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The law and the household: Criminal courts in early twentieth century Rockingham County

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The Law and the Household:
Criminal Courts in Early Twentieth Century Rockingham County

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Abstract

This thesis examines the early twentieth century as a period of transition for rural, southern communities where the state began to increase its authority in matters of the family and the household. This prompted a transition from traditional patriarchal authority to state paternalism. Using the criminal court case records from the Rockingham Criminal Court, it is possible to evaluate the rural population's reaction to this transition. Certain populations, particularly women, were willing to use the law as a place to find justice against male power, while men continued to perpetuate traditional ideas about masculinity and informal, violent retribution as a response to insults to their reputation. Families continued to violate laws which inhibited the household economy, such as labor laws and prohibition. On the side of the state, it began to litigate crimes perpetrated by men against women, although it was still limited by traditional notions of male authority and it also saw itself as a power which could regulate acceptable relationships between adults. The criminal court cases display the tensions between the population of Rockingham County and the shifting power from the patriarch to the state.

Preface

This written study is the culmination of over a year's work of intensive research, record organization and processing, and digitization of sources. It was a two part process, the first being a practical application of archival skills, and the second a theoretical examination of the sources. The practical portion is the focus of Exploring Rockingham's Past initiative which seeks to make local records more accessible to the public. Exploring Rockingham's Past is a multiyear partnership project between a James Madison University graduate student and the Rockingham County Circuit Court. The goal of the project is for the graduate student to curate a collection of records from the court archives and make the collection digitally available. The collection chosen for this particular study was the criminal court records. The Rockingham County Criminal Court's collection of records spans the years between 1813-1971 and is held in over twenty-one boxes. Due to the substantial size of the collection, the process for digitizing the entire collection would encompass much more time than is available for a second-year graduate student to complete alone, so the record base was limited to the series of criminal court cases and further limited in scope by the time period 1900-1930.

To begin with, it was necessary to fully process the criminal court records. Some records had not been processed and entered into the collection. There were at least one hundred cases that remained within the original envelopes they had been placed in at the time of their creation, which in some cases, had occurred over a hundred years ago. These records needed to be sorted into their respective series, such as criminal court cases, summons, and warrants, and then put into chronological order. Next, the metadata for each individual case had to be created and stored in a spreadsheet. The spreadsheet

included such information as the case title, the type of case (felony or misdemeanor) and the charges. It also included the surnames of all people involved directly in the case, so as to create a usable tagging system for users on the ERP website. Other relevant metadata (publisher, creator) were also included in the spreadsheet.

The actual digitization began at this point. Every case had to be scanned, every piece of paper within the file, front and back. The criminal case records for 1900-1930 fill up approximately 8 boxes and over 3,000 documents had to be scanned. The documents were scanned into TIFF files, with 300dpi per image, in order to create the best quality image possible. Each individual case's images will be combined into a singular file for easier uploading and viewing. At that point, the images were uploaded to the Exploring Rockingham's Past website, alongside a complete finding aid. The finding aid encompasses the entire criminal court cases series, in order to showcase an cohesive series for the public, as well as to show what documents, while not available online currently, are available within the archives.

The second half of this process is the written study which follows this preface. The criminal court cases chosen to be the curated series for ERP were also the primary source base for this study. They were used to look at the early years of the twentieth century in Rockingham County as a period of transition for the rural south. During this time period, household dynamics shifted due to greater state authority and influence over the private domestic sphere. The law changed the authority of the family from traditional patriarchal power to state paternalism. The criminal court cases reveal a great deal about what changes people were willing to accept, when they were willing to use the law for their benefit, and also in what cases they resisted the intrusion by the government.

The Law and the Household:

Criminal Courts in Early Twentieth Century Rockingham County

The first three decades of the twentieth century were a transitory period for the New South. This was a period of shifting dynamics, from traditional patriarchal authority to state paternalism due to the increased power of local governments; this change not only gave the state control over the standards of the proper family, but also had the ability to restructure power dynamics in the family because patriarchal authority no longer remained unchecked. With the new power of the law behind them, women had a new and relatively reliable avenue with which to openly confront male power and privilege that had previously been unimpeded. This is not to say state governance was immediately accepted or even liked; state governance over the household projected a paternalistic image of the government deciding the proper family. Progressive reforms such as prohibition and labor laws directly impacted the household economy of the rural, working family and the laws surrounding sex and marriage placed a new level of control over autonomous adult's lives. However, traditional notions of honor, violence, and informal community control still remained and inhibited the state's ability to retain total control over proper behavior and family structure.[1] This study begins in the year 1900

