if they could not protect themselves also arose in courtrooms. A judge in Chicago, upon hearing "a sorrowful husband's story of how he was beaten with old shoes and how the household crockery had an uncanny way of hurling about his head," offered advice that never would have been given to a woman victim.<sup>348</sup> "It is the duty of the husband . . . to make his wife obey," the judge declared. "Take hold of her sharply and impress upon her the fact that the man is the ruler of the home to an extent that precludes any right of violence from her."<sup>349</sup> The newspaper reporter responded sarcastically, "[t]his is comforting counsel. The husband . . . will be glad to read it. But he will want to know if, before taking that sharp hold, it will be permissible to chloroform or hypnotize the lady."<sup>350</sup>

Many reports included discussion of the actors' relative sizes,<sup>351</sup> a detail that was almost never included in the wife-beating context. This information served to shame men who were perceived as strong enough to physically defend themselves and to imply that their

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344. Gender expectations also influenced judges' decisions in cases in which the husband claimed self-defense. Husbands' innocence in these encounters was doubted. See, e.g., *Licked Him Just 3 Times a Month*, DULUTH NEWS TRIB., June 18, 1907, at 14; "Man-Afraid-of-His-Wife." *The Excuse a Kansas City, Kas., Husband Gave for Wife Beating*, KAN. CITY STAR, Jan. 19, 1909, at 7.

345. See *Pith*, SAN JOSE MERCURY HERALD, Dec. 10, 1915, at 6.

346. *Id.*

347. *Id.*

348. *How to Deal with Husband-Beaters*, KAN. CITY STAR, Feb. 9, 1904, at 6.

349. *Id.*

350. *Id.*

351. See, e.g., *Accused of Beating Her Husband*, PHILA. INQUIRER, June 21, 1899, at 3; *Woman Wishes to Offer Exhibit to Court*, CHI. DAILY TRIB., Apr. 19, 1904, at 7.

decision to seek police protection was both unmanly and astonishing.<sup>352</sup> So, for example, when a wife threatened to kill her husband, stabbed him, struck him with a hammer, threw a shoe that cut his face, bit him, and struck him with a carving knife, a newspaper article noted incredulously that he “looks big enough to take care of himself.”<sup>353</sup> Even when a wife was much larger than her husband, he often received no sympathy. At one hearing, a 200-pound woman who “tower[ed] over” her 125-pound husband told him: “[y]ou should be ashamed of yourself to stand there and admit that I gave you a beating,” and the judge sentenced her to a \$1 fine.<sup>354</sup>

A *Washington Post* writer was quite entertained when a New Jersey husband, “or something human in bifurcated garments that passes for one,” sought police court protection against his wife, “a muscular woman with notions of her own as to how their home should be run.”<sup>355</sup> The author facetiously suggested the husband’s actions were “an example to be imitated” and that “his heroic course will do a heap for the emancipation of his sex.”<sup>356</sup> The man “has shown that it is possible for even a weak, weak man to obtain protection from the courts.”<sup>357</sup> The writer further declared that the victim deserved a monument and suggested: “[s]ome design like a gigantic broomstick prone, with the figure of [the man] mounted above it in an attitude of triumph, one hand grasping a Roman ax bound in a cylinder of rods, and the other raising aloft a volume of New Jersey statutes.”<sup>358</sup> This design “would be both neat and appropriate.”<sup>359</sup>

In strong contrast to the vigilante mobs spurred by wife beating, crowds of observers were “amused” when they saw wives beating their husbands.<sup>360</sup> When one husband went drinking with his friends for the first time in two years, his wife found him and began “laying on the whip with all her strength.”<sup>361</sup> Rather than intervening, “[a] crowd of women applauded [the wife] for disciplining her

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352. See, e.g., *Wife in Court for Husband Beating*, DULUTH NEWS TRIB., Aug. 29, 1912, at 3; *Muscular Wife Put Under Bond to Keep Peace*, L.A. TIMES, Apr. 15, 1923, at I2.

353. *Turns Tables on Hymen*, CHI. DAILY TRIB., Jan. 31, 1902, at 7; see also, e.g., *Husband Beater Fined*, KAN. CITY STAR, May 18, 1896, at 10 (observing that the husband “looks like a man who would be able to take care of himself”).

354. *Husband Beater Fined \$1 in Baltimore*, WILKES-BARRE TIMES, June 23, 1921, at 8.

355. *Hurrah for Gilpin!*, WASH. POST, Apr. 19, 1903, at E6.

356. *Id.*

357. *Id.*

358. *Id.*

359. *Id.*

360. *Woman Beats Husband to Amusement of Crowd*, CHI. DAILY TRIB., Mar. 29, 1918, at 17.

361. *Beat Her Husband Publicly*, DAILY CHARLOTTE OBSERVER, Sept. 27, 1896, at 2.

husband.”<sup>362</sup> In another instance, *The New York Times* reported that “a rather handsome young woman” waited outside the door of a Broadway theater, “carefully scanning the faces of the people pouring out” to find her husband.<sup>363</sup> When she saw him, she “pulled out a short cowhide . . . and the nervous little woman began raining blows about his head and shoulders.”<sup>364</sup> Rather than stopping her, “[t]he people near the couple made a scramble to get out of the way, leaving a circle about them and giving the woman a free field.”<sup>365</sup> She continued whipping her husband until a policeman arrived. She explained that her husband had not been supporting her and their children so, rather than arresting her, the policeman advised her to go to court to get a warrant against him.<sup>366</sup>

The male victims were not the only ones confounding gender expectations. Female perpetrators challenged society’s ideals for femininity, and judges overseeing husband-beating cases were frequently perplexed and unsure how to proceed. One “puzzl[ed]” judge explained, “I know very well what to do with a man who beats his wife . . . but I have not much experience . . . with a wife who beats her husband.”<sup>367</sup> Another judge faced with a convicted husband beater for the first time postponed sentencing because he “thought it wise to sleep on the evidence before pronouncing the sentence.”<sup>368</sup>

More dramatically, a judge who had “quite a reputation for the original manner in which he treats wife beaters”—he gave them “many severe thrashings”—was “completely stumped” by a “surprising case of husband beating.”<sup>369</sup> The husband was mockingly described as “a timid little man six feet one inch in height, and . . . only 200 pounds [who] presented a dilapidated appearance and told a pitiful story of how he had been abused.”<sup>370</sup> At first the man was not believed because “the prisoner, who carried a child in her arms, seemed unable to do the damage he claimed she had done.” In fact, all of those in attendance “believe[d] the prosecutor was laboring under an hallucination until the wife dispelled their illusion by assaulting the husband as he stepped from the witness stand, an assault which

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362. *Id.*

363. *Cowhided on Broadway*, N.Y. TIMES, Jan. 12, 1902, at 1.

364. *Id.*

365. *Id.*

366. *Id.* For another example of a crowd declining to intervene, see *Wife in New Role*, AGE HERALD, June 22, 1900, at 2.

367. *Wife Who Beat Her Husband*, WASH. POST, May 22, 1901, at 12.

368. *Convicted of Beating Husband*, WILKES-BARRE TIMES, Jan. 5, 1900, at 6.

369. *Donahue Non-Plussed*, WILKES-BARRE TIMES, Aug. 30, 1900, at 6.

370. *Id.*



was entirely unprovoked.”<sup>371</sup> The constable “interfered and with considerable difficulty managed to force the belligerent Amazon away from her bleeding husband.”<sup>372</sup> The judge then ordered the woman to go to jail to await a further hearing. The newspaper sarcastically speculated that the judge “will no doubt be over-run with appeals from timid husbands who claim they are badly abused, and his name will therefore be handed down to posterity as the one man who, at the close of the nineteenth century, had the courage to stand as the champion of both sexes.”<sup>373</sup>

When judges finally sentenced husband beaters, the punishments were often just small fines.<sup>374</sup> Women who admitted beating their husbands due to jealousy or trivial disagreements received fines of ten dollars or less.<sup>375</sup> Other confessed husband beaters did not receive any punishment.<sup>376</sup> One husband beater was “dismissed . . . with a severe reprimand,” despite the testimony of the husband and two witnesses that the wife, angered by the husband saying goodbye to his sister at a railroad station, “led him home by the ear, and upon arrival . . . administered the whipping of which he had complained.”<sup>377</sup> The husband, “under his wife’s fiery glare,” had said he did not want her punished.<sup>378</sup> Other assaults never even made it before a judge because the police did not arrest the perpetrator. In one such case, the husband was the spouse “taken to police headquarters, where he was locked up for ‘safe keeping.’”<sup>379</sup>

A provocative way some wives avoided criminal sanctions was by claiming that their assaults were justified by their husbands’ conduct. One excuse judges accepted was that the husband’s consumption of alcohol warranted physical reprimand.<sup>380</sup> The relevance of alcohol in disputes between spouses is not surprising. Women were heavily involved in the temperance movement, and alcohol use

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371. *Id.*

372. *Id.*

373. *Id.*

374. See, e.g., *A Husband Beater Fined*, KAN. CITY STAR, May, 11, 1901, at 1 (\$2 fine); *Wife Beat Hubby; Fined*, BELLEVILLE NEWS-DEMOCRAT, Mar. 8, 1911, at 1 (\$3 and costs).

375. See, e.g., *A Husband Beater Fined*, KAN. CITY TIMES, May 28, 1909, at 8; *Fined for Husband Beating*, FORT WORTH STAR-TELEGRAM, Dec. 26, 1911, at 11; *Fined for Beating Her Husband*, CHI. DAILY TRIB., May 23, 1900, at 5.

376. See, e.g., *Wife in Court for Husband Beating*, DULUTH NEWS TRIB., Aug. 29, 1912, at 3 (judge recommended parties settle out of court).

377. *Husband Beater Arrested*, WASH. POST, July 13, 1911, at 5.

378. *Id.* For other examples of husbands pleading for leniency, see *To Jail for Beating Husband*, GRAND FORKS DAILY HERALD, June 1, 1912, at 2; *Judge Will Protect Husbands from Wives Who Mistreat Them*, WASH. POST, Dec. 27, 1914, at 8.

379. *Election Went Bad for Him*, KAN. CITY TIMES, Apr. 8, 1920, at 5.

380. See, e.g., *Wife Does the Thrashing*, CHARLOTTE DAILY OBSERVER, Apr. 2, 1914, at 4.

was seen as a male-specific vice.<sup>381</sup> Numerous state legislatures recognized the harm alcohol could cause to families and added drunkenness to the grounds that justified divorce, and judges granted divorces to many women for this reason.<sup>382</sup>

Still, it is striking that judges condoned wives' use of physical punishment when they found their husbands drunk. One judge declared in open court, "[a]ny wife has my official permission to beat her husband with any weapon she chooses if the man comes home drunk late at night."<sup>383</sup> In a similar type of case, a "young and pretty" wife explained to a judge in Kansas that she had given her husband a severe beating because he had broken her rule that he must be home each night by 9:00 P.M.<sup>384</sup> "You are a good woman," the judge told the wife, "and I want to compliment you for taking the law into your own hands. We ought to have more women like you."<sup>385</sup> The judge discharged her immediately but only agreed to discharge her husband after he promised to return home before his wife's curfew.<sup>386</sup>

Outside courtrooms, a similar understanding seems to have existed. A news brief in one paper summarized: "[a]n Indiana woman is to get a medal for beating her husband. While admittedly the best in the world, the American husband evidently needs toning down occasionally."<sup>387</sup> Legislators debating appropriate punishments for husband beating in New Jersey thought "it would be a splendid thing if there were more women who were willing and able to chastise worthless husbands properly."<sup>388</sup> Even a man whose "husky" wife "sent him down for the count and an ambulance surgeon" after attacking him in his sleep was reported as acknowledging the appropriateness of his wife's assault. He told the police, "I guess she was right. But I'm surprised at her for using the stove lifter, just the same."<sup>389</sup>

Sentences closer to those given to male perpetrators were the exception and typically involved extenuating circumstances. Most

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381. PHILLIPS, *supra* note 54, at 496–97.

382. For additional discussion of women's involvement in the temperance movement and divorce litigation based on intemperance, see *id.*; Griswold, *supra* note 151, at 101–04.

383. *May Beat Drunk Husbands*, KAN. CITY STAR, Oct. 25, 1918, at 2. In one case a jury returned a "not guilty" verdict after determining wife was justified in assault. See *Missouri Notes*, KAN. CITY STAR, Aug. 10, 1920, at 18.

384. *Lauds a Husband Beater*, KAN. CITY STAR, May 12, 1917, at 1.

385. *Id.*

386. *Id.*; see also *Wife Beat Longshoreman*, N.Y. TIMES, June 20, 1903, at 14; *She's Boss All Right*, GRAND FORKS DAILY HERALD, Apr. 10, 1909, at 5.

387. [No Title], SAN JOSE MERCURY NEWS, published as THE EVENING NEWS, Jan. 21, 1903, at 4.

388. *Whipping Husband Beaters in New Jersey*, CHI. DAILY TRIB., Feb. 10, 1901, at 46.

389. *Wife Used Lifter on Cross Husband; He Approves Plan*, WILKES-BARRE TIMES, Sept. 2, 1913, at 3.

obviously, extreme injuries justified heavier sentences, although remarkably they still paled in comparison to many punishments given to ordinary wife beaters.<sup>390</sup> Significant sentences were also more likely when judges witnessed an attack, perhaps because this helped them overcome their assumptions about female conduct.<sup>391</sup> For instance, a “big black-eye woman” with a “masculine voice” who “made a vicious lunge at her meek little husband, and sent her fist within an inch of his nose” was sentenced to six months in prison.<sup>392</sup>

Certain categories of women also could expect tougher sentences.<sup>393</sup> Repeat offenders and those with other types of criminal histories were a logical target.<sup>394</sup> One woman received a two-month jail sentence after she “cheerful[ly]” acknowledged she previously had been charged five times for husband beating and “complacently” told the judge she would return “so long as occasion demands.”<sup>395</sup> Upon hearing her answer, the judge “looked at the woman for fully a minute without speaking. Then he shook his head as if admitting defeat and murmured” her sentence.<sup>396</sup> A woman who had drunk-enly stabbed a man to death five years earlier was sentenced to six months for beating her husband.<sup>397</sup>

A relatively small number of sources indicate that some people considered husband beating to be a serious problem or at least thought that fairness required that it be treated like wife beating.

390. *Beat Her Husband Severely*, THE SUN, Jan. 21, 1898, at 10 (sentence of \$3 and 60 days in jail for a woman who beat her husband with a chair leg until he was semi-conscious and so injured he was unable to appear at the hearing); *Over in Camden*, PHILA. INQUIRER, Apr. 21, 1899, at 6 (“For beating her husband on the head with a piece of rain spouting, Annie McElroy was given ten days by Recorder Nowrey.”); *Wife Who Beat Her Husband*, WASH. POST, May 22, 1901, at 12 (giving a 60-day jail sentence to woman who whipped husband and threw pot of lye in his eye).

391. Police officers may also have been more willing to arrest women when they witnessed the conduct. *See, e.g., Woman Is Held for Beating Her Husband*, PHILA. INQUIRER, July 7, 1911, at 3.

392. *Six Months for A Husband Beater: Margaret Schaup Gave an Exhibition of Her Terrible Temper*, N.Y. TIMES, Nov. 21, 1894, at 11; *see also, e.g., Jail for a Husband Beater*, N.Y. TIMES, Mar. 19, 1908, at 1.

393. A few sources tantalizingly hint at the relevance of race, perhaps indicating that black women were more likely to receive harsh sentences. *See, e.g., Was Fined for Husband Beating*, THE STATE, Aug. 25, 1903, at 3; *Beat Her Husband with a Bed Slat*, WASH. POST, Apr. 28, 1897, at 8; *Row about Kiss*, L.A. TIMES, Sept. 25, 1902, at A3.

394. *See, e.g., Husband Beater Sentenced*, N.Y. TIMES, July 28, 1903, at 13 (greater punishment likely due to use of accomplice); *Jailed for Husband Beating*, PHILA. INQUIRER, Apr. 14, 1900, at 5 (jail sentence for husband beater who also attempted to burn down her home).

395. *Fifth Time Once Too Many*, N.Y. TIMES, Jan 6, 1900, at 1.

396. *Id.*; *see also Given Thirty Days for Beating Husband*, PHILA. INQUIRER, July 2, 1910, at 8 (giving a 30-day sentence to woman who beat her husband for several years).

397. *Beat Her Husband*, EVENING NEWS, Jan. 28, 1898, at 4.