[1] The research into this period of time is fairly limited; much of the research bookends the time period of this study, either ending at 1900 or beginning with the Great Depression. Further, much of the research involving the relationship between southern populations and the law is largely focused on race, which while an important and necessary discussion, does not largely concern Rockingham County because of the mostly white population. Some cases do involve members of the small black community, but most of the criminal court cases involved the white population. However, a few books were a huge source of information for this study. *The Paradoxes of Southern Progressivism* by William A. Link details the tense relationship between progressivists and rural southern populations. William Lynwood Morrell's *Killings: Folk Justice in the Upper South* remains one of the most comprehensive oral histories of prohibition, the southern culture of honor, and both of their relationship to violence and justice. A legal history of sexuality and race in the South, *The Pig Farmer's Daughter and Other Tales of American Justice* by Mary Frances Berry, is the best look at the law's involvement in legislating and controlling sex and sexual crimes. A couple of other books, which typically end at the turn of the century, have proven enormously useful in providing a background into southern culture and the law. *Vengeance and Justice: Crime and Punishment in the 19th Century South*

and ends in 1930; the years were chosen due to the rise of progressivism in the beginning of the twentieth century, which directly impacted much of southern culture, and ends in 1930, with the Great Depression. Economic circumstances and New Deal politics of the '30s changed much in regards to the relationship between the rural, working class and the federal government and as such, would change the direction of this study. Instead, the focus is on the relationship between rural communities and the local and Virginia state government.

Criminal court cases are an excellent source of evidence into the shifting relationship between the traditional patriarchal household authority and the growing power of state governance over the household. The cases show what the state considered their authority to regulate and govern, as well as people's reactions to the increased power of the state. The demographics of the criminal court cases reveal a great deal about the relationship of the population to the law, such as in what cases people were willing to use the new authority to find justice as well as where tensions between the law and the population still existed. Further, the reaction of juries to specific crimes can reveal the strength with which the ideas surrounding "law and order" had gained power. In multiple cases, the juries gave light sentences to people who had absolutely committed the crime, but for whom the sentences were justified and therefore acceptable due to traditional notions of honor and violence.

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by Edward L. Ayers shows where the relationship between the law and southern people was at the very beginning of the time period of this study; Peter Badalgio's *Reconstructing the Household: Families, Sex, and the Law in the Nineteenth-Century South* does much of the same, but in the context of civil court cases and family relationships. Finally, the study *Culture of Honor: The Psychology of Violence in the South* is a (relatively) modern study of the high rates of violence in the south, but provides one of the best looks into the motives for violence among the southern population.

Rockingham County, Virginia is the setting for this study. The county stands out due to its population demographics and the largely agrarian industries which thrived in the early twentieth century. Rockingham County was formally established in 1778, with the county seat located in Harrisonburg. The third largest county in Virginia, it has large swathes of land that fall within what is now the Shenandoah National Park and George Washington National Forest; much of the rest of the area is farmland.[2] While a primarily agricultural county, by 1900 it had developed a thriving industry based around agricultural goods; it held two of the largest hatcheries in the state, forty flouring mills, and a wool mill "whose products are recognized as of superior excellence at home and abroad."[3] The area was divided by miles of railroad tracks, and had 10 incorporated towns and many more rural villages. Rockingham County's population demographics are significant to research into the development of the area. The population was historically, and remains, majority white; in 1900, with a population of 33,527 people, only 2,632 (between 7 and 8%) were registered in the census as African-Americans.[4] The population was also largely made up of rural, working class individuals, the majority of whom worked in agriculture.

In regards to the criminal cases seen before the Rockingham Criminal Court in the years between 1900-1930, there were a total of three hundred twenty three cases which went before a jury. Felonies accounted for two hundred twenty eight of the cases, eighty-four were misdemeanors and the remaining eleven were miscellaneous other

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[2] John W. Wayland, *A History of Rockingham County, Virginia*, (Dayton, VA: Ruebush-Elkins Company, 1912), 225.
[3] Wayland, 227.
[4] Report on the Social Census, Record Group 287, National Archives at College Park, Department of the Interior, Census Office, (Washington, D.C.: Government Printing Office, 1870-1900).

cases. Across those thirty years, three hundred two men were tried, compared to twenty-seven women; men also accounted for 64% of felonies, of which 54% were considered violent crimes.[5] Significantly fewer women came before a jury, however they were much more likely to be charged with a felony at a rate of 81%.

The research into rural, southern communities in the first few decades of the twentieth century is minimal. A number of authors discuss this issue when making assumptions about the period, stating "conclusive evidence about these matters awaits more systematic research in the local court records and until then, we can only speculate."[6] A fairly substantial reason for the lack of in-depth research lies in the issue of sources. First, is the general lack of personal records for the rural, working class. This population of people in large part did not preserve their personal diaries, letters, and other records. for future generations in the same way a famous historical figure might. These personal records were left in dusty attics, damp cellars, shoved into the back of drawers, or destroyed immediately. If these records managed to be passed down into the next generation, the chances the records were preserved for future posterity grew slimmer. Children threw away their deceased parents' old papers, especially those which focus on their daily lives; for most people, there is no reason to keep these papers. If, perchance, these records did manage to survive to the current day and historians were made aware of their existence, they are not available in large enough quantities to make assumptions about a larger population. Instead, there is a diary here and there, letters from areas

[5] Violent crimes in this case are defined by the time period. If a victim was physically harmed, it was a violent crime. In this case, crimes such as seduction would not have been considered a violent crime, but a property crime. Larceny was also considered a property crime rather than a violent crime, but arson was considered violent.

[6] Bardaglio, *Reconstructing the Household: Families, Sex, and the Law in the Nineteenth Century South*, (Chapel Hill, NC: University of North Carolina Press, 1995), 225

scattered across the United States, and much of it remains in private collections. To generate an idea of peoples' private lives, the historian must turn to the public records.

However, if the Rockingham County Circuit Court archives exemplified the state of the archival record in other rural communities at the beginning of this project, many of the archival collections remain unprocessed and disorganized. The criminal court records, which are the focus of this argument, were still in their original docket envelopes from their creation and had probably not been touched since their creation over eighty years ago. Historians cannot use sources from archives that have not been properly processed and organized because there is no possible way for a historian from outside the community to know what sources may be of use to them. Further, people within the community may not know what those sources reveal because they haven't been looked at or touched in years. As Peter Badalgio stated, more research on the rural south in the early twentieth century does need to be done, but to do that research the sources need to be available for study in an organized manner. Local, rural communities and archivists must collaborate to process, organize, and potentially digitize the records. If digitization of collections is not possible, then the finding aids need to be available online. Research in this area is lacking and many historians are aware of it, but first historians need to know what and where the sources are.

In this study, the criminal court case records are the primary source base for information. The amount of information included in surviving records is quite varied; some records have extensive court transcripts and other legal documentation, while many only contain a single sheet of ripped paper with handwritten information, enough to reveal the name of the defendant and their presence at a criminal court, but not much

information about the crime, the plaintiff, or the outcome. In cases where general information about the case is missing, such as the verdict for the defendant, further research was necessary. Newspaper articles were used to provide supplemental information where necessary and when available. However, many of these cases were never reported in newspapers and for those cases, some speculation has been made by the author in regards to the thoughts and motives of the defendants, plaintiffs, and juries. In some cases, general information was missing about the case, such as the verdict, and in those cases, the closest census information was used to ascertain the defendant's possible incarceration. Not all questions can be answered with the current available documentation, but in all instances where assumptions were made by the author in regards to the case, they are noted and explained.

The south underwent a great transformation in the years following the end of reconstruction. Termed the "New South," beginning in the 1880s, the area was being radically altered economically. Mills and mill towns popped out of the wreckage of the Civil War and the end of Reconstruction. While agriculture remained the dominant economic force of the area, farmlands were split by railroad tracks with stops at burgeoning mill villages. This transformation was escalated by World War I, where the next two decades were marked by rapid modernization and rebellion.[7] From the social perspective, the community was also transforming from informal behavior regulation between its inhabitants to the beginnings of the state and local governments overseeing and taking more control over the conduct and punishment of the population. Communal patriarchal authority and individual masculinity were defined by a code of honor, a code

[7] Dowd Hall et al. *Like a Family: The Making of a Southern Cotton Mill World*, (Chapel Hill, NC: University of North Carolina Press, 1987), 1.

which became less formalized in the post-Civil War years. The rigid and socially regulated duels of the past gradually became off-the-cuff shooting scrapes.