One newspaper observed: “[t]his country has shed buckets of tears in sympathy with the poor wives who have been cruelly beaten by brutal husbands: but who has wet an eyelash for the unfortunate husband who got the worst of it in a disagreement with his better half?”<sup>398</sup> A Virginia judge who sent a husband beater to “the workhouse for six months” was an exception. *The Washington Post* reported that the judge “said that he had little more respect for the woman who beats her hard-working husband than he has for the man who beats his wife, and that both should suffer.”<sup>399</sup>

The Delaware House of Representatives, which already had a whipping post for wife beaters, proposed a whipping post law for women offenders, too.<sup>400</sup> According to the *New York Times* article covering this development, the new law would correct an “obvious injustice.”<sup>401</sup> The article continued, “[t]he woman who would lay hand upon a man, save in the way of kindness, is a creature whom it would be base flattery to call—shall we say a beastess? Our language is a trifle weak in distinctively feminine common nouns.”<sup>402</sup> The paper was at least as concerned, however, that a husband beater was the type of woman who would also strike “her defenseless offspring without compunction.”<sup>403</sup>

In 1907, *The Chicago Daily Tribune* ran an in-depth exposé about women who beat their husbands.<sup>404</sup> Claiming that “[a]n epidemic of husband beating has broken out in Chicago,” the paper suggested that particularly in South Chicago “the husbands are fleeing for their lives.”<sup>405</sup> The violence was so frequent that “[e]very day a panic stricken husband or so seeks refuge in the police stations.”<sup>406</sup> Citing a local judge, the paper explained that in many states there was no legal remedy for abused husbands: “[t]hese men, whose numbers constantly are increasing, are left to the tender mercies of the callous fistful women who once promised to obey them.”<sup>407</sup> The judge

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398. [No Title], FORT WORTH MORNING REGISTER, published as FORT WORTH REGISTER, May 14, 1901, at 4. For similarly sympathetic approaches see *Echoes of the Post*, WASH. POST, Jan 9, 1905, at 6 (quoting the Charlotte News); *News and Comment*, DULUTH NEWS TRIB., Apr. 22, 1905, at 8.

399. *Judge Will Protect Husband From Wives Who Mistreat Them*, WASH. POST, Dec. 27, 1914, at 8.

400. *Punishment for Husband Beaters*, N.Y. TIMES, Feb. 3, 1901, at 18.

401. *Id.*

402. *Id.*

403. *Id.*; see also *Delaware Society Banquet: The Diners Favor Whipping Post for Husband Beaters*, N.Y. TIMES, Feb. 15, 1901, at 2.

404. *Women Who Beat Their Husbands*, CHI. DAILY TRIB., Sept. 22, 1907, at G7.

405. *Id.*

406. *Id.*

407. *Id.*

interviewed for the story perceptively described the gender-based reactions that distinguished wife beating and husband beating:

When a wife is beaten she at once becomes an object of universal pity. Her neighbors flock to her aid with poultices and advice, and the laws of her country aim, in various ways, to comfort and revenge her. Besides this, her husband, after beating her, is scorned of men. Little children point him out on the street, and he is derided and left to himself as though he were something loathsome. But the husband who falls a victim to his wife's fists is accorded different treatment. True, he also is pointed out on the street by little children, but the children have another purpose in his instance. He is a man to be laughed at and called a ninny and an easy mark.<sup>408</sup>

To make matters worse, "the law, which is designed to protect all citizens with equal zeal, and which does provide punishment for wife beating husbands, does nothing to relieve him." Instead "the law simply rises up, in its glaring inconsistency, to mock him and to laugh him to scorn."<sup>409</sup>

As with abused wives, the Chicago investigation revealed that men were afraid to swear out warrants against their abusers.<sup>410</sup> One policeman observed that they likely only saw the worst of the cases, so there were probably more than anyone knew.<sup>411</sup> Some men even began discussing the organization of a husbands' protective association. Their plan was "to arm themselves with heavy clubs and to take turns at patrolling the streets at night" so if a member of the club was attacked by his wife, he could "shout loudly for help" and a neighbor would rush to his rescue.<sup>412</sup>

Some expressions of concern focused more on the fact that women were exhibiting masculine conduct than on the harm caused to their victims. Noting that in some places "the gentler sex are developing their muscles and perfecting themselves in the manly art of self defense," one paper suggested, "[t]he day may come when there will be a call from some husbands for protection from their muscular and athletic wives."<sup>413</sup> A drawing published in *The Idaho Statesman* demonstrates this concern. The image, titled "The 20TH Century Misses,"

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408. *Id.*

409. *Id.*

410. *Women Who Beat Their Husbands*, CHI. DAILY TRIB., Sept. 22, 1907, at G7.

411. *Id.*

412. *Id.*

413. *May Settle Wife Beating Question*, OLYMPIA DAILY RECORDER, Feb. 3, 1905, at 2.

shows women engaged in various athletic activities in a gym, including one using a punching bag.<sup>414</sup> The caption dialogue reads: “Mrs. Swift is very athletic, isn’t she?” And the answer: “[w]ell, I should say so. Mr. Swift has had her in court three times for husband beating!”<sup>415</sup>



*The Los Angeles Times*, reporting on a man’s divorce from a husband beater, concluded that “[l]ittle by little the barriers over which men have held undisputed sway alone are being broken down and trampled upon by the fair sex.”<sup>416</sup>

The connection between women’s rights and female violence was perhaps most explicitly drawn when “suffragette” Mrs. Mary Dubal was accused of giving her husband “a sound thrashing.”<sup>417</sup> *The Washington Post* coverage began:

414. *The 20th Century Misses*, IDAHO STATESMAN, Mar. 3, 1902, at 8.

415. *Id.*

416. [No Title], L.A. TIMES, July 12, 1901, at 8.

417. *Husband-Beaters*, WASH. POST, June 1, 1912, at 6.

It is pretty near time for all lovers of humanity to take up the cudgel for downtrodden man. For several years pleas have been made for women's equal rights. They have been getting their rights and more. They have been walking all over the men. They have been taking their seats away from them in street cars, taking their jobs away from them at the bar, in business, and even in barber shops. And now women have begun to beat their poor husbands.<sup>418</sup>

The judge sentenced Mrs. Dubal to three months in the penitentiary, likely making her "the first suffragist in the United States to be given a penitentiary sentence for husband beating"; moreover, the judge "declared that if women desired men's prerogatives, they should also have men's punishments."<sup>419</sup> Her husband, "following the example of the sex that was formerly called the weaker, pleaded for mercy for his wife. But the judge refused to relent."<sup>420</sup>

The perception that women's rights and husband beating were linked was also demonstrated by many jokes and quips published in this period.<sup>421</sup> One example published in the 1890s read: "[a] New York woman got drunk the other day and beat her husband to death. Every day sees woman encroaching on the rights and privileges of man."<sup>422</sup> A 1915 column included the quip: "[t]he lady who made a practice of beating her husband was a true woman in that she asserted her rights before she had 'em."<sup>423</sup> And a few years after the enactment of the Nineteenth Amendment, one statement read: "[w]oman was arrested recently for beating her husband. This equality thing has gone entirely too far."<sup>424</sup>

Other jokes, rather than emphasizing women's push for equality, situated wives back in the home by employing household products as a motif. In one joke, a wife asked her husband upon his return to their residence whether the couple who hosted him had made him

418. *Id.* The use of the term "suffragette," rather than "suffragist," is noteworthy because it was a derisive, slang term originally used to ridicule Britain's militant suffragists. ELLEN CAROL DUBOIS, HARRIOT STANTON BLATCH AND THE WINNING OF WOMAN SUFFRAGE 100–101 (1997).

419. *To Jail for Beating Husband*, GRAND FORKS DAILY HERALD, June 1, 1912, at 2; *also published as Husband Beater in Jail*, BELLINGHAM HERALD, May 31, 1912, at 5.

420. *Husband Beaters*, *supra* note 417. For discussion of how women's suffrage was linked to "socialism and like dangers," see COTT, MODERN FEMINISM, *supra* note 47, at 61.

421. These examples seem to be intended as comical because they appear in lists of other brief witticisms, offbeat news, jokes, and sarcastic news summaries.

422. *[No Title]*, WHEELING DAILY REG., Oct. 18, 1893, at 4.

423. *The State's Survey*, THE STATE, Mar. 30, 1915, at 4.

424. *Editorial Comment*, PHILA. INQUIRER, July 31, 1922, at 8. For another post-suffrage example, see *Comment*, MIAMI HERALD REC., *published as* MIAMI HERALD, July 14, 1922, at 10 ("[I]t may be pertinent to remark that the Koran approves of wife beating. When Turkey attains woman suffrage will the Koran be amended to permit of husband beating?").

feel at home. “Mr. Downtrod” responded, “[v]ery much so, my dear Mrs. Browbeat hit her husband with a broom before I’d been in the house ten minutes.”<sup>425</sup> Several jokes turn on the wives’ choice of weapon. In one, a judge hearing a husband-beating case asked the wife whether she used an iron stove-poker in the assault “from mere brutality,” and she responded: “[n]o, sir: it was from motives of economy. . . . Why, I couldn’t afford to be breaking a broomstick over his back every day!”<sup>426</sup> Another example implies that the use of household items as weapons was common: “[a] Staten Island woman has been adjudged insane for beating her husband with several implements of household use. They have queer notions of insanity in those regions.”<sup>427</sup>

A common refrain in husband-beating jokes involves women’s poor aim when shooting or throwing household objects at their husbands. This category relies both on the household motif and stereotypes of women’s lack of athleticism. In one widely republished joke, the thrown object is, perhaps symbolically, a sugar bowl. The prosecutor asks, “[w]hat reasons can you give for thinking that this lady did not intend to hit her husband when she threw the sugar bowl at him?” And the witness responds: “[w]ell, she did hit him.”<sup>428</sup> In a similar joke, a judge observes to a woman’s lawyer that all of the evidence suggests she hit her husband with a brick. The lawyer responds, “[w]hich very fact proves that she must have aimed at something else.”<sup>429</sup>

The significance of these jokes is not straightforward. One reading is that they suggest a desire to feminize violent women by linking them to the home and reminding the reader of their supposed

425. [No Title], WILKES-BARRE TIMES, Aug. 31, 1897, at 1; see also *The Lancer*, L.A. TIMES, Oct. 23, 1904, at A5 (Punch line: “[a] well-bred woman ought always to come back and wipe off the blood after having hit her husband with a dust pan”).

426. *An Economical Wife*, YOUTH’S COMPANION, Sept. 14, 1893, at III. In a nearly identical joke, when the judge asked the wife why she hit her husband with a poker, her response was: “[s]hure [sic], I hit him with the poker, your honor, because at that moment I couldn’t lay my hand on the broomstick that I most generally uses.” *The Reason*, 4 VA. L. REV. REG. 799, 799 (1919). A somewhat odder joke reads: “[t]he woman who hit her husband with a dog is unrepentant. It would have been more effective had she used a poker, but she glories in her originality and the husband is inconsolable.” *Editorial Comment*, PHILA. INQUIRER, Oct. 8, 1908, at 8.

427. *The State’s Survey*, THE STATE, Aug. 14, 1892, at 4.

428. See, e.g., *A Natural Deduction*, DAILY NEW MEXICAN, Jan. 25, 1894, at 3; *A Natural Deduction*, LIFE, Jan. 18, 1894, at 37; *Humors of Criminal Law*, 17 CRIM. L. MAG. & REP. 98, 99 (1895). For the same joke regarding a flat iron, see for example *Sufficient*, BILOXI DAILY HERALD, June 13, 1905, at 4 (citing ROYAL MAGAZINE).

429. *Flings at the Fair Sex*, L.A. TIMES, Oct. 5, 1904, at A9. For a similar joke in which the brick hit an innocent bystander, see *His Complaint*, DALL. MORNING NEWS, Jan. 29, 1902, at 3 (citing PHILA. PRESS).



lack of athleticism.<sup>430</sup> Another possible interpretation is that these jokes ironically emphasize the disparity between domestic ideals and reality, providing a real critique of societal acceptance of domestic violence.<sup>431</sup> A joke that seems to fit this mold reads: “[a] woman can always hit her husband when she shoots at him, but she rarely hits a burglar. In all probability this is caused by nervousness. Not being familiar with the law she is afraid that she may be punished if she shoots anybody *outside* of the family.”<sup>432</sup> It is likely there are elements of both motives in many of the jokes.

Tellingly, jokes about wife beating are far less common and employ a different tone; humor comes from how often men are *arrested* for wife beating or the shame such an arrest could bring. So, in an example of a man wishing to avoid arrest, the joke explains that a musically untalented woman asks her husband why he always goes onto the porch when she sings, and he responds “I simply go out there to let the neighbors know that I am not a wife beater and am not the cause of the noise that is coming from inside.”<sup>433</sup> An example of a quip about arrests reads: “Santa Claus is trying to become modern. He has been arrested down in California for wife beating.”<sup>434</sup> And an example of a man in jail for wife beating begins with a temperance advocate asking the convict why he is there, and the man answering that he is a wife beater. The punch line is: “[a]nother case of lick’er,’ murmured the jailer, who, despite his occupation, was a man of no little humor.”<sup>435</sup>

The contrast between the wife-beating and husband-beating jokes helpfully illustrates the overall differences in attitude toward domestic violence based on sex. Wife beating was seen as disgraceful and was routinely punished.<sup>436</sup> Men who beat their wives were unmanly cowards, while their wives embodied feminine weakness and dependence.<sup>437</sup> In the husband-beating context, men who “allowed” their wives to beat them were so unmanly that they did not deserve society’s care or protection.<sup>438</sup> Reaction to female perpetrators was

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430. Jokes might also feminize women by focusing on their stereotypical female qualities. One joke turns on a woman achieving a slender figure by beating her husband. *Fight and Grow Thin*, CHI. DAILY TRIB., March 24, 1921, at 8 (citing KAN. CITY STAR); *Beat Her Husband to Reduce*, KAN. CITY TIMES, Mar. 14, 1921, at 1.

431. See Claude Callan, *Cracks at the Crowd*, FORT WORTH STAR-TELEGRAM, Jan. 1, 1915, at 6.

432. *Id.* (emphasis added).

433. *News and Comment*, DULUTH NEWS TRIB., Jan. 11, 1910, at 6.

434. [No Title], MORNING OLYMPIAN, Dec. 22, 1910, at 2.

435. *The Jailer Jests*, WILKES-BARRE TIMES, March 26, 1902, at 3.

436. See, e.g., *\$17 Price*, *supra* note 8.

437. See, e.g., *Cowardly*, *supra* note 8.

438. See, e.g., *Husband Beater Fined \$1 in Baltimore*, *supra* note 354.

more varied. Judges were puzzled and often gave female abusers light sentences, agreeing that it was acceptable and perhaps even good for wives to physically punish misbehaving husbands.<sup>439</sup> At the same time, though, female violence was unsettling within the broader context of societal change. As women fought for legal and economic equality, their seeming tendency to take on male traits, such as aggression, made husband beating threatening.<sup>440</sup>

### CONCLUSION

During the early twentieth century, societal expectations for masculine and husbandly behavior permeated reactions to domestic violence both inside and outside courtrooms. Under the period's code of chivalry and remaining vestiges of coverture, good husbands showed self-restraint and tenderness toward their wives and supported their families financially.<sup>441</sup> These gender norms resulted in real protections for abused wives and substantial reputational and legal consequences for perpetrators. Wife beaters were publicly vilified for failing to fulfill the duties of good husbands and violating society's ideals for acceptable manly behavior.

Furthermore, with the institution of marriage seemingly threatened by political, economic, and legal changes, many men felt compelled to help enforce traditional husbandly conduct within their communities. Male legal professionals, family members, and vigilantes participated in the punishment of male perpetrators to enforce societal expectations of masculinity.<sup>442</sup> Female victims were also seen through a gendered lens. Women were perceived as weak and dependent, needing the protection of male strangers or family members to replace the protection they should have received from their abusive husbands. While wife beating was unacceptable, beating wife beaters was encouraged.

Similarly, reactions to husband beating were shaped by understandings of appropriate sex-defined behavior. Judges found such conduct perplexing because the male victims and female perpetrators defied their acceptable gender roles. Men were expected to maintain a dominant position within their households, so husbands who

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439. *Id.*

440. *See, e.g., May Settle Wife Beating Question, supra note 413.*

441. *See supra* Part I.

442. *Cf. Hartog, supra note 52, at 165* ("The law of coverture rationalized and justified a structure of power. It existed for husbands as a ruling class, expressed a particular male vision of responsibility and duty and power. And, along the way, it confirmed good husbands in their identities as good husbands, among other things by identifying and sanctioning bad husbands.").

assumed a “submissive” role as victim were seen as weak, pitiful, and effeminate. Rather than receiving protection, they were met with scorn. The novelty of husband beating garnered public attention, but unlike the generally serious discussion generated in the context of wife beating, public acknowledgment of husband beating often took the form of jokes. This attempt at humor seems, in at least some instances, to mask deep apprehension about the development of women’s rights and roles in society. As women sought greater political rights and made advancements in the workplace, the possibility that they might also take on the masculine traits of aggression, violence, and dominance was worrisome.

Judges were not blind to these historical developments or immune to the concerns they generated. And, as men in unique positions of power, they reacted in ways that reinforced the marital and gender hierarchy. Using their divorce and criminal courtrooms as stages, judges intervened in broken families to assume some of the responsibilities and powers of failing domestic patriarchs. They used their unique platforms to publically reprimand unacceptable male behavior, while simultaneously rewarding and thereby encouraging expected female behavior. Judges’ involvement in domestic-violence-related litigation thereby reinvigorated and protected patriarchy by maintaining male control and female subservience—“preservation through transformation.”

Although judges’ patriarchal interventions helped abused wives, it is important not to overstate this benefit. As Grossberg observed, there is a “critical distinction between dependent legal powers based on judicial discretion, and independent legal rights assertable by women themselves.”<sup>443</sup> Judges embraced the former to aid wives who behaved in an appropriately subservient manner but rejected the latter to maintain women’s subordinate status.<sup>444</sup> Similarly, as Griswold succinctly concluded: “[w]hat judges offered was protection, but no extension of basic rights. Women, they asserted, needed the protection of men, and if men as husbands failed to protect their wives, then men as representatives of the state would do so.”<sup>445</sup>

Given judges’ patriarchal inclination to protect abused women in the divorce and criminal contexts, why did the majority Justices in *Thompson* (and some state supreme court judges) refuse to allow

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443. GROSSBERG, *supra* note 56, at 300–01.

444. *Id.* Similarly, Griswold found that judges’ “decisions recognized female vulnerability to male abuse, but they did so from a nonfeminist perspective that assumed that women needed legal protection from besotted, misguided males.” Griswold, *supra* note 151, at 104.

445. Griswold, *supra* note 151, at 109; *see also* PETERSON DEL MAR, *supra* note 29, at 82–83 (making similar observation regarding Oregon’s whipping post debates).

interspousal tort suits? A variety of concerns likely caused them to draw this distinction. First, it is possible that some judges genuinely believed that the statutory language of their jurisdiction's married women's act did not permit these suits. This explanation is unsatisfactory for the *Thompson* decision and likely many others, though.

More likely, the Justices and other judges may have seen practical reasons to deny tort suits. The rapid increase in divorce and the perception that women were able to obtain sufficient alimony may have led judges to conclude that tort was simply a redundant remedy. While it is true that divorce with alimony was not a feasible choice for all abused wives, the group that could expect to collect alimony substantially overlapped with the group that would benefit from tort: women with sympathetic stories whose husbands had the resources and incentives to comply with a court-ordered payment. If a married woman could pursue both tort damages and a divorce with alimony (as Mrs. Thompson did), it was possible that unwitting courts would doubly punish the husband. Not only would this be an unfair result for the man, it arguably would waste judicial resources.

And if only one financial legal option were permitted, divorce with alimony was clearly the more attractive choice. Divorce was a relatively well-established equitable remedy that gave judges considerable power and discretion. Moreover, because alimony awards could be amended, judges' power in these cases continued indefinitely. By contrast, interspousal tort suits were actions at law, rooted in the relatively new and continually amended married women's acts, and the judges' involvement ceased as soon as the damages judgment was entered.

In addition to practical considerations, deeper gender-based concerns likely contributed to the Justices' refusal to allow interspousal tort suits. The hierarchical gender dynamic of divorce and criminal cases—in which judges maintained patriarchy by intervening to protect women who fit the wifely model of vulnerability and dependence—could not easily be transferred to tort suits. In the criminal context, an abused wife relied on the police and judges to physically protect her and to punish her husband for his unacceptable conduct. If the husband continued to harm her, she could return to the judicial system to seek more severe sanctions. In the divorce context, a woman who asked for alimony acknowledged and impliedly accepted that, as a woman, she still required financial support from a man. Women who received alimony remained perpetually dependent on their former husbands, a risky proposition because those men might encounter financial difficulties, intentionally evade payment,

or seek modifications based on the women's conduct.<sup>446</sup> And if former husbands failed to comply with alimony orders or sought revision, women then needed to return to the protections offered by the male judiciary. Thus, both criminal and divorce remedies can be seen as "patriarchy in a new guise."<sup>447</sup>

In contrast to women's deferential role in divorce and criminal courts, female tort plaintiffs challenged conceptions of passive and dependent femininity simply by bringing suit. The substantive claim of a tort suit was distinct and potentially empowering. The complaint alleged, whether explicitly or not, that the plaintiff's injury resulted in financial loss *to her*, thus implying that she was working and keeping her own wages before the assault.<sup>448</sup> Moreover, a tort suit did not imply a continuing (or even previous) dependence on a male provider. And a victorious female tort plaintiff could further destroy gender expectations by gaining economic independence that the other legal remedies could not offer. She received one-time money damages and could thereafter be free from interactions with both the abusive husband and the patriarchal judge. By selecting tort litigation, a plaintiff moved from the realm of dependent legal beneficiary to independent asserter of legal rights. In this arrangement, judges (and patriarchy) lost power while women gained it.

Tort was the aggressive legal option for the New Woman. This realization may have caused the male legal elite to become severely uncomfortable. In a world in which women appeared to be radically advancing in work and politics, the male judiciary was willing to strongly and publicly address domestic violence but only in ways that left men in control.

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446. For acknowledgment of the changeability of alimony, see *Thompson v. Thompson*, 226 U.S. 551, 559 (1913) (explaining that alimony "is subject to be modified from time to time or even cut off entirely, in the event of a change in the circumstances of the parties; and it of course ceases wholly upon the death of the husband"). In some states, alimony was more limited. See *Basch*, *supra* note 158, at 10 ("In 1852, Indiana limited alimony to a one-time, lump-sum settlement to be paid out at most over a few years.").

447. *GROSSBERG*, *supra* note 56, at 302.

448. Mrs. Thompson might have been a particularly unsympathetic plaintiff for this reason because she explained her need for tort damages as arising from her inability to continue her profession. See *supra* Part II.A.

## APPENDIX

## List A: Newspaper Articles Showing a Man Charged or Arrested for Wife Beating

**1900**

*Chronic Wife Beater: Pritchett Again Held at City Prison on the Charge*, AGE HERALD, Jan. 14, 1900, at 5.

*Branford Briefly Chronicled*, NEW HAVEN EVENING REGISTER, Jan. 30, 1900, at 8.

*Not an Enviably Record*, PHILA. INQUIRER, Feb. 10, 1900, at 3.

*Alleged Wife Beater Punished*, PHILA. INQUIRER, March 8, 1900, at 12.

*Notes of Maryland News*, PHILA. INQUIRER, March 10, 1900, at 6.

*Nubs of News*, GRAND FORKS DAILY HERALD, March 11, 1900, at 4.

*Hamilton in Disgrace: Charged with Wife Beating*, THE MINNEAPOLIS JOURNAL, March 15, 1900, at 6.

*Charged with Wife-Beating: Wealthy Farmer of Redwood County on Trial*, MINNEAPOLIS J., April 10, 1900, at 3.

*Dan Baldwin Plays Even: Big Policeman Arrests the Wife Beater Who Nearly Killed Him Three Years Ago*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, April 16, 1900, at 2.

*From the Police Blotter*, PHILA. INQUIRER, May 3, 1900, at 3.

*Sections of the Old Keystone State: Towanda*, PHILA. INQUIRER, May 6, 1900, at 5.

*Justice Alsted's Busy Day*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, May 24, 1900, at 7.

*Council Bluff Notes*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, June 20, 1900, at 3.

*Brutal to His Wife: Prominent Beatrice Churchman Is Charged With Wife Beating*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, June 22, 1900, at 5.

*For Wife Beating*, NEW HAVEN EVENING REGISTER, July 7, 1900, at 8.

*Jersey in Short Metre*, PHILA. INQUIRER, July 26, 1900, at 5.

*Alleged Wife Beater Held*, PHILA. INQUIRER, Aug. 8, 1900, at 11.

*Suburbs and County*, THE SUN, Aug. 11, 1900, at 7.

*Had a Year of Marital Discord*, PHILA. INQUIRER, Aug. 12, 1900, at 3.

*Two Charged with Wife Beating*, PHILA. INQUIRER, Aug. 24, 1900, at 8.

*In the City Court*, NEW HAVEN EVENING REGISTER, Aug. 27, 1900, at 2.

*Another Case of Wife-Beating*, CHARLOTTE DAILY OBSERVER, Sept. 8, 1900, at 5.

*An "Uneven Home,"* MORNING WORLD-HERALD, Sept. 23, 1900, at 8.

*Wife Beater in Court*, MORNING WORLD-HERALD, Oct. 2, 1900, at 3.

*Wife Beating Charged*, MORNING HERALD, Oct. 11, 1900, at 8.  
*Wife Beater Not a Christian*, CHARLOTTE DAILY OBSERVER, Oct. 12, 1900, at 3.  
*Charged with Wife Beating*, PHILA. INQUIRER, Oct. 21, 1900, at 12.  
*Wife Beating Charged*, MORNING HERALD, Nov. 8, 1900, at 3.  
*Ugly Husband: Tried to Carve Arresting Officer with Razor*, EVENING NEWS, Nov. 30, 1900, at 4.  
*Charge of Wife-Beating: Mrs. Thompson Has Her Husband Arrested—Negroes in a Fight*, SUN, Dec. 27, 1900, at 8.

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*Was Captured at Revolver's Point*, PHILA. INQUIRER, Feb. 14, 1901, at 1.  
*Wife Beater Jailed*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, March 7, 1901, at 3.  
*A Bowery Wife Beater*, DULUTH NEWS TRIB., April 4, 1901, at 5.  
*Barret's Case a Serious One*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, April 18, 1901, at 3.  
*Tragic Scene at the Jail*, SAN JOSE MERCURY NEWS, May 19, 1901, at 5.  
*A Wife Beater Fights Arrest*, KAN. CITY STAR, May 20, 1901, at 2.  
*Nose Broken in a Fight*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, July 22, 1901, at 5.  
*Wife Beating Charged*, DULUTH NEWS TRIB., published as SUNDAY NEWS TRIB., Sept. 8, 1901, at 5.  
*For Wife Beating*, STATE, Oct. 15, 1901, at 3.  
*Wife Beater Shot*, COLUMBUS ENQUIRER-SUN, Nov. 21, 1901, at 2.  
*Caught While Beating Wife*, DULUTH NEWS TRIB., Dec. 2, 1901, at 5.  
*Beast's Head Shown*, IDAHO DAILY STATESMAN, Dec. 28, 1901, at 2.  
*Wilmington News Notes*, PHILA. INQUIRER, Dec. 28, 1901, at 2.

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*Two Recreant Husbands*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, Jan. 21, 1902, at 3.  
*Charged with Wife Beating*, DULUTH NEWS TRIB., Jan. 28, 1902, at 4.  
*Accused of Wife Beating*, MORNING HERALD, Feb. 23, 1902, at 5.  
*Wife Beater in the Toils*, DULUTH NEWS TRIB., March 3, 1902, at 3.  
*Andrew Is A Scrapper*, MACON TEL., March 16, 1902, at 16.  
*Bob Phillips Under Arrest*, COLUMBUS DAILY ENQUIRER, published as COLUMBUS ENQUIRER-SUN, August 1, 1902, at 3.  
*Wife Beating Charged*, MORNING HERALD, Aug. 11, 1902, at 5.  
*Wife-Beater Arrested, The City in Brief*, L.A. TIMES, Sept. 2, 1902, at 12.  
*Wife Beater Goes to Jail*, DULUTH NEWS TRIB., Aug. 28, 1902, at 3.  
*Bound Over to Grand Jury*, DULUTH NEWS TRIB., Aug. 30, 1902, at 12.

*Pardoned Wife Beater in Again*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, Sept. 9, 1902, at 3.

*Arrested for Wife Beating*, BELLEVILLE NEWS DEMOCRAT, published as DAILY NEWS-DEMOCRAT, Oct. 6, 1902, at 3.

*He Stopped the Wife Beater*, KAN. CITY STAR, Oct. 8, 1902, at 5.

*Fierce Battle Fought by Detective with a Wife Beater*, GRAND FORKS DAILY HERALD, Oct. 9, 1902, at 1.

*Preacher Charged with Wife-Beating*, CHARLOTTE DAILY OBSERVER, Nov. 26, 1902, at 5.

*Shocking Story of an Alleged Wife Beater*, DULUTH NEWS TRIB., Dec. 13, 1902, at 6.

*Champion Wife Beater*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, Dec. 29, 1902, at 3.

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*His Supper Was Late: Cause for Alleged Wife Beating by Manayunk Shoemaker*, PHILA. INQUIRER, Feb. 9, 1903, at 2.

*Will Be Prosecuted*, GRAND FORKS DAILY HERALD, Feb. 24, 1903, at 4.

*Alleged Wife-Beater Held for Court*, PHILA. INQUIRER, April, 7, 1903, at 2.

*Local Laconics*, COLUMBUS ENQUIRER-SUN, May 26, 1903, at 3.

*Wife-Beating Mania*, PHILA. INQUIRER, May 31, 1903, at 12.

*Record in Wife Beating Offered by South Chicago*, CHI. TRIB., June 20, 1903, at 4.

*A Conductor Under Arrest*, CHARLOTTE DAILY OBSERVER, July 1, 1903, at 1.

*Arrested for Wife Beating*, OMAHA WORLD-HERALD, published as MORNING WORLD-HERALD, July 22, 1903, at 3.

*Wife Beater Under Arrest*, DULUTH NEWS TRIB., July 29, 1903, at 6.

*Wife Beater Arrested*, GRAND FORKS DAILY HERALD, Aug. 4, 1903, at 1.

*Wife Beater Arrested*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, Aug. 8, 1903, at 2.

*Wife Beater in Jail*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, Sept. 19, 1903, at 3.

*Case of Alleged Wife Beating*, DULUTH NEWS TRIB., Sept. 29, 1903, at 6.

*Reverend Wife-Beater*, L.A. TIMES, Nov. 27, 1903, at 4.

*Covina: Arrested for Wife Beating*, L.A. TIMES, Dec. 14, 1903, at 15.

*Wife Says Husband Was a Rough Mate*, PHILA. INQUIRER, Dec. 23, 1903, at 2.

### 1904

*Wife Beater In Jail*, COLUMBUS LEDGER, Jan. 25, 1904, at 1 (also published as *Wife Beater In Jail*, MACON TEL., Jan. 24, 1904, at 1).



- [No Title]*, MORNING HERALD, March 11, 1904, at 3.  
*Alleged Wife Beater Now Occupies Cell*, GRAND FORKS DAILY HERALD, April 10, 1904, at 3.  
*Charged with Wife Beating*, COLUMBUS ENQUIRER-SUN, April 22, 1904, at 8.  
*Charged with Wife Beating*, LEXINGTON HERALD, May 6, 1904, at 8.  
*Cripple Breaks the Furniture*, FORT WORTH TELEGRAM, June 8, 1904, at 3.  
*Camden: Wife Beater Went Up Road in a Hurry*, PHILA. INQUIRER, June 18, 1904, at 3.  
*An Alleged Wife Beater*, LEXINGTON HERALD, July 1, 1904, at 3.  
*Alleged Wife Beater Jailed*, PHILA. INQUIRER, July 24, 1904, at 4.  
*Seattle Detectives Given Good Advice*, IDAHO DAILY STATESMAN, Aug. 12, 1904, at 1.  
*O'Day Beat Wife Again*, LEXINGTON HERALD, Sept. 1, 1904, at 8.  
*Alleged Wife Beater Jailed*, PHILA. INQUIRER, Sept. 5, 1904, at 3.  
*Alleged Wife Beater Arrested*, LEXINGTON HERALD, Oct. 2, 1904, at 6.  
*Alleged Wife Beaters*, LEXINGTON HERALD, Oct. 15, 1904, at 5 (two wife beaters arrested)  
*For Wife Beating*, GRAND FORKS DAILY HERALD, Oct. 16, 1904, at 1.  
*Alleged Wife Beater Was Arrested*, LEXINGTON HERALD, Oct. 16, 1904, at 3.  
*Arrest*, LEXINGTON HERALD, Nov. 4, 1904, at 5.
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- Hibbing [No title]*, DULUTH NEWS TRIB., Jan. 12, 1905, at 3.  
*Held on Charge of Wife-Beating*, BELLEVILLE NEWS-DEMOCRAT, Jan. 13, 1905, at 5.  
*Nubs of News*, GRAND FORKS DAILY HERALD, Feb. 12, 1905, at 4.  
*Accused of Wife Beating*, BELLINGHAM HERALD, Feb. 27, 1905, at 2.  
*Judge Cosgrove's Plan*, OMAHA WORLD-HERALD, published as MORNING WORLD-HERALD, April 27, 1905, at 2.  
*Alleged Wife Beater*, MORNING HERALD, published as LEXINGTON HERALD, May 9, 1905, at 9.  
*Wanted by Police for Wife Beating*, COLUMBUS LEDGER, June 26, 1905, at 3.  
*Mayor Punished a Wife Beater*, WILKES-BARRE TIMES, July 1, 1905, at 12.  
*Charged with Wife Beating: Clark Lee's Case Postponed Pending Developments in Woman's Condition*, WASH. POST, July 27, 1905, at 12.  
*Alleged Wife Beater*, MORNING HERALD, published as LEXINGTON HERALD, Aug. 8, 1905, at 2.  
*L.A. County—Its Cities, Towns, Villages and Hamlets: For Wife Beating*, L.A. TIMES, Aug. 22, 1905, at II7.