Progressives pushed for the state to take a larger role in regulating morality and to intervene more in the daily life of the population; this meant state paternalism slowly supplanted the traditional order of household patriarchy. Progressivists pushed for child labor reform and women's suffrage, actions which conflicted with the traditional order of the rural family. Child labor reform conflicted with the traditional rural family which "was structured as an economic and productive unit."[8] Suffrage was also widely contested among both rural men and women, who disliked removing women from the home and placing them within the political sphere. Women would also be required to serve on juries and be confronted with the seamier details of murder, prostitution, alcohol. In another reform pushed by progressivists, women and children developed their own legal rights, dividing the household into separate legal entities where before they had been treated as the property of the male head of the household. All of these reforms came to pass within the first thirty years of the twentieth century, forcing the traditional family to reconfigure based on the demands of the state.

One of the biggest reforms which impacted households was prohibition. The ban on alcohol nationwide began in 1920, but prohibition was instituted in Virginia much earlier. Virginia went dry in 1914, but multiple counties, including Rockingham, banned the production and sale of alcohol even earlier. The banning of the sale and production of alcohol by first, the local government, then the state government and finally, the federal government was disliked by rural communities. Moonshining was an essential part of

[8] William A. Link, *The Paradoxes of Southern Progressivism, 1880-1930*, (Chapel Hill, NC: University of North Carolina Press, 1992), 309.

"backwoods" economies and so, despite the illegality, people continued to sell alcohol. In Rockingham County, there were two hundred fourteen cases seen before the court for the violation of alcohol laws, which was nearly even with the three hundred eight other criminal cases seen before a jury.[9] Alcohol-related crimes, it seems, were popular in Rockingham. Even before the actual institution of dry laws in Rockingham County, there were multiple cases of the sale of alcohol without a license as early as 1902. These communities not only resisted prohibition for the assault on their finances, but also as an invasion into their private domestic affairs. Prohibition was a violation of their personal liberty and they objected to the invasion of their personal affairs by the state under the guise of "paternal care for the morals and good order of the people."[10] Despite the new laws outlawing the sale of ardent spirits, communities continued to produce and sell alcohol.

Women, in particular, used the sale of alcohol as a form of trade. Alcohol sales contributed to the household economy without women working outside the home. Women's trade was "ephemeral and fluid...They traded with neighbors who came to the houses; they sold door to door to patrons arrayed along routes in town; they sold to itinerant buyers...these decentralized transactions [occurred] in domestic spheres…"[11] This domestic trade was essential, especially during the long agricultural depression between World War I to the onset of World War II, easing the pinch of poverty and contributing to rural, informal commerce. Rebecca Eaton was the first woman to be

[9] Most of these cases are not held within the criminal court collection, but the prohibition records collection. This should account for the numerical discrepancy of cases, as mentioned in the demographics.
[10] Link, 312
[11] LuAnn Jones, *Mama Learned Us to Work: Farm Women in the New South*, (Chapel Hill, NC: University of North Carolina Press, 2002), 50.

arrested and tried for the sale of alcohol in Rockingham County. She was charged in 1911 because she "did unlawfully sell ardent spirits and alcoholic beverages...at the home of the said Rebecca Eaton..."[12] However, she was not the only woman; an additional eighteen women were charged with the possession or sale of ardent spirits in between 1910 and 1930 in Rockingham County.[13]

Where the sale of alcohol contributed to the household economy, being charged with the sale by the state directly harmed it. Many continued to exalt the belief in personal liberty and resented the infringement of the government into personal and domestic affairs, especially those that contributed to the economy of the household.[14] Fines could range from $25 to $100, not including court costs, which were lumped into the defendant's fees. Several defendants could not afford to pay the costs outright, and so, such as in the case of Ethel Breeden, had "levied of our goods and chattels, lands and tenements, for the use of the Commonwealth of Virginia…"[15] They had thirty days to come up with the funds or the collateral was forfeit. Not only were people losing an important part of their income due to the seizing of disstilling materials and the alcohol in their possession, not only were people punished for a law that much of the population did not support, but they were also fined a decent sum which could cause them further losses. Prohibition supporters also emphasized collective responsibility; the downfall of a man due to drink not only harmed himself, but his family and his community. The drink destroyed the man, to his family it brought shame, and to society, the drunkard brought