*Charged with Wife Beating: J.W. Lynch, a Traveling Optician, Arraigned in Police Court*, KAN. CITY STAR, Sept. 6, 1905, at 5.

*Judge Cutting Will Try Joseph Sobzyk*, DULUTH NEWS TRIB., Sept. 27, 1905, at 6.

*Arrests a Wife Beater*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, Sept. 29, 1905, at 3.

*Nabs Wife Beater and Makes Arrest*, DULUTH NEWS TRIB., Oct. 2, 1905, at 4.

*Charged with Wife Beating: M.D. Scarborough, 63 Years Old, a Gardener, Arrested This Morning*, KAN. CITY STAR, Nov. 10, 1905, at 10.

*Wife Beater Under Arrest: E.F. Boren, While Drunk, Assaults His Helpmeet and Lands in Jail*, THE IDAHO DAILY STATESMAN, Dec. 11, 1905, at 2.

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*A Son of "Bloody Bridles" Waite*, MORNING OLYMPIAN, Feb. 13, 1906, at 2.

*Wife Beating Charged: Louis Rusk Is Jailed For Abusing His Wife and Children—Claimed to Have Driven Is Accused of Beating His Wife*, DULUTH NEWS TRIB., March 2, 1906, at 6.

*Is Accused of Beating His Wife*, DULUTH NEWS TRIB., March 2, 1906, at 6.

*Wife Beating Charged*, GRAND FORKS DAILY HERALD, March 3, 1906, at 3.

*Policeman and Wife Beater*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, March 12, 1906, at 2.

*Charges Her Husband with Wife Beating: C.W. Bentley, A Mill Operative Before Justice Hargett this Morning*, COLUMBUS LEDGER, April 19, 1906, at 1.

*Henrico County Man Used Horse-whip on Woman in Road: Mr. and Mrs. Walter E. Brauer Had Been Separated and She Returned to Get Some of Her Possessions*, WASH. POST, May 6, 1906, at 13.

*Wife Beater May Have to Face a Serious Charge*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, May 11, 1906, at 1.

*Charged with Wife Beating*, OMAHA WORLD HERALD, published as SUNDAY WORLD-HERALD, June 3, 1906, at 4.

*Alleged Wife Beater Jailed*, PHILA. INQUIRER, June 15, 1906, at 3.

*Cannot Get His Children Back*, DULUTH NEWS TRIB., June 17, 1906, at 10.

*Union Picket Beats Wife*, CHI. DAILY TRIB., June 24, 1906, at 2

*Kansas Notes*, KAN. CITY STAR, July 11, 1906, at 6.

*Judge Will Not Dismiss Paryzick*, DULUTH NEWS TRIB., July 21, 1906, at 8.

*Wife Beater Is Jailed*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, Aug. 1, 1906, at 3.

*Held for Wife Beating*, WASH. POST, Aug. 2, 1906, at 5.

*Wife Beating Charged: Druggist Was Released in Similar Case on Wife's Denial of Assault*, WASH. POST, Aug. 15, 1906, at 4.

*Wilmington News Notes*, PHILA. INQUIRER, Aug. 18, 1906, at 5.

*Son-in-Law Defended by Mother-In Law*, MACON DAILY TEL., Aug. 21, 1906, at 2.

*Postoffice Clerk Arrested*, CHARLOTTE DAILY OBSERVER, Aug. 24, 1906, at 4.

*Resisted Officers*, CHARLOTTE DAILY OBSERVER, Aug. 25, 1906, at 12.

*"Not Guilty," Says Schmidt, to Charge of Wife Beating: But He Is Being Held in Custody of the Sheriff for He Is Accused of Beating His Spouse*, DULUTH NEWS TRIB., Aug. 31, 1906, at 16 (Also published in THE IDAHO DAILY STATESMAN, Oct. 21, 1906, at 4).

*He Is Accused of Beating His Spouse*, DULUTH NEWS TRIB., Aug. 31, 1906, at 16.

*Wife Beater Held*, THE FORT WORTH TELEGRAM, Aug. 31, 1906, at 1.

*Arrested as Wife Beater*, L.A. TIMES, Sept. 7, 1906, at II3.

*Wife-Beater Pleads Guilty*, L.A. TIMES, Sept. 27, 1906, at II2.

*Girl Bride Accuses Spouse*, L.A. TIMES, Sept. 28, 1906, at II2.

*Would Thrash Wife-Beater*, PHILA. INQUIRER, Oct. 13, 1906, at 6.

*Trial Tomorrow Morning*, THE IDAHO DAILY STATESMAN, Oct. 21, 1906, at 4.

*Three Cases in Justice Court*, THE IDAHO DAILY STATESMAN, Oct. 23, 1906, at 5.

*Bigamist in Society: A. W. Lawrence Posed as Wall Street Millionaire*, WASH. POST, Nov. 11, 1906, at 13.

*Plunger Accused of Wife Beating and of Bigamy*, PHILA. INQUIRER, Nov. 11, 1906, at 1.

*Policeman Held for Wife Beating*, PHILA. INQUIRER, Nov. 21, 1906, at 1.

*Wife Says He Beats Her*, L.A. TIMES, Nov. 28, 1906, at II12.

*Wife Beater Arrested*, L.A. TIMES, Dec. 14, 1906, at II9.

*First Wife Beating Case: Talbot County to Have an Unusual Trial*, PHILA. INQUIRER, Dec. 16, 1906, at 7.

*Alleged Wife Beater*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, Dec. 27, 1906, at 2.

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*Feet and Arms Frozen: Man Charged with Wife Beating Is Overcome While Drunk*, DULUTH NEWS TRIB., Jan. 17, 1907, at 4.

*Unionite Must Face Court*, L.A. TIMES, Jan. 27, 1907, at II6.

*Paroled Wife Beater No. 2 Again Behind Prison Bars*, CHI. DAILY TRIB., Feb. 5, 1907, at 1.

*Charged with Wife Beating*, THE BELLINGHAM HERALD, Feb. 9, 1907, at 5.

*Preston Man Beats His Wife and Skips*, DULUTH NEWS TRIB., Feb. 11, 1907, at 2.

*Alleged Wife Beater Held*, PHILA. INQUIRER, Feb. 13, 1907, at 4.

*Alleged Wife Beater Jailed*, PHILA. INQUIRER, Feb. 24, 1907, at 8.

*Pittson: Arrest a Wife Beater*, WILKES-BARRE TIMES, Feb. 26, 1907, at 6.

*News from All Over the State: Wife Beating*, SAN JOSE MERCURY NEWS, Feb. 28, 1907, at 3.

*Wife Beater Captured*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, March 1, 1907, at 7.

*Pastor Whips Jealous Wife: When He Is Arrested She Gives Bond to Keep Him from Jail*, WASH. POST, April 1, 1907, at 1.

*Pastor Whips Jealous Wife*, WASH. POST, April 1, 1907, at 1.

*“One of the Worst Scoundrels,”* PHILA. INQUIRER, April 6, 1907, at 6.

*South Omaha Brevities*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, April 8, 1907, at 2 (four men arrested).

*Called Wife-Beater*, L.A. TIMES, April 27, 1907, at II2.

*Accused of Wife Beating*, L.A. TIMES, May 3, 1907, at II3.

*Wife Beater Pleads: Admits at Whittier That He Applied Cruel Treatment to His Girl Spouse*, L.A. TIMES, June 1, 1907, at II8.

*112 Cases on Docket: Heavy Criminal Business for June Term City Court Which Convenes Tomorrow*, MACON DAILY TEL., June 2, 1907, at 2 (two wife beating cases on docket).

*Licked Him Just 3 Times a Month*, DULUTH NEWS TRIB., June 18, 1907, at 14.

*An Attempted Suicide and Wife Beating in Same House*, MACON DAILY TEL., July 17, 1907, at 3.

*Wife Beater Wanted*, L.A. TIMES, July 27, 1907, at II3.

[*No Title*], CHARLOTTE DAILY OBSERVER, July 30, 1907, at 3.

*Wife Beater Arrested*, SAN JOSE MERCURY NEWS, published as SUNDAY MERCURY AND HERALD, Aug. 4, 1906, at 9.

*May Be Whipped Himself*, PHILA. INQUIRER, Sept. 1, 1907, at 4.

*Floods the House: Woman, Whose Husband Is Arrested for Wife Beating, Turns on the Faucet*, MORNING OLYMPIAN, Sept. 4, 1907, at 1.

*Spoilt His Coast Trip: Red Lake Falls Man Arrested on Charge of Wife Beating—Says He Is Willing to Settle in Court*, GRAND FORKS DAILY HERALD, Sept. 8, 1907, at 31.

*Cowers at Feet of Abused Wife*, DULUTH NEWS TRIB., Sept. 10, 1907, at 5.

*Collins in a New Role: Glen Echo Marshal May Have Chance to Whip Wife-Beater*, WASH. POST, Sept. 14, 1907, at 1.

*Alleged Wife Beater Is Now Under Two Bonds*, COLUMBUS ENQUIRER-SUN, Sept. 18, 1907, at 3.

*Knocked Wife-Beater Down and Threw Him Out of the Window*, MACON DAILY TEL., Sept. 26, 1907, at 1 (also published as *Wife-Beater Thrown Out of a Window*, COLUMBUS ENQUIRER-SUN, Sept. 27, 1907, at 1)

*Marshal Werner of Shiloh, Illinois, Has More Trouble*, BELLEVILLE NEWS DEMOCRAT, Oct. 2, 1907, at 1.

*Abused His Wife for No Reason*, WILKES-BARRE TIMES, Oct. 10, 1907, at 6.

*John Whittaker Arrested on Wife Beating Charge*, LEXINGTON HERALD, Oct. 31, 1907, at 10.

*Will Be Tried on Wife Beating Charge*, LEXINGTON HERALD, Nov. 9, 1907, at 10 (two men charged).

*Made Wife-Beater Crawl*, MACON DAILY TEL., Nov. 11, 1907, at 1.

*Wife Rushed the Can; Spouse Hit Her Jaw*; DULUTH NEWS TRIB., Nov. 25, 1907, at 3.

*Arrested for Beating Wife; She Pays Fine*, DULUTH NEWS TRIB., Dec. 11, 1907, at 2.

*Wanted for Wife Beating*, WILKES-BARRE TIMES LEADER, Dec. 19, 1907, at 6.

*Wife Beater Said by Wife to Have Killed a Negro*, MACON DAILY TEL., Dec. 21, 1907, at 1.

## 1908

*First Day of Prohibition Very Quiet*, COLUMBUS ENQUIRER-SUN, Jan. 2, 1908, at 5.

*Emerson Brothers Both in Jail*, THE IDAHO DAILY STATESMAN, Jan. 4, 1908, at 5.

*Wife Beater Believed to Be Insane Is Now in Jail*, WILKES-BARRE TIMES LEADER, Jan. 4, 1908, at 2.

*Cut by Desperate Negro*, CHARLOTTE DAILY OBSERVER, Jan. 24, 1908, at 10.

*Accused of Wife-Beating: Mrs. Zeman of Brooklyn Says Husband Hit Her with a Tea Crane*, NEW YORK TIMES, Jan. 22, 1908, at 2

*Two Arrested on Charges of Wife-Beating*, BELLEVILLE NEWS-DEMOCRAT, Jan. 27, 1908, at 2.

*Wife Beater Punished*, WILKES-BARRE TIMES LEADER, Feb. 3, 1908, at 3.

*Wife Beater Now Under Arrest*, THE IDAHO DAILY STATESMAN, Feb. 14, 1908, at 5.

- Alleged Wife Beater Given a Continuance*, DULUTH NEWS TRIB., Feb. 16, 1908, at 12.
- Charged with Wife Beating*, COLUMBUS ENQUIRER-SUN, Feb. 18, 1908, at 6.
- Charged with Wife Beating*, PHILA. INQUIRER, Feb. 19, 1908, at 14.
- Old Soldier Charged with Wife Beating*, PHILA. INQUIRER, March 23, 1908, at 3.
- Assault and Battery Is Charge Against Moran*, DULUTH NEWS TRIB., April 5, 1908, at 13.
- Seeking an Alleged Domestic Oppressor*, DULUTH NEWS TRIB., April 25, 1908, at 1.
- Breaks Jaw of Wife; Found Playing Jacks: Warrant for Husband Who Beat Girl of 16, with Whom He Had Eloped*, THE FORT WORTH TELEGRAM, June 28, 1908, at 27.
- Arrested a Wife Beater*, KAN. CITY STAR, July 25, 1908, at 2.
- Arrest of 2 Men Who May Be Murderers*, THE EVENING NEWS, July 29, 1908, at 1.
- Wife-Beater Lands in Jail*, MORNING OREGONIAN, Aug. 14, 1908, p.4.
- In Police Court*, SAN JOSE MERCURY NEWS, published as THE EVENING NEWS, Aug. 15, 1908, at 1.
- Crowd Maddened by Wife Beater*, DULUTH NEWS TRIB., Aug. 23, 1908, at 9.
- First Soulmate Beats New Wife*, CHI. DAILY TRIB., Aug. 26, 1908, at 1.
- Artist Earle Beats Soul Mate*, THE BELLINGHAM HERALD, Aug. 26, 1908, at 1.
- Earle Beats Affinity and Lands in Jail*, LOS ANGELES TIMES, Aug. 26, 1908, at 11.
- Earles Kiss and Make Up?*, CHI. DAILY TRIB., Aug. 28, 1908, at 5.
- Alleged Wife Beater Held*, PHILA. INQUIRER, Sept. 2, 1908, at 3.
- Charged with Wife-Beating*, WASH. POST, Sept. 8, 1908, at 5.
- A Kansan Arrested for Wife Beating*, KAN. CITY STAR, Sept. 9, 1908, at 4.
- Police Court*, LEXINGTON HERALD, Sept. 17, 1908, at 7.
- Accused of Beating Wife*, MORNING OREGONIAN, Sept. 29, 1908, at 9.
- Wife Beater Ran Away*, THE EVENING NEWS, Oct. 1, 1908, at 1.
- Wife Beater Is Given Ten Days—Another Man Accused of Beating*, GRAND FORKS DAILY HERALD, Oct. 16, 1908, at 7.
- Alleged Wife Beater Held*, PHILA. INQUIRER, Dec. 6, 1908, at 1.
- Alleged Wife Beater Jailed*, PHILA. INQUIRER, Dec. 6, 1908, at 12.
- Lake Breezes: Placed Under Bonds*, DULUTH NEWS TRIB., Dec. 12, 1908, at 14.
- Opens Fusillade on Wife in Rector's House*, DULUTH NEWS TRIB., Dec. 18, 1908, at 4.

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*Lexington Detectives Make Great Showing: Various Causes of Arrest*, LEXINGTON HERALD, Jan. 5, 1909, at 10 (11 arrests for wife beating).  
*Farmer in Jail for Wife Beating*, NEW YORK TIMES, Jan. 7, 1909, at 18.

*Wife Beater Arrested*, COLUMBUS ENQUIRER-SUN, Jan. 9, 1909, at 5.  
*Magistrates' Court*, LEXINGTON HERALD, Jan. 24, 1909, at 2.

*Barber Barricades Shop*, PHILA. INQUIRER, March 7, 1909, at 5.

*East Grand Forks: Charged with Wife Beating*, GRAND FORKS DAILY HERALD, March 12, 1909, at 3.

*Brief State News: North Yakima*, OLYMPIA DAILY RECORDER, March 19, 1909, at 5 (also published as *Brief State News: North Yakima*, MORNING OLYMPIAN, March 19, 1909, at 4.)

*Beating for Wife-Beater*, L.A. TIMES, March 20, 1909, at I5.

*Tailor Barber Wife-Beater?*, L.A. TIMES, April 20, 1909, at I4.

*Wife-Beater Thrashed by 82-Year-Old Man: Father-in-Law Sends Brutal Husband to Hospital and Appears Against Him in Court*, PHILA. INQUIRER, April 24, 1909, at 3.

*His Father-In-Law Was by Far Better Man*, COLUMBUS ENQUIRER-SUN, April 25, 1909, at 1.

*Circuit Court Notes*, MORNING OREGONIAN, April 27, 1909, at 11.

*For Wife Beating*, GRAND FORKS DAILY HERALD, May 9, 1909, at 2.

*Wife Will Now Complain*, L.A. TIMES, May 26, 1909, at I7.

*Pedagogue in Toils*, MORNING OREGONIAN, May 28, 1909, at 15.

*Wife Beating Charged Against Wilmore Man: He Says He Was Whipped By Tree Unknown Visitors for His Action*, LEXINGTON HERALD, June 13, 1909, at 3.

*Wife-Beater is Beaten*, THE SUNDAY OREGONIAN, June 20, 1909, at 12.

*G.J. Brooks Charged with Wife-Beating: Bailiff Willis Arrested Him Twice During the Afternoon*, COLUMBUS ENQUIRER-SUN, June 30, 1909, at 8.

*Accused of Wife Beating*, DULUTH NEWS TRIB., July 6, 1909, at 7.

*Wife Beating Case Reported by Police: Two White Men Are Locked Up Pending a Hearing This Morning*, COLUMBUS ENQUIRER-SUN, July 20, 1909, at 8.

*Negro Runs Amuck: Crazed by Mean Liquor, Bob Wright, of High Point, Pounces Upon His Wife, Beating Her Unmercifully*, CHARLOTTE DAILY OBSERVER, July 27, 1909, at 1.

*Down Dover Way*, PHILA. INQUIRER, August 8, 1906 at 5.

*Wife-Beating Is Charge: Teamster Accused of Striking Woman and Child, Is Arrested*, MORNING OREGONIAN, Aug. 9, 1909, at 4.

*Brief News of the City: Charge Wife Beating*, LEXINGTON HERALD, Sept. 9, 1909, at 10.

*Alleged Wife Beater in Jail*, MORNING OLYMPIAN, Sept. 17, 1909, at 3.

*Charged with Wife Beating*, STATE, Sept. 20, 1909, at 9.

*Charged with Wife Beating, Charles Owens Confined in County Jail Without Privilege of Making Bond*, COLUMBUS ENQUIRER-SUN, Sept. 24, 1909, at 1.

*In South Dakota: Wife Beater Arrested*, ABERDEEN DAILY NEWS, Sept. 28, 1909, at 6.

*Wife Beater Arrested*, ABERDEEN WEEKLY NEWS, Sept. 30, 1909, at 8.

*Sussex County Snapshots*, PHILA. INQUIRER, Oct. 5, 1909, at 6.

*Alleged Wife Beater Held*, WASH. POST, Oct. 16, 1909, at 3.

*Charged with Wife Beating*, DULUTH NEWS TRIB., Oct. 27, 1909, at 3.

*Wife Turned When He Hit Her with a Lemon*, SAN JOSE MERCURY NEWS, published as THE EVENING NEWS, Oct. 28, 1909, at 1.

*Charged with Wife Beating*, LEXINGTON HERALD, Oct. 30, 1909, at 7.

*Model Man When Sober May Go to Penitentiary*, STATE, Nov. 5, 1909, at 4.

*“Used Singletree” Is Wife’s Charge: Owen White Gives Bond to Answer Wife Beating Complaint*, LEXINGTON HERALD, Nov. 2, 1909, at 8.

*Preacher a Wife Beater*, GRAND FORKS DAILY HERALD, Nov. 18, 1909, at 5.

*In Police Court*, LEXINGTON HERALD, Dec. 15, 1909, at 8.

*Wife-Beater on Probation*, L.A. TIMES, Dec. 31, 1909, at II2.

## 1910

*Wife-Beating Charge Faced*, MORNING OREGONIAN, Feb. 6, 1910.

*I.W.W. Talker in Law’s Grip: Part of “Ceremony,”* L.A. TIMES, Feb. 17, 1910, at III1.

*Alleged Wife Beater Jailed*, PHILA. INQUIRER, Feb. 22, 1910, at 6.

*Grand Jury Begins Work: Long List of Cases To Be Investigated in Clatsop County*, MORNING OREGONIAN, Feb. 24, 1910, at 5.

*Wife Beating Is Basis of Arrest: Eveleth Man Forgets Promises to Court and Is Said to Have Started “Rough House,”* DULUTH NEWS TRIB., March 17, 1910, at 3.

*Wife Beater Held for Lack of Bonds*, OLYMPIA DAILY RECORDER, March 22, 1910, at 1.

*Negro Is Arrested on an Old Charge*, LEXINGTON HERALD, March 23, 1910, at 3.

*Alleged Wife Beater to Be Tried in Justice Court*, MORNING OLYMPIAN, March 23, 1910, at 4.

*Judge Southgate Has Busy Day and Assesses A Number of Fines*, LEXINGTON HERALD, March 24, 1910, at 7.



- Wife Shows Hair Pulled from Head*, MORNING OLYMPIAN, March 25, 1910, at 1.
- Wife Beater Held Under \$1,500 Bonds*, OLYMPIA DAILY RECORDER, March 25, 1910, at 2.
- Cowardly. Women Beaten by Brutal Men: One Victim is Severely Hurt by Husband*, L.A. TIMES, April 18, 1910, at II1.
- Northwest Briefs*, DULUTH NEWS TRIB., May 10, 1910, at 2.
- Accused Wife Beater Egged*, ABERDEEN DAILY NEWS, May 11, 1910, at 4.
- Wife Beater Held at Little Rock*, MORNING OLYMPIAN, May 18, 1910, at 1.
- Negro Arrested on the Charge of Wife-Beating*, LEXINGTON HERALD, May 20, 1910, at 7.
- Wife-Beater Is Thumped*, MORNING OREGONIAN, May 24, 1910, at 6.
- Alleged Wife-Beater*, L.A. TIMES, June 10, 1910, at I15.
- Alleged Wife Beater Held*, PHILA. INQUIRER, July 3, 1910, at 2.
- Wife-Beating Is the Charge*, GRAND FORKS DAILY HERALD, Aug. 12, 1910, at 8.
- Charges Wife-Beating*, SAN JOSE MERCURY NEWS, published as THE EVENING NEWS, Sept. 7, 1910, at 8.
- Golf Marriage Fails: Yale Professor's Temper Not Improved by Exercise*, MORNING OREGONIAN, Sept. 18, 1910, at 12.
- Green Weeps at Capture: Sheriff Helps Marshal Put Alleged Wife-beater Under Arrest*, MORNING OREGONIAN, July 14, 1910, at 6.
- Wife Beater Is Arraigned in Garman's Court*, WILKES BARRE TIMES-LEADER, July 18, 1910, at 17.
- Wife-Beating Is the Charge*, GRAND FORKS DAILY HERALD, Aug. 12, 1910, at 8.
- Wife Beater Held on Serious Charge*, MORNING OLYMPIAN, Aug. 17, 1910, at 1.
- County Jail Now Has 5 Star Boarders*, MORNING OLYMPIAN, Aug. 18, 1910, at 1.
- Alleged Wife-Beater to Be Given Hearing*, MORNING OLYMPIAN, Aug. 18, 1910, at 4.
- Wife Beater Arrested*, MORNING OREGONIAN, Sept. 5, 1910, at 7.
- Policeman Thrashes Foreign Wife Beater*, PHILA. INQUIRER, Sept. 6, 1910, at 1.
- Charges Wife-Beating*, EVENING NEWS, Sept. 7, 1910, at 8.
- Wife Beater Takes Poison Before Arrest*, OLYMPIA DAILY RECORDER, Oct. 18, 1910, at 6.
- Wife-Beater Caught*, L.A. TIMES, Oct. 23, 1910, at II2.
- Numerous Offenders Before the Recorder*, MACON DAILY TEL., Oct. 25, 1910, at 12.

- Charge Little Rock Man with Wife Beating*, OLYMPIA DAILY RECORDER, Oct. 27, 1910, at 4.
- Bostwick in Police Court*, IDAHO DAILY STATESMAN, Oct. 28, 1910, at 10.
- Alleged Wife Beater Released on Bail*, OLYMPIA DAILY RECORDER, Oct. 28, 1910, at 1.
- 8 Criminals Will Be Tried in Monroe County*, MACON DAILY TEL., Oct. 30, 1910, at 3.
- Camden News Notes*, PHILA. INQUIRER, Nov. 10, 1910, at 3.
- Finally the Worm Turns: Wife-Beater Again Jailed*, L.A. TIMES, Nov. 12, 1910, at II2.
- Wife-Beater Arrested by Police Last Night*, THE STATE, Nov. 27, 1910, at 16.
- Man Under Arrest Makes Escape*, IDAHO DAILY STATESMAN, Dec. 5, 1910, at 8.
- Captor Loses Captive*, MORNING OREGONIAN, Dec. 8, 1910, at 7.
- Arrested as a Wife Beater*, CHI. DAILY TRIB., Dec. 11, 1910, at 3.
- Policeman Defends Self*, WASH. POST, Dec. 14, 1910, at 4.
- Late Local News*, THE BELLINGHAM HERALD, Dec. 22, 1910, at 3.
- Accused of Wife Beating: Thomas Godin Was Arrested Yesterday Afternoon for Beating His Wife*, GRAND FORKS DAILY HERALD, Dec. 24, 1910, at 3.
- Charges Husband with Cruelty: Andrigo Arrested in a Hurry when Wife Tells Her Story to Judge Prince*, DULUTH NEWS TRIB., Dec. 29, 1910.

List B: Newspaper Articles Showing a Man Jailed for Wife Beating

**1900**

- Long Beach: Wife-Beater Sentenced*, L.A. TIMES, April 19, 1900, at II5 (“County Jail for fifty days”).
- Doses of Jersey Justice: Girl’s Assailant and a Wife Beater Sent to State Prison*, PHILA. INQUIRER, May 1, 1900, at 3 (“one year at hard labor”).
- A Wife Beater’s Punishment: Joseph McKenna Committed to State Prison for Three Years*, N.Y. TIMES, May 12, 1900, at 7 (“three years’ imprisonment”).
- Long Beach: Wife-Beater Sentenced*, L.A. TIMES, May 18, 1900, at II5 (“County Jail for ninety days”).
- Over in Camden*, PHILA. INQUIRER, May 20, 1900, at 4 (“one year”).
- Five Months for a Wife Beater*, PHILA. INQUIRER, July 7, 1900, at 7 (“five months”).
- Catawba Court*, CHARLOTTE DAILY OBSERVER, Aug. 10, 1900, at 2 (“twelve months on the . . . chain gang”).

*Old Wife Beater: Next Offense Will Mean Life Term*, EVENING NEWS, Oct. 22, 1900, at 5 (“sentenced to the workhouse here for ten days”).  
*Wife Beater Goes to Jail*, PHILA. INQUIRER, Dec. 12, 1900, at 14 (“seven months”).

**1901**

*Two Year Sentence for Wife Beater Burns*, PHILA. INQUIRER, Jan. 29, 1901, at 9 (“two years imprisonment”).

*Sad Case of Wife-Beating*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, Feb. 12, 1901, at 3 (one month).

*Wife Beater Arrested*, DULUTH NEWS TRIB., March 16, 1901, at 3 (“forty days in the county workhouse”).

[*No Title*], BILOXI DAILY HERALD, June, 30, 1901, at 2 (“three months’ sentence”).

*San Bernardino: Wife-Beater Sent Up*, L.A. TIMES, June 30, 1901, at 10 (“six months in the County Jail”).

*San Bernardino and Riverside Counties—Redlands and Ontario*, L.A. TIMES, Aug. 23, 1901, at 14 (“thirty days in jail”).

*Ninety Days for Wife Beater*, DULUTH NEWS TRIB., Nov. 9, 1901, at 3 (“ninety days”).

**1902**

*Wife-Beater Punished: John Phillips, Colored, Sentenced to Four Months in Jail*, WASH. POST, March 25, 1902, at 8 (“[f]our months in jail”).

*Bruton for Brutality Gets Limit of the Law*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, March 26, 1902, at 5 (“three months in the county jail”).

*Condensed Dispatches*, EVENING NEWS, April 8, 1902, at 2 (“two years”).

*Charged with Wife-beating*, WASH. POST, May 15, 1902, at 12 (“three months in the District jail”).

*Pomona: Wife-Beater Sentenced*, L.A. TIMES, May 29, 1902, at A7 (“ninety days in the County Jail”).

*One Year for a Wife Beater*, PHILA. INQUIRER, June 14, 1902, at 8 (“one year”).

*Husband Was Hard to Please*, PHILA. INQUIRER, Aug. 6, 1902, at 9 (“the House of Corrections for two years”).

*Six Months in Jail for Beating Wife*, WILKES-BARRE TIMES, Sept. 9, 1902, at 7 (“six months”).

*Wife Beater Got the Limit*, COLUMBUS ENQUIRER-SUN, Nov. 19, 1902, at 3 (“twelve months on the chaingang, at the expiration of which he will spend six months in jail”).

*Old Wife Beater Must Do Penance*, PHILA. INQUIRER, Nov. 21, 1902, at 15 (“ten months in the workhouse”).

*Wife-Beater's Sentence: Jersey Judge Sends One to State's Prison for Three Years*, N.Y. TIMES, Dec. 19, 1902, at 16 ("three years in State Prison") (also published as *Three Years for Wife Beating*, KAN. CITY STAR, Dec. 19, 1902, at 1).

**1903**

*Wife-Beater Sent to the Roads*, CHARLOTTE DAILY OBSERVER, Jan. 13, 1903, at 1 ("the county chain gang for 30 days").

*East Grand Forks Wife Beater*, GRAND FORKS DAILY HERALD, Jan. 25, 1903, at 3 ("sentenced to 30 days' time").

*Wife-Beater Is Scored in Court*, DULUTH NEWS TRIB., Feb. 15, 1903, at 5 ("ninety days").

*Rock Pile for Wife Beater*, DULUTH NEWS TRIB., Feb. 24, 1903, at 10 ("forty days").

*Prisoners Sentenced*, GRAND FORKS DAILY HERALD, Feb. 25, 1903, at 4 (one defendant "given 20 days"; one "given 30 days").

*Thirty Days for Wife Beater*, KAN. CITY STAR, March 23, 1903, at 2 ("thirty days").

*South Omaha Brevities*, OMAHA WORLD-HERALD, published as SUNDAY WORLD-HERALD, Aug. 9, 1903, at 7 ("ten-days' sentence in the county jail").

*One More Wife Beater in Jail*, DULUTH NEWS TRIB., Sept. 24, 1903, at 8 ("90 days at hard labor").

*Salem Evildoers Receive Sentences*, PHILA. INQUIRER, Oct. 31, 1903, at 3 ("seven months in State prison").

*Wife Beater Again Accused*, N.Y. TIMES, Dec. 4, 1903, at 5 ("two years and four months").

**1904**

*Sing Sing for Wife Beater: Judge in Denouncing Prisoner Told Him He Would Get the Limit*, N.Y. TIMES, Jan. 15, 1904, at 14 ("will be sent to Sing Sing, probably for five years").

*Beatrice Wife Beater Sentenced*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, Feb. 22, 1904, at 2 ("thirty days in the county jail").

*Wife-Beater's Three Months*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, March 29, 1904, at 8 ("three months at hard labor").

*Wife Beater Must Serve a Sentence*, GRAND FORKS DAILY HERALD, April 12, 1904, at 3 ("60 days in the county jail").

*Sixty Days for Wife Beating*, DULUTH NEWS TRIB., published as SUNDAY NEWS TRIB., May 22, 1904, at 12 ("sixty days in the county jail").

*Thirty Days for Wife Beating*, DULUTH NEWS TRIB., June 16, 1904, at 10 ("thirty days").

*Tried and Sentenced to a Year's Term in Six Minutes*, WILKES-BARRE TIMES, June 20, 1904, at 7 ("jail for a term of one year's imprisonment")

*Would Forgive Wife Beater*, PHILA. INQUIRER, Oct. 23, 1904, at 1 ("one year in State Prison").

*Gets 90 Days for Wife Beating*, DULUTH NEWS TRIB., Dec. 16, 1904, at 8 ("90 days in the work house").

*Two Years for Camden Wife Beater*, PHILA. INQUIRER, Dec. 23, 1904, at 3 ("two years in state's prison").

### 1905

*A Bad Wife Beater*, STATE, January 1, 1905, at 2 ("30 days" on the chain gang").

[*No Title*], DULUTH NEWS TRIB., Jan. 12, 1905, at 3 ("ninety-day sentence in the county jail").

*Ten Years for Wife Beating: In Passing Sentence Upon Joe Wade Judge Gage Said Wife Beaters Should Be Hanged*, STATE, Jan. 28, 1905, at 1 ("[t]en years at hard labor in the penitentiary").

[*No Title*], THE BILOXI DAILY HERALD, Jan. 30, 1905, at 2 ("two years in state's prison").

*Negro Sentenced for Wife-Beating*, WASH. POST, March 11, 1905, at 5 ("sixty days in the workhouse").

*Two Years for a Wife-Beater*, PHILA. INQUIRER, May 16, 1905, at 3 ("two years").

*Blows Up Home with Dynamite: New York Wife Beater Tries to Destroy Family when Freed from Jail*, CHI. TRIB., June 5, 1905, at 4 (term not specified).