[12] *The Commonwealth of Virginia v. Rebecca Eaton,* 1911.
[13] The majority of these cases are held in the Prohibition records collection rather than the Criminal Court collection and are not accounted for in the statistical information on criminal case records.
[14] Link, 312.
[15] *The Commonwealth of Virginia v. Ethel Breeden,* 1931.

crime and corruption.[16] To prohibitionists, it was the duty of not only the individual, but the collective community and the state to prevent the downfall of man to drunkenness. The purchase of alcohol for a drunkard was a misdemeanor in Virginia, for which there was one case in Rockingham County. Samuel A. Davis, in 1910, "unlawfully did purchase and furnish to William Clary, a habitual drunkard, ardent spirits."[17] He was fined $50. Individuals no longer only had to take responsibility for their own actions, but the actions of their community and prevent the moral failings of others. Rather than the individual responsibilities and freedoms promoted by the rural population, instead the state was prompting communities to take control over others' autonomous decisions.

Child labor reform was another objective for progressivists which experienced pushback by rural, southern communities. Child labor reforms had urban, middle-class origins which contradicted rural, working class beliefs. These reformers emphasized "child nurture over child exploitation."[18] They were horrified by the images of children working in industrial mills and exalted childhood as essential to the development of a healthy child. To put a child to work, according to reformers, was for a family to choose greed over morality. To many southerners on the other hand, child labor legislation was an unnecessary interference by the government who sought to enact paternalist policies against the will of the southern population. Child workers were considered a necessary part of some household economies and their productive capabilities added needed funds to rural families. In many cases, mills violated child labor laws on the request of the parent, "who most strenuously insisted that their children should work."[19] Not only were

[16] Link, 99.
[17] *The Commonwealth of Virginia v, Samuel A. Davis,* 1910.
[18] Link, 161.
[19] Link, 309.

child labor reforms harming households who needed their children's labor for financial reasons, but the imposition of the urban, middle-class values proposed by reformers also restricted parental control over their children. The state decided the needs of the child over the direct will and order of the parent. The early reforms of the twentieth century in favor of regulating children's labor were enacted by the state against the desires of working class families whose children participated in the family as a productive unit and contributed to the household economy.

Despite these new laws, children continued to work in mills and on farmland against the will of the state; Rockingham County had two such child labor violations. In the case of *The Commonwealth of Virginia v. Dan Wine*, the manager of the violating establishment, did "unlawfully...employ, permit, and suffer...a boy under 14 years of age, to work in a workshop and a mercantile establishment…" according to the arrest warrant.[20] He was in fact charged with hiring two boys under the age of fourteen. In both cases, according to the 1920 census, both boys had living parents who must have known of their child's employment.[21] One boy, William Tams, was the oldest child of five; his father was a janitor and his mother appears to have been absent, as she is not listed as a member of their household in the 1920 Census. He was also black. A single father with a low-paying job probably needed his oldest son's contribution to care for all his children. The other child was Russell Turner, who was listed as living with his grandmother, mother, and brother; his mother is also listed as single. Neither his grandmother nor his mother is listed in the census as having an occupation and his grandmother could not

[20] *The Commonwealth of Virginia v. Dan Wine,* 1920.
[21] Year: *1920*; Census Place: *Harrisonburg Ward 1, Harrisonburg (Independent City), Virginia*; Roll: *T625_1893*; Page: *4B*; Enumeration District: *102; Year: 1920; Census Place: Plains, Rockingham, Virginia; Roll: T625_1913; Page: 2A; Enumeration District: 92*

read. Both boys appear to have belonged to working class families who needed the extra financial support from their children. Labor reformers saw child labor and education as in direct competition for the attention of the child, but both boys are listed as being able to read and currently attending school. When the court charged Dan Wine with child labor violation, they potentially removed an essential member of the household economy from being productive. The criminal court took on the role of child protector against the will of southern families who needed their child's financial contribution.