*Convicted of Wife-Beating: "You Will Miss Me, Bertha," Said John Wran, as He Was Led to Workhouse*, WASH. POST, June 8, 1905, at 5 ("thirty days in the workhouse").

*Wife Beater Goes to Jail*, DULUTH NEWS TRIB., June 8, 1905, at 7 ("75 days in the county jail at hard labor").

*Severe on Wife-Beaters: Judge Scott Gives Two Six Months Each in Jail*, WASH. POST, July 6, 1905, at 12 ("given the full penalty of the law, six months in the District Jail").

*Wife Beater Is Given 206 Days*, MORNING HERALD, published as LEXINGTON HERALD, Aug. 15, 1905, at 2 ("206 days in the work house").

*Wayne County Court*, CHARLOTTE DAILY OBSERVER, Aug. 31, 1905, at 3 ("twelve months on the roads").

### 1906

*Wife Beater Punished*, IDAHO DAILY STATESMAN, Feb. 17, 1906, at 1 ("prison for four years").

*Eight Months for Wife Beating*, PHILA. INQUIRER, Feb. 24, 1906, at 3 ("eight months in State Prison").

*Wife Beater Gets 20 Days*, THE BILOXI DAILY HERALD, Feb. 26, 1906, at 1 (“[t]wenty days in jail”).

*Glad to Go to “The Island”: White was “Delighted” with Two Months’ Sentence for Wife Beating*, N.Y. TIMES, April 3, 1906, at 18 (“two months”).

*Wife Beater Is Indicted: Frank Dement, Serving Two Years, Must Face More Charges*, WASH. POST, May 22, 1906, at 16 (two years).

*Wife Beater Is Jailed*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, May 29, 1906, at 1 (“placed in the county jail, where he will serve his term”).

*Six Months for Wife Beater*, PHILA. INQUIRER, June 30, 1906, at 2 (“six months in the county jail”).

*Wife Beater Is Given Fifteen Days*, DULUTH NEWS TRIB., Sept. 11, 1906, at 12 (“15 days in jail”).

*Wife-Beater Goes to Jail: Farley to Serve Thirty Days on Chain Gang*, L.A. TIMES, Oct. 18, 1906, at II2 (“sent to jail for thirty days”).

*Wife Beater Goes to Jail*, DULUTH NEWS TRIB., Oct. 31, 1906, at 7 (“30 days’ sentence in jail”).

*A Wife Beater Is in Jail*, GRAND FORKS DAILY HERALD, Dec. 2, 1906, at 3 (“15 days in the county jail”).

### 1907

*Charged with Wife Beating*, LEXINGTON HERALD, Feb. 21, 1907, at 2 (“100 days on the rock pile”).

*Husband Spanked for Wife Beating: “I’ll Never Do It Again,” He Wails Under the Stalwart Policemen’s Arm*, N.Y. TIMES, Sept. 28, 1907, at 9 (sentence not specified).

*Wife Beater Jailed*, SAN JOSE MERCURY, March 2, 1907, at 5 (“[n]inety days in the County Jail”).

*Wife Beater Is Given 30 Days*, DULUTH NEWS TRIB., April 13, 1907, at 10 (“[t]hirty days at the rock pile”).

*Wife Beater Got Eighteen Months*, PHILA. INQUIRER, May 25, 1907, at 3 (“State prison for eighteen months”).

*Fifty Days in Jail on Wife Beating Charge*, LEXINGTON HERALD, July 19, 1907, at 6 (“fifty days in jail”).

*Persistent Wife Beater Gets Sixty Days in Jail*, DULUTH NEWS TRIB., Sept. 21, 1907, at 4 (“sixty days”).

*More Wife-Beaters*, L.A. TIMES, Oct. 2, 1907, at II2 (“100 days on the chain gang”).

*Wife Beater Has A Happy Prospect*, DULUTH NEWS TRIB., Nov. 26, 1907, at 10 (“30-day sentence”).

### 1908

*For Wife Beating*, COLUMBUS ENQUIRER-SUN, Feb. 26, 1908, at 4 (“two years imprisonment”).

*Wife Beater Jailed*, DULUTH NEWS TRIB., Feb. 27, 1908, at 4 (“30 days straight . . . at hard labor”).

*Prison Board Passes on Applications*, MACON DAILY TEL., April 12, 1908, at 1 (“ten months”).

*Wife-Beater Sentenced: Monrovia Justice Gives Him Thirty Days for Violence to His Better Half*, L.A. TIMES, May 16, 1908, at II8 (“thirty days in jail”).

*Wife Beater Is Given Sixty Days in Jail*, DULUTH NEWS TRIB., June 7, 1908, at 1 (“60 days at hard labor”).

*Tried and Convicted in a Moving Building*, PHILA. INQUIRER, June 14, 1908, at 1 (“found guilty and sent to jail”).

*Wife Beater Gets Long Sentence*, CHI. DAILY TRIB., July 4, 1908, at 9 (“one year in the house of correction”).

*Wife Beater Jailed*, DULUTH NEWS TRIB., Aug. 18, 1908, at 10 (“20 days”).

*Beats Wife Once Too Often: John Trilling, After Escaping Twice, Receives a Nine Months’ Sentence*, WASH. POST, Aug. 21, 1908, at 12 (“jail for nine months”).

*Gets the Limit: Greek with Wife-Beating Habit Is Given Ninety Days by Redondo Recorder*, L.A. TIMES, Sept. 11, 1908, at IIB (“ninety days”).

*Wife He Pounded Secures Release: Mrs. Peter Hanson Gets Husband Out of Jail Where He Had Part of Sentence of 30 Days Served*, GRAND FORKS DAILY HERALD, Sept. 12, 1908, at 10 (30 days).

*Wife-Beater Sentenced*, BELLINGHAM HERALD, Sept. 23, 1908, at 3 (“eighteen-day sentence”).

*Eveleth Wife Beater Given 60-Day Sentence*, DULUTH NEWS TRIB., Sept. 24, 1908, at 3 (“60 days in jail”).

*MKinley Wife Beater Escapes from Guard*, DULUTH NEWS TRIB., Sept. 26, 1908, at 3 (“60 days in the county jail”).

*Back to Jail for Beating Wife*, PHILA. INQUIRER, Oct. 15, 1908, at 3 (“eighteen months’ term”).

*Fatal Stab for Peacemaker: He Intercedes When He Finds Father Pursuing Girl with Knife*, N.Y. TIMES, Oct. 25, 1908, at 11 (“six months’ sentence”).

*Finds Diet in Jail Tiresome: Wife-Beater “Sick” of Beans, Mush and Molasses*, L.A. TIMES, Oct. 28, 1908, at II2 (“six months”).

*Eighteen Months for Wife-Beater*, CHARLOTTE DAILY OBSERVER, Nov. 29, 1908, at 13 (“sent to the roads for eighteen months”).

*Hibbing Wife Beater Given 90 Days in Jail*, DULUTH NEWS TRIB., Dec. 1, 1908, at 3 (“90 days in the county jail”).

## 1909

*Twelve Months for Wife Beating: Was Sentence in City Court Yesterday Against White Man*, COLUMBUS ENQUIRER-SUN, Jan. 12, 1909,

at 8 (“twelve months on the chain gang, without the privilege of paying a fine”).

*Judge Lynch Out-Donahues Donahue*, WILKES-BARRE TIMES-LEADER, Jan. 18, 1909, at 11 (“one year in the county jail”).

*Man-Afraid-of-His-Wife*, KAN. CITY STAR, Jan. 19, 1909, at 7 (“130 days”).

*Heavy Sentence for Wife Beater*, PHILA. INQUIRER, Jan. 23, 1909, at 8 (“[s]ix years in the Eastern Penitentiary”).

*Goes to Prison on Wife Beating Charge*, DULUTH NEWS TRIB., Feb. 11, 1909, at 8 (“60-day sentence in the county jail”).

*Tries to Escape But Cop Grabs Him: James Reed is Unsuccessful in His Efforts to Evade Punishment—Gets Jail for Wife Beating*, GRAND FORKS DAILY HERALD, April 13, 1909, at 12 (“10 days in jail”).

*Jailed at 105 Years*, GRAND FORKS DAILY HERALD, June 13, 1909, at 1 (“locked up in the county jail yesterday to serve a sentence of 30 days”); (also published as *Centenarian a Wife Beater*, ABERDEEN DAILY NEWS, June 14, 1909, at 7).

*News and Comment*, DULUTH NEWS TRIB., July 3, 1909, at 8 (“a year and a half in the penitentiary”).

*Heavy Sentence for Colored Wife Beater*, EVENING NEWS, July 6, 1909, at 4 (“150 days”).

*Northwest Briefs: Madison, Wis.*, DULUTH NEWS TRIB., July 9, 1909, at 2 (“Six months in jail at hard labor”).

*Wife Beater Sentenced to Two Years on Roads*, CHARLOTTE DAILY OBSERVER, July 27, 1909, at 7 (“two years on the roads”) (also published as *A Well-Deserved Sentence*, CHARLOTTE DAILY OBSERVER, Aug. 2, 1909, at 7).

*Wife Beater Sentenced*, IDAHO DAILY STATESMAN, Aug. 8, 1909, at 2 (“three months in the county jail”).

*Lake Breezes: Guilty of Wife Beating*, DULUTH NEWS TRIB., Aug. 28, 1909, at 3 (“30 days at hard labor in the county jail”).

*Wifebeater Gets Jail*, MORNING OREGONIAN, Sept. 4, 1909, at 16 (“90 days on the rockpile”).

*Thief and Wife-Beater Before the City Court*, MACON DAILY TEL., Sept. 19, 1909, at 16 (“six months on the public roads”).

*Wife Beater Sentenced*, EVENING NEWS, Sept. 25, 1909, at 3 (“150 days in the county jail”).

*Escapes in Sight of Jail*, PHILA. INQUIRER, Oct. 9, 1909, at 3 (“sixty-day sentence”).

*Wife-Beater Is Put Away*, L.A. TIMES, Oct. 10, 1909, at II6 (“the workhouse for three months”).

*A Wife Beater Fined \$500*, KAN. CITY TIMES, Oct. 20, 1909, at 4 (“one year in the workhouse”).



[*No Title*], WASH. POST, Oct. 21, 1909, at 5 (“workhouse for six months”).

*Jail Sentence for Wife-Beater*, WASH. POST, Nov. 5, 1909, at 16 (“[f]our months in jail”).

*Court Accuses Wife-Beater: Charges He Drove Woman to Suicide Through Abuse*, WASH. POST, Dec. 14, 1909, at 1 (“three years in State’s prison”); (also published as *Wife Beater Scored; Is Given Three Years*, PHILA. INQUIRER, Dec. 14, 1909, at 1).

### 1910

*Drunkard Beats Family*, ABERDEEN DAILY NEWS, Feb. 2, 1910, at 7 (“fifteen days’ imprisonment”).

*Wife Beater in Jail*, DULUTH NEWS TRIB., March 9, 1910, at 10 (“six-month sentence”).

*Wife-Beater Gets Long Sentence*, L.A. TIMES, April 7, 1910, at II2 (“100 days at hard labor on the chain gang”).

*Wife-Beater on Chain Gang*, L.A. TIMES, April 27, 1910, at II3 (“thirty days on the chain gang”).

*Wife Beater Is Sent to Prison*, DULUTH NEWS TRIB., May 1, 1910, at 6 (“75 days in county jail”).

*Northwest Briefs*, DULUTH NEWS TRIB., July 9, 1910, at 2 (“Six months in jail at hard labor”).

*90 Days for Wife Beater*, DULUTH NEWS TRIB., Oct. 7, 1910, at 5 (“90 days in the workhouse”).

*Negro Leader Jailed for Wife Beating*, N.Y. TIMES, Nov. 3, 1910, at 3 (“sent to the Workhouse for thirty days”).

*Wife-Beater Gets Six Months at County Farm*, BELLINGHAM HERALD, Nov. 26, 1910, at 4 (“six months at the county farm”).

### List C: Newspaper Articles Showing a Man Fined for Wife Beating

### 1900

*Council Bluff Notes*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, May 26, 1900, at 3 (“\$25 and costs”).

*Wife Beater Fined*, GRAND RAPIDS HERALD, June 16, 1900, at 2 (“fined \$20”).

*His Ginger Ale Cost Him \$25*, PHILA. INQUIRER, June 20, 1900, at 2 (“\$25 and costs”).

*Council Bluff Notes*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, June 21, 1900, at 3 (“\$50 and costs”).

*Many Assault Cases: Sentenced Imposed on Wife-Beaters, Stone-Throwers, and Other Offenders*, WASH. POST, July 19, 1900, at 10 (“\$20 for kicking his wife in the eye”).

*Council Bluffs Notes*, OMAHA WORLD HERALD, published as SUNDAY WORLD-HERALD, June 24, 1900, at 6 (“\$50 and costs”).

*Reasons Why*, NEW HAVEN EVENING REGISTER, July 10, 1900, at 8 (“\$1 and costs”).

*Wife Beaters Are Punished*, OMAHA WORLD-HERALD, published as MORNING WORLD-HERALD, Aug. 3, 1900, at 3 (one sentenced to \$10 and costs, the other \$5 and costs).

*Police Court Storyettes*, MORNING HERALD, Sept. 25, 1900, at 2 (“\$50 and costs”).

### 1901

*She Paid His Fine*, COLUMBUS ENQUIRER-SUN, Jan. 6, 1901, at 8 (\$5).

*A Wife Beater Fined \$40*, KAN. CITY STAR, Jan. 30, 1901, at 10 (“fined him \$50”).

*The M’Auley Cure*, KAN. CITY STAR, April 20, 1901, at 1 (“\$25”).

*Would Silence the Press*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, Aug. 14, 1901, at 3 (“\$15 and trimmings”).

### 1902

*Lesson to Wife Beater*, OMAHA WORLD HERALD, published as SUNDAY WORLD-HERALD, Feb. 16, 1902, at 5 (“fined \$35 and costs”).

*Severely Punished, Was William Meyer, Who Beat His Wife*, BELLEVILLE NEWS DEMOCRAT, published as DAILY NEWS-DEMOCRAT, April 29, 1902, at 1 (“\$50 and costs”).

*Wife Beater Fined: Horsewhipped a Woman*, L.A. TIMES, May 16, 1902, at A2 (“fined him \$40”).

*\$200 and Costs*, BELLEVILLE NEWS DEMOCRAT, published as DAILY NEWS-DEMOCRAT, June 13, 1902, at 3 (“\$200 and costs”).

*Police Court*, MORNING HERALD, June 28, 1902, at 3 (“\$25 and costs”).

*Police Court*, MORNING HERALD, July 8, 1902, at 2 (“\$100 and costs”).

*Wife Beater Is Discharged*, DULUTH NEWS TRIB., August 1, 1902, at 10 (“\$100 and costs”).

*Cow Innocent Cause of Divorce Proceedings*, DULUTH NEWS TRIB., Aug. 19, 1902, at 3 (“fine \$10”).

*Before the Recorder*, STATE, Aug. 19, 1902, at 6 (one man fined \$20; one fined \$50).

*Fined for Wife Beating*, MORNING HERALD, Aug. 23, 1902, at 7 (\$50 and costs”).

*Wife Beater Gets the Limit*, DULUTH NEWS TRIB., Aug. 30, 1902, at 12 (\$50 and costs”).

*Wife Beater Fined*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, Sept. 26, 1902, at 1 (“\$60 and costs”).

*Before the Mayor*, WILKES-BARRE TIMES, Sept. 26, 1902, at 6 (“\$5 and costs”).

*Fined \$100 and Costs*, BELLEVILLE NEWS DEMOCRAT, published as DAILY NEWS-DEMOCRAT, Nov. 28, 1902, at 1 (“\$100 and costs”).

*Shows No Mercy to Wife Beater*, DULUTH NEWS TRIB., published as SUNDAY NEWS TRIB., Dec. 14, 1902, at 14 (“\$25”).

**1903**

*A Wife Beater Fined \$25*, KAN. CITY STAR, Jan. 13, 1903, at 8 (“\$25”).  
*Wife-Beater Fined*, BELLEVILLE NEWS DEMOCRAT, published as DAILY NEWS DEMOCRAT, Jan. 23, 1903, at 1 (“\$100 and costs”).

*Wife Beater Fined*, WILKES-BARRE TIMES, March 3, 1903, at 2 (“fined \$10”).

*A Wife Beater Fined \$100*, KAN. CITY STAR, April 13, 1903, at 1 (“fined \$100”).

*South Omaha Brevities*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, May 26, 1903, at 5 (“fine of \$5 and costs”).

*Recorder Freeman and Law Breakers*, MACON TEL., July 9, 1903, at 8 (“fine of \$25”).

*Fined \$25 for Wife Beating*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, July 29, 1903, at 6 (“\$25 and costs”).

*Wife-Beater Fined*, BELLEVILLE NEWS DEMOCRAT, published as DAILY NEWS DEMOCRAT, Sept. 16, 1903, at 1 (“\$200”).

*A Fine for a Wife Beater*, KAN. CITY STAR, Sept. 23, 1903, at 1 (“\$10”).

*One-Armed Wife-Beater*, MACON TEL., Dec. 6, 1903, at 6 (“fined \$20”).

**1904**

*News of City in Brief*, MORNING OLYMPIAN, Jan. 6, 1904, at 3 (“fined \$25 and costs”).

*Loiterers Get Heavy Sentences*, MACON DAILY TEL., Jan. 28, 1904, at 8 (two defendants, each fined \$10).

*Wife Beater Fined in Kansas City*, KAN. CITY STAR, March 29, 1904, at 3 (“fined \$50”).

*Alleged Wife Beaters Fined*, WASH. POST, Aug. 9, 1904, at 5 (two wife beaters “heavily fined”).

*An Armourdale Wife Beater Fine \$100*, KAN. CITY STAR, Aug. 22, 1904, at 7 (“\$100”).

*Samuels Is Twice Punished*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, Sept. 9, 1904, at 5 (“\$50 and costs”).

**1905**

*Gets a Wife Beater*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, Jan. 31, 1905, at 2 (“\$30 and costs”).

*Kansas Notes*, KAN. CITY STAR, Feb. 10, 1905, at 8 (“fined \$10”).

*Is Fined \$500*, BELLINGHAM HERALD, April 1, 1905, at 12 (“\$500 and costs”).

*Wife Beater Fined*, MORNING HERALD, published as LEXINGTON HERALD, April 15, 1905, at 6 (“\$50 fine”).

*A Wife Beater Fined \$500*, KAN. CITY STAR, June 28, 1905, at 1 (“fined \$500”).

*\$10 Fine for Wife Beater*, MORNING HERALD, published as LEXINGTON HERALD, July 8, 1905, at 5 (“\$10 and costs”).

*A Wife Beater Fined \$200*, KAN. CITY STAR, July 18, 1905, at 1 (“fined \$200”).

*Wife Beating Expensive*, MORNING HERALD, published as LEXINGTON HERALD, Aug. 10, 1905, at 3 (“fined \$50”).

*“Fixed the Wife Beater”: A Macon, Mo., Judge’s Remarks to a Culprit*, KAN. CITY STAR, Nov. 22, 1905, at 2 (\$150 and costs).

### 1906

*New Constable*, MORNING HERALD, published as LEXINGTON HERALD, Jan. 7, 1906, at 7 (“\$5 and costs”).

*Man Fined \$100 for Wife Beating: T.H. King Arraigned in Dallas City Court*, FORTH WORTH TELEGRAM, Jan. 13, 1906, at 8 (\$100 fine).

*Three Wife Beaters Fined: Penalty of \$25 and Costs Imposed on Each by Justice Foster of South Chicago*, CHI. DAILY TRIB., Jan. 30, 1906, at 1 (“fines of \$25 each”).

*A Wife Beater is Fined \$500*, KAN. CITY STAR, Feb. 14, 1906, at 4 (“\$500”).

*Wife Beater Fined: Judge Riley Punishes Negro Who Bruised His Wife’s Face*, LEXINGTON HERALD, Feb. 21, 1906 (\$5 and costs).

*Wife Beater is Given a Heavy Fine*, THE BELLINGHAM HERALD, May 4, 1906, at 1 (“fined a total of \$126.50”).

*Wife Beater Must Pay \$50 and Costs*, BELLINGHAM HERALD, May 8, 1906, at 5 (“a fine of \$50, and costs in the sum of \$21.65”).

*News in Brief*, WILKES-BARRE TIMES, June 15, 1906, at 9 (“fined \$7.50 and costs”).

*Police Court*, LEXINGTON HERALD-LEADER, published as LEXINGTON HERALD, June 29, 1906, at 2 (“\$50 and costs”).

*Fined for Wife Beating*, LEXINGTON HERALD, Sept. 20, 1906, at 9 (\$20).

*City Bulletin: Wife-Beater is Fined \$100*, WASH. POST, Aug. 7, 1906, at 12 (“fined \$100 and costs”).

*Fined for Wife Beating*, LEXINGTON HERALD-LEADER, published as LEXINGTON HERALD, Sept. 20, 1906, at 9 (“fined \$20”).

*Sentence Suspended by Consent of Wife: Charles Smith Convicted of Wife Beating and Comes Near Serving Long Term in Jail*, IDAHO DAILY STATESMAN, Oct. 24, 1906, at 5 (\$150 fine).

### 1907

*Wife-Beater Fined*, L.A. TIMES, May 17, 1907, at II2 (\$40).

*For Beating His Wife—\$200: Claude Brestman Asked Judge Sims to Be Merciful*, KAN. CITY STAR, May 20, 1907, at 1 (\$200: “It’s \$100 for each beating.”).

*Negro Fined at Georgetown Charged with Wife Beating*, LEXINGTON HERALD, June 19, 1907, at 2 (\$20 and costs).

*Regret Lash Is Obsolete; Rawhide for Wife Beaters*, CHI. DAILY TRIB., Aug. 31, 1907, at 7 (\$150).

*Were Three Cases of Wife-Beating*, MACON DAILY TEL., Sept. 4, 1907, at 8 (three wife beaters each fined \$10).

*Wife Beaters Fined \$50 by Two Municipal Judges*, CHI. DAILY TRIB., Sept. 17, 1907, at 3 (“\$50 fine” for each of two defendants).

#### 1908

*Family is Reunited*, DULUTH NEWS TRIB., March 15, 1908, at 10 (\$13).

*Heavy Sentence for Wife Beater Ralph*, OLYMPIA DAILY RECORDER, April 3, 1908, at 6 (“\$100 and costs”).

*Three Offenders before Mayor*, WILKES-BARRE TIMES LEADER, Sept. 8, 1908, at 1 (“\$2.50 and costs”).

*Man Fined for Wife Beating*, DALL. MORNING NEWS, Sept. 12, 1908, at 1 (\$10).

*In Hubby’s Absence*, MACON DAILY TEL., Sept. 30, 1908, at 4 (\$25).

*Sentence Was Not to Speak to Wife*, PHILA. INQUIRER, Nov. 1, 1908, at 11 (“fine of \$100 and costs”).

#### 1909

*M’Vitte Pleads Guilty to Wife Beating*, OLYMPIA DAILY RECORDER, Feb. 2, 1909, at 4 (fined \$50).

*Police Court*, LEXINGTON HERALD, Feb. 16, 1909 (“\$50 and costs”).

*Assessed Ten Dollars*, GRAND FORKS DAILY HERALD, March 13, 1909, at 3 (\$10).

*Shot at the Peacemaker: Chester Toombs Tries to Kill Policeman Who Stopped Wife-Beating*, WASH. POST, March 13, 1909, at 3 (\$10).

*Negro Wife Beater Fined*, LEXINGTON HERALD, March 19, 1909, at 2 (“fined \$5 and costs”).

*Police Court*, LEXINGTON HERALD, May 18, 1909, at 10 (\$50 and costs).

*Wife Beater Roasted: Howard Judge Scores Man Who Thrashed His Spouse*, ABERDEEN DAILY NEWS, July 1, 1909, at 7 (fined \$31.60). The same article was run by the *Aberdeen Daily News* on June 25, 1909, at 2.

*A Wife Beater Fined \$500*, KAN. CITY STAR, Aug. 17, 1909, at 1 (\$500 fine).

*Wife Beater Is Fined*, MORNING OREGONIAN, Sept. 14, 1909, at 6 (“fined \$100 and costs”).

*Would Use the Whip*, MORNING OLYMPIAN, Sept. 18, 1909, at 1 (“\$100 and costs”).

*Fined a Wife Beater*, GRAND FORKS DAILY HERALD, Sept. 24, 1909, at 2 (fined \$10).

*Wife Beater Fined*, L.A. TIMES, Sept. 30, 1909, at II6 (“fined \$50”).

*Alleged Wife Beater Is Given \$100 Fine*, DULUTH NEWS TRIB., Nov. 13, 1909, at 2 (“fined \$100”).

#### 1910

*Wife Beater Gets Light Fine*, GULFPORT DAILY HERALD, Jan. 25, 1910, at 8 (“\$2.50 and costs”).

*Victim of Wife Beater Attempts to Help Husband*, WILKES BARRE TIMES-LEADER, Jan. 25, 1910, at 18 (“fined \$15”).

*Fined for Beating His Wife*, CHI. DAILY TRIB., Jan. 12, 1910, at 7 (“\$25 and costs”).

*Arrested Twice for Beating His Wife*, ABERDEEN DAILY AMERICAN, May 21, 1910, at 4 (\$10 and costs).

*Negro Wife-Beater Fined*, LEXINGTON HERALD, June 3, 1910, at 12 (“\$25”).

*Wife Beater Is Saved by the Plea of his Victim*, LEXINGTON HERALD, June 16, 1910, at 7 (“a fine of \$1 the lowest he could assess”).

*Wife-Beater Is Fined \$25*, MORNING OREGONIAN, July 10, 1910, at 6 (“fined \$25 and costs”).

*Wife Beater Is Fined \$25*, LEXINGTON HERALD, Aug. 19, 1910, at 5 (“fined \$25 and costs”).

*Suspended Sentence is Given Kuhm*, MORNING OLYMPIAN, Aug. 19, 1910, at 4 (\$50 and costs, plus suspended jail sentence “on condition that he would abstain from drinking in the future”).

*All Over Texas: Fined Wife Beater*, FORT WORTH STAR-TELEGRAM, Oct. 21, 1910, at 6 (\$15).

List D: Newspapers Articles Showing a Man Given a Fine with Jail as an Alternative

### 1900

*A Wife Beater: Gets His Deserts in Recorder Aucoin’s Court*, TIMES PICAYUNE, published as DAILY PICAYUNE, Feb. 10, 1900, at 9 (“\$25 or 30 days on each [of three] charge[s]”).

*Wife Beater Jailed: Sixty Days for Brutal Husband—Two Held for Alleged Larceny*, WASH. POST, July 4, 1900, at 10 (“jail for sixty days in default of a fine of \$20”).

*Brute Escapes the Lash: Wife-Beater Sentenced to Whipping or Prison*, L.A. TIMES, July 27, 1900, at I2 (“sent to the workhouse in a special conveyance to serve his fine of \$25 and costs”).

*Wife-Beater Sentenced: Injured Woman Fainted in Court After the Trial Was Finished*, WASH. POST, Oct. 13, 1900, at 4 (“150 days in jail or pay a fine of \$50”).

### 1901

*Wife Beater Punished*, DULUTH NEWS TRIB., Jan. 22, 1901, at 3 (“35 days in the workhouse, or \$33 fine”).

*Penalty for Wife Beaters*, WASH. POST, Oct. 3, 1901, at 10 (“fined \$30 with the alternative of ninety days in jail”).

*Wife-Beater Punished*, L.A. TIMES, July 23, 1901, at 14 (“\$30 . . . with the alternative of working for fifteen days on the chain gang”).

**1902**

*Brief Local News: Went to Jail*, IDAHO DAILY STATESMAN, March 16, 1902, at 6 (“\$37 and costs . . . and not being able to pay the fine was sent to jail”).

*Wife Beater Sent to Jail*, WILKES-BARRE TIMES, March 20, 1902, at 6 (“fined \$5 and costs in default, of which he was sent to jail”).

*For Wife Beating: Negro Fined by the Recorder, Other Cases*, STATE, May 22, 1902, at 8 (“\$20 or 60 days on the chaingang”).

*For Wife Beating*, MACON TEL., June 26, 1902, at 6 (“\$40 or four months on the chain gang”).

*Two Months for Wife-Beating; Judge Would Have Preferred Lashes on the Prisoner’s Bare Back*, WASH. POST, Nov. 15, 1902, at 5 (“two months in jail was given as an equivalent to the fine [of \$20]”).

*A Wife Beater Fined \$500*, KAN. CITY STAR, Nov. 17, 1902, at 1 (“fined \$500 . . . in the workhouse one year unless he pays”).

*A Wife Beater Fined \$500*, KAN. CITY STAR, Dec. 8, 1902, at 2 (“fined \$500 . . . [n]ot being able to pay his fine . . . will serve one year in the workhouse”).

**1903**

*Wife-Beater Fined*, BELLEVILLE NEWS DEMOCRAT, published as DAILY NEWS DEMOCRAT, Feb. 5, 1903, at 1 (“\$100 and costs in default of payment he was sent to jail . . . for about three weeks”).

*Three Wife Beaters Sentenced*, WASH. POST, Feb. 6, 1903, at 2 (“\$100 or a year in jail”; “six months”; “six months”).

*Wife Beater Goes to Jail*, DULUTH NEWS TRIB., May 16, 1903, at 5 (“sixty days in the county jail, in default of a fine of \$50”).

*Wife Beater Gets Thirty Days*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, Aug. 5, 1903, at 2 (“fine of \$100 or thirty days in the county jail”).

*Wife Beater Sent to Jail*, ABERDEEN DAILY NEWS, Oct. 1, 1903, at 5 (“jail for twenty-five days in lieu of the payment of a fine of \$50”).

*A Few Breezy Moments with the Police Jude*, STATE, published as SUNDAY STATE, Nov. 22, 1903, at 16 (“\$20 or 30 days”).

*Wife-Beater Got It*, BELLEVILLE NEWS DEMOCRAT, published as DAILY NEWS DEMOCRAT, Dec. 8, 1903 (\$100 and costs “but unable to pay so sent to jail”).

*Punishment for Wife Beater*, WASH. POST, Dec. 22, 1903, at 10 (“fine of \$50 or else spend the ensuing six months in jail”).

**1904**

*Charge With Wife-Beating*, OLYMPIA DAILY RECORDER, Jan. 5, 1904, at 4 (“fined him \$25 or a sentence of 25 days in jail”).

*Is Fined for Wife Beating*, DULUTH NEWS TRIB., published as SUNDAY NEWS TRIB., Jan. 17, 1904, at 10 (“fined \$50 or given the alternative of sixty days in jail”).

*Wife Beater Gets Ninety Days in Jail*, DULUTH NEWS TRIB., July 27, 1904, at 4 (“fine of \$100 and costs, with the alternative of 90 days in the county jail”).

**1905**

*Wife Beater Goes to Jail*, DULUTH NEWS TRIB., Jan. 5, 1905, at 9 (“\$50 or sixty days”).

*Neighbors Care for Family*, CHI. DAILY TRIB., Feb. 17, 1905, at 14 (“He will work out a \$100 fine in the bridewell.”).

*Wife Beater Is Called a Cur*, DULUTH NEWS TRIB., March 4, 1905, at 4 (“\$102.50 or ninety days in the county jail”).

*A Whipping Post*, GRAND FORKS DAILY HERALD, May 4, 1906, at 6 (“option of a \$60 fine or 30 days in the county jail”).

*Wife Beater Gets Very Severe Penalty*, MACON TEL., May 13, 1905, at 5 (“three months on the county chain gang with the alternative of paying a fine of \$25”).

*Wife Beater Is Sentenced to Jail*, DULUTH NEWS TRIB., July 4, 1905, at 5 (“60 days in jail . . . alternative of a fine of \$56.12”).

*Wife Beater Fined \$100*, BELLEVILLE NEWS-DEMOCRAT, Aug. 8, 1905, at 1 (“in jail, serving out a fine of \$100 and costs”).

*Fined for Blackening Wife’s Eyes*, WASH. POST, Dec. 22, 1905, at 9 (“a fine of \$50 with the alternative of six months in jail”).

**1906**

*A Whipping Post: John Lavander Told That It Was Just What Was Needed in His Case*, GRAND FORKS DAILY HERALD, May, 4, 1906, at 6 (“option of a \$60 fine or 30 days in the county jail, and he was forced to take the latter being without funds.”).

*Recorder Fined This Wife Beater*, MACON DAILY TEL., June 6, 1906, at 8 (“a fine of \$20 or thirty days in the stockade”).

*Wife Beater Given Sixty Days in Jail*, DAILY NEVADA STATE JOURNAL, Sept. 1, 1906, at 3 (“He was sentenced to serve sixty days in the county jail or pay a fine of \$120. He was unable to pay the fine and is now in the county jail.”).

*Wife Beater Fined \$10*, WASH. POST, Oct. 9, 1906, at 12 (10 dollars but “went to jail in default of the money”).

**1907**

*A Wife Beater Wept in Court*, KAN. CITY STAR, March 26, 1907, at 1 (“\$250. That means a year in the workhouse if you cannot pay or appeal.”).

*Brain Storm Is Negro’s Excuse*, DULUTH NEWS TRIB., April 6, 1907, at 8 (“will work for the city for three months, not being able to raise a \$75 fine”).

*Rock Pile for a Wife Beater*, DULUTH NEWS TRIB., July 26, 1907, at 12 (“the rock pile for 10 days” because he was unable to pay \$10 fine).



*Wife Beater Is Given 60 Days*, DULUTH NEWS TRIB., Sept. 12, 1907, at 6 (“60 days’ sentence with the alternative of a fine of \$70 and costs”).

*Wife-Beater Got 9 Months*, MACON DAILY TEL., Oct. 6, 1907, at 4 (“nine months sentence with the alternative of paying \$75”).

*Wife-Beater Is Jailed: Woman’s Story of Cruelty Prompts Judge to Sentence Husband*, Oct. 13, 1907, at 10 (“[i]n default of payment of the fine . . . jail for thirty days”).

*Wife Beater Gets His Sentence*, IDAHO DAILY STATESMAN, Dec. 13, 1907, at 3 (could not pay \$300 fine, so must serve 150 days).

### 1908

*What the Sinners Pay: A Monday Morning Docket in the Recorder’s Court*, STATE, April 28, 1908, at 3 (\$30 or 30 days).

*Wife Beater on the Rocks*, BELLEVILLE NEWS-DEMOCRAT, July 31, 1908, at 1 (“fined \$100 and costs . . . in lieu of the same was sent to the St. Clair County workhouse, where he will do a turn of 20 days, pounding rocks”).

*Wife Beater Goes to Jail*, WILKES-BARRE TIMES-LEADER, Sept. 14, 1908 (“\$5 and costs. In default . . . he was committed to the county jail.”).

*Negro Fined \$25 for Wife-Beating: Police Docket Not Heavy for the Monday after Christmas*, COLUMBUS ENQUIRER-SUN, Dec. 29, 1908, at 2 (“\$25 or forty days on the gang”).

*Now in Session: Cases Disposed of During the First Day of the October Term*, COLUMBUS ENQUIRER-SUN, Oct. 6, 1908, at 8 (“six months on the chain gang or pay a fine of \$25”).

*Wife Beater Is Given Ten Days*, GRAND FORKS DAILY HERALD, Oct. 16, 1908, at 7 (“\$15 or spend ten days in the county jail”).

### 1909

*Alleged Burglar, Accused Handbook Man, and Wife-Beater Arraigned in Police Court*, WASH. POST, April 21, 1909, at 9 (“fined \$10, in default of which he will go to jail”).

*Negro Wife Beater Put Under Arrest*, COLUMBUS ENQUIRER-SUN, May 19, 1909, at 2 (“a fine of \$75.00 or twelve months in the gang”).

*His Honor’s Busy Day*, WASH. POST, July 18, 1909, at 8 (“\$50, with the alternative of spending six months in jail”).

*Dick Russell Was Sentenced: Much Interest in Case of Wife Beating in City Court*, COLUMBUS ENQUIRER-SUN, Oct. 12, 1909, at 8 (\$75 fine or “six months on the chaingang”).

*Wife Beater Severely Ill in County Jail*, OLYMPIA DAILY RECORDER, Oct. 12, 1909, at 1 (“fine of \$100 . . . which amounts to 43 days”).

### 1910

*Wife Beater Was Given Jail Term*, WILKES-BARRE TIMES-LEADER, Feb. 15, 1910, at 17 (“fine of ten dollars and costs or ten days in jail”).

*Wife Beater Is Sent to County Jail for 90 Days*, DULUTH NEWS TRIB., March 8, 1910, at 3 (“fined \$90 and costs, with the alternative of spending 90 days in the county jail”).

*Several Were Given Fines: Judge Tigner Passed on Several Criminal Cases in City Court*, COLUMBUS DAILY ENQUIRER, March 13, 1910, at 2 (“\$25 or three months”).

*Negro-Wife Beater Jailed*, LEXINGTON HERALD, March 22, 1910, at 12 (“was sent to jail yesterday in default of a fine of \$1 and costs”).

*Wife Beater Is Sent to Prison for Sixty Days*, WILKES-BARRE TIMES-LEADER, June 1, 1910, at 6 (“fined the prisoner \$25 and costs and in default committed him to jail for sixty days”).

*Waddell Signs Pledge: Promises Judge Pollard to Abstain from Use of Liquor*, PHILA. INQUIRER, June 28, 1910, at 10 (“\$130 or 300 days in the workhouse”).

*Burnett’s Court*, WILKES BARRE TIMES-LEADER, July 26, 1910, at 13 (punishment not stated; “[h]e refused to pay his fine and was committed to jail.”).

*Colored Wife Beater Gets \$50 or Ninety Days*, DULUTH NEWS TRIB., Oct. 4, 1910, at 5 (“\$50 and costs [or] . . . 90 days in the Douglas county workhouse at hard labor”).

*City Court Takes Recess*, COLUMBUS LEDGER, Oct. 16, 1910, at 10 (“three months on the chaingang, or a fine of \$25”).

*Wife Beater Draws 60 Days*, DULUTH NEWS TRIB., Oct. 28, 1910, at 5 (“60 days . . . when he was unable to produce the \$50 assessed against him”).

*For Striking His Wife Halford Fined \$300*, MACON DAILY TEL., Nov. 13, 1910, at 6 (“12 months on the county chain gang or to pay a fine of \$300 the latter which was paid immediately and he was released”) also published by the same newspaper Nov. 14, 1910, p. 8).

#### List E: Newspaper Articles Showing a Man Given a Combination of Punishments

##### 1900

*Known as a Wife Beater*, WILKES-BARRE TIMES, June 19, 1900, at 6 (“fine of \$5 costs and be imprisoned one month in the county jail at hard labor”).

*Jailed for Wife Beating: A Dark Page of Charles Ball’s Domestic History*, NEW HAVEN EVENING REGISTER, Aug. 1, 1900, at 2 (“\$20 and . . . a jail sentence of 20 days”).

*Wife Beater Punished*, NEW HAVEN EVENING REGISTER, Sept. 1, 1900, at 2 (“fined \$200 and costs and sent to jail for six months”).

*Woman’s Love Was Ever Strange*, PHILA. INQUIRER, Sept. 2, 1900, at 1 (“fined \$200 and sentenced to seven months in jail”).

*Severe Sentence for Wife Beater*, WASH. POST, Sept. 2, 1900, at 1 (“fined \$200 and sentenced to seven months in jail”) (also published in the N.Y. TIMES, Sept. 2, 1900, at 12).

*Wife-Beater Swinson Sent to the Eastern Penitentiary*, PHILA. INQUIRER, Sept. 21, 1900, at 9 (“fined \$100 and sentenced to three years in the Eastern Penitentiary”).

*Six Months and \$100 for Wife Beating*, KAN. CITY STAR, Oct. 10, 1900, at 1 (“six months in the county jail and \$100 fine”).

*Six Months for Wife Beating*, NEW HAVEN EVENING REGISTER, Oct. 24, 1900, at 1 (“\$100 with costs and sentenced him to jail for six months”).

*Pratt City*, AGE HERALD, Nov. 6, 1900, at 3 (“\$3 and work sixty days on the streets”).

### 1901

*The Lash for a Wife Beater*, WASH. POST, March 29, 1901, at 9 (“thirty lashes on the bare back . . . [and] six months in the house of correction”).

*Deals with a Wife Beater*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, April 12, 1901, at 8 (“fined \$50 and costs and sentenced to thirty days in jail”).

*Wife Beater Punished*, MORNING HERALD, July 7, 1901, at 3 (“\$50 and costs and sentenced to 50 days in jail”).

*Limit for Wife Beater*, DAILY EXPRESS, Dec. 5, 1901, at 1 (“two years in jail and fined \$1000”) (also published as *Penalty for a Wife-Beater*, DALL. MORNING NEWS, Dec. 5, 1901, at 7; *Gave Cowardly Brute Full Legal Limit*, FORT WORTH REGISTER, Dec. 5, 1901, at 2).

### 1903

*Wife Beater Is Punished*, FORT WORTH TELEGRAM, Jan. 8, 1903, at 8 (“fined \$250 and given a term of a year in the county jail”) (also published as *Severe Penalty for Wife Beater*, SAN ANTONIO EXPRESS, published as DAILY EXPRESS, Jan. 9, 1903, at 9).

*Wife Beater Heavily Fined*, FORT WORTH TELEGRAM, March 8, 1903, at 10 (“\$100 fine and ninety days in jail”).

### 1904

*In the Courts*, DALL. MORNING NEWS, Jan. 9, 1904, at 7 (“fined \$500 and sentenced to one year in jail”).

*The Champion Wifebeater*, FORT WORTH TELEGRAM, Feb. 21, 1904, at 14 (“five-year sentence with \$1,000 fine”).

*Wife Beater's Special Whip: Used It to Flog Her With When She Let Flies in House*, NEW YORK TIMES, July 21, 1904, at 8 (“six months in jail and a fine of \$100”) (also published as *Wife Beater Goes to Jail*, GRAND FORKS DAILY HERALD, July 21, 1904; *Didn't Like Flies, Whipped His Wife*, PHILA. INQUIRER, July 21, 1904, at 5).

*Court Calls Husband a Cur*, BELLINGHAM HERALD, Oct. 20, 1904, at 3 (“six months’ imprisonment in jail and \$250 fine”).

**1905****1906**

*Rich Wife Beater Put in Chain Gang*, DULUTH NEWS TRIB., Feb. 1, 1906, at 7 (“fined \$50 and costs and sentenced to thirty days on the streets”) (also published as *Rich Wife Beater in Chain Gang*, EVENING NEWS, Feb. 1, 1906, at 5).

*A Year in Jail for Beating Wife*, WILKES-BARRE TIMES, Nov. 13, 1906, at 1 (\$50 plus costs and one year in county jail).

**1907**

*Wife-Beater Sent to Jail*, WASH. POST, Feb. 6, 1907, at 11 (“one year in the city jail and fined \$500”).

*Lash for Wife Beater: Sentence Passed in Baltimore for First Time in Twenty Years*, WASH. POST, March 2, 1907, at 12 (“two months in jail in addition to receiving nine lashes at the post”) (also published as *Whipping Post Revived for Wife Beater in Maryland*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, March 2, 1907, at 3).

*Heavy Sentence Is Given Wife Beater*, OLYMPIA DAILY RECORDER, May 25, 1907, at 9 (“two years in the penitentiary and . . . fine of \$5,000”).

*Wife-Beater Heavily Fined*, DALL. MORNING NEWS, July 11, 1907, at 3 (“\$106.50 fine and a year to serve on the farm”).

*Wife Beater Is Heavily Fined*, LEXINGTON HERALD, July 23, 1907, at 2 (“fine of \$100 [and] a jail sentence of twenty days”).

*Wife Beater Gets Five Years*, ABERDEEN DAILY AMERICAN, Dec. 6, 1907, at 1 (five years in prison and fine of \$1,000; “[t]he sentence is the maximum provided by law.”) (also published as *Wife Beater Is Given Five Years in Prison and a Fine of \$1,000*, DULUTH NEWS TRIB., Dec. 6, 1907, at 1; *Maximum Penalty for Wife Beater*, LEXINGTON HERALD, Dec. 6, 1907, at 3; *Wife Beater Punished*, PHILA. INQUIRER, Dec. 6, 1907, at 1).

**1908**

*Magistrates’ Court*, LEXINGTON HERALD, Feb. 16, 1908, at 9 (“\$25 and twenty-five days”).

*Eight Months for Wife Beater*, WILKES-BARRE TIMES-LEADER, Aug. 1, 1908, at 1 (“eight months” and “\$100 fine”).

**1909**

*Judge Regrets No Whipping Post*, OLYMPIA DAILY RECORDER, Feb. 3, 1909, at 1 (\$50 and suspended sentence of thirty days).

*Wife-Beater Now Goes to Prison*, PHILA. INQUIRER, March 19, 1909, at 3 (“six months in State Prison and \$200 fine”).

*\$1,000 Fine for a Wife Beater*, KAN. CITY STAR, Sept. 4, 1909, at 1 (“fined \$1,000 and was sent to jail for one year”).

*San Joaquin Valley: Flogged with Chain*, L.A. TIMES, Dec. 18, 1909, at II6 (“six months in jail . . . and a fine of \$50”).

*Flogged With Chain*, L.A. TIMES, Dec. 18, 1909, at II6 (“six months in jail and pay a fine of \$50”).

*Given Fine and Jail Sentence: H.G. Bostwick Ordered to Pay \$200 and Serve 60 Days for Wife Beating*, IDAHO DAILY STATESMAN, Nov. 1, 1910, at 6 (\$200 and 60 days).

*Thief and Wife Beater Sentenced*, PHILA. INQUIRER, Nov. 10, 1909, at 2 (“sentenced to one year and fined \$1,000”).

### 1910

*Wife Beater Given Six Months in Jail*, WILKES BARRE TIMES-LEADER, Oct. 1, 1910, at 13 (“sentenced to jail for six months . . . also ordered to pay a fine of \$10 and the costs of prosecution”).

*Wife-Beater Gets Severe Sentence*, DAILY HERALD, Oct. 28, 1910, at 1 (“\$100 and . . . thirty days in the city jail”).

*Given Fine and Jail Sentence, Idaho Daily Statesman*, Nov. 1, 1910, at 6 (“a \$200 fine and a 60-day jail sentence”).

List F: Newspaper Articles Showing a Man Sentenced to Flogging or Whipping

### 1900

*Whipping Post: Thirty Lashes Well Laid on for Wife Beating*, SUN, July 26, 1900, at 8.

*Maryland News Notes*, PHILA. INQUIRER, July 27, 1900, at 6.

### 1901

*Maryland News Notes*, PHILA. INQUIRER, Aug. 30, 1901, at 14.

*Lashed by a Court's Order*, KAN. CITY STAR, Sept. 1, 1901, at 1.

*Negro Wife Beater Given Taste of the Lash*, PHILA. INQUIRER, Sept. 1, 1901, at 10.

*Negro Whipped in Maryland*, N.Y. TIMES, Sept. 1, 1901, at 1.

### 1905

*First Wife Beater Whipped in Oregon*, BELLINGHAM HERALD, June 7, 1905, at 5 (also published as *Wife Beater Lashed*, COLUMBUS ENQUIRER-SUN, June 8, 1905, at 6).

*Portland Wife Beater Lashed*, IDAHO DAILY STATESMAN, June 8, 1905, at 1 (also published as *Portland Wife Beater Gets a Whipping*, OLYMPIA DAILY RECORDER, June 8, 1905, at 1; *Twenty Lashes Applied to Back of Wife Beater*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, June 8, 1905, at 1; *A Wife Beater's Reward*, STATE, June 8, 1905, at 5; *Wife Beater Beaten*, LEXINGTON HERALD, June 9, 1905, at 3).

*Alleged Wife Beater Gets Fifty-Two Lashes*, OMAHA WORLD HERALD, published as MORNING WORLD-HERALD, June 30, 1905, at 3.

*Postmaster to Be Lashed: Oregon Official Beats Wife*, L.A. TIMES, Sept. 16, 1905, at I3.

*Ten Lashes for Wife Beater*, IDAHO DAILY STATESMAN, July 20, 1905, at 3 (also covered in *Portland Wife Beater Cries in Agony Under the Lash*, OLYMPIA DAILY RECOVER, July 20, 1905, at 3).

*Wife Beater Cries When Whipped in Jail*, IDAHO DAILY STATESMAN, Sept. 17, 1905, at 1.

### 1907

*Whipping Post Used to Punish Negro Wife Beater*, MACON DAILY TEL., April 6, 1907, at 1.

*Colored Wife Beater Flogged*, DULUTH NEWS TRIB., April 6, 1907, at 1.

*Whipping Post used in Baltimore*, ABERDEEN DAILY AMERICAN, April 6, 1907, at 5.

*Publicly Flogged*, SAN JOSE MERCURY NEWS, published as SUNDAY MERCURY AND HERALD, Aug. 4, 1907, at 3.

*Wife Beater Whipped at Post in Portland, Ore.*, EVENING NEWS, Oct. 25, 1907, at 7.

### 1908

*Must Support Wife or Be Whipped*, MORNING OREGONIAN, May 12, 1908, at 6.

*Wife-Beater Whipped: First Corporal Punishment at Frederick in Fifteen Years*, WASH. POST, July 28, 1908, at 5.

*Lash for Wife-Beater: Husband to Be Whipped for Assaulting His Delicate Wife*, WASH. POST, Nov. 4, 1908, at 9.

*Lash for Wife-Beater*, WASH. POST, Nov. 28, 1908, at 3.

### 1910

*Wife-Beater to Be Whipped: Resident of Hagerstown's West End Sentenced to Ten Lashes*, WASH. POST, March 29, 1910, at 3.

*20 Lashes for Wife Beater: Also Sent to Hagerstown Jail for Brutality to Bride of Two Weeks*, WASH. POST, April 6, 1910, at 15.

*Wife-Beater Is Whipped: C.S. Dove First White Man to Be Sent to Post at Rockville*, WASH. POST, June 9, 1915, at 4.