In a further bit of state paternalism, Virginia introduced labor laws which restricted the working hours of women industrial workers. These laws restricted the number of hours worked per day to 10 and the total number of hours worked per week to 60.[22] Only women workers, not all industrial workers, had the new labor laws applied to them, as according to the U.S. Supreme Court "on the theory of the inherent difference in physical structure of the two sexes and the necessity of protecting women both for their own sakes and the welfare of posterity."[23] The courts upheld women as a distinctly separate class which needed protection, provided by the state, from hard industrial life. In a survey done by the state, which concluded the necessity for further limiting the number of working hours for women to eight per day, a census of industries found a little over half of all industrial employees were women.[24] This data indicates a more egalitarian laboring class in terms of gender diversity and yet women were the only focus for state intervention. Similarly to child labor reforms, woman labor reforms were disdained

[22] Bulletin of the Women's Bureau No. 10. U.S. Department of Labor: Women's Bureau, *Hours and Conditions of Work for Women in Industry in Virginia*, Anderson, Mary, March 1920.
[23] Regulating Hours of Labor of Women, *The Virginia Law Register* 1908, p.393
[24] Bulletin of the Women's Bureau No. 10. U.S. Department of Labor: Women's Bureau, *Hours and Conditions of Work for Women in Industry in Virginia*

among the rural populace as not only an unneeded intrusion into private affairs, but also a hindrance to the household economy. While there were no violations of these labor laws brought before a jury, and therefore are not considered "criminal court cases," several men in Rockingham County were fined for allowing women to either work more than ten hours in a day or forty hours in a week. Women were a necessary part of the household economy and in industry, they made up half of all employees, yet the state sought to limit their contributions to the home and the industry against women's own will; the state's paternalistic policies reformed labor only for women under the assumption women needed its protection.

While labor reforms directly impacted the household economy, especially when all members of the household were meant to contribute as a productive unit, the state became involved in the cases when the patriarch did not adequately care for his family. The crime of neglect was one such way; neglect was a misdemeanor for which a man could be fined. It was only men who could be tried for neglect because it was the patriarch's duty to provide protection and money for the family. In the first thirty years of the twentieth century, Rockingham County had ten cases of neglect which came before a jury; there were another two cases where a man was tried for desertion. These cases, alongside forcing men to financially care for their families, additionally made man's failure as a patriarch public knowledge. He was judged and fined by a jury of his peers, who deemed him dishonorable. In the process of taking men to court for neglecting their families, southern judges and juries laid down standards of male behavior and challenged traditional male privileges and authority. Domestic harmony came under the purview of

the court and gave women a method for which to bring men to task for failing to adequately provide for their families, as an honorable man should.

Honor was, of course, of utmost importance to men and was usually defended through violence. The criminalization of neglect, however, managed patriarchal failures through a more public venue as well as a historically more feminine method: gossip and public ostracism. Historian Brenda Faverty describes "gossip and ostracism as essential tools to make sure that women complied with the ideals of proper behavior."[25] They were used as mechanisms to maintain the standards of the community and the "failure to adhere to the standards was quickly known by their neighbors and led to their societal isolation."[26] Gossip and ostracism were the tools of antebellum women, making public a member of the community's failure to safeguard her reputation, which isolated the fallen woman and worked as a preventative measure for the rest of women in the community. By publicly trying neglect cases, the law was, in effect, using the same methods and receiving the same results as antebellum women, but with early twentieth century men. The prosecution of neglect made men's failures as patriarch public, opening up their dereliction of duties to everyone's scrutiny; it worked, in essence, as gossip had. Their indictment was the same as antebellum female ostracism, with the community judging and penalizing a member of the same community for their failure. The law used traditionally feminine methods of community control, but had the authority to use those methods to criminalize and control male behavior.

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[25] Brenda Faverty, "'Tattling is Far More Common Here": Gossip, Ostracism, and Reputation in the Old South.' In *The Field of Honor:: Essays on Southern Character and American Identity*, (Columbia, SC: University of South Carolina Press, 2017), 231.
[26] Faverty, 232

Testimonies of abuse are not commonly found in historical criminal cases, but instead in chancery court divorce suits. Extreme cruelty was one of the few reasons a woman could sue for divorce in the nineteenth century, although what determined "extreme cruelty" was up to the discretion of the judge.[27] Divorce cases were brought to the attention of the judiciary by the victim, but abuse required the observance of both the community and the law. Further, abuse was considered a misdemeanor in the criminal courts, subject to a fine, not jail time. A man would be fined for beating his wife and at the end of the day, return home to the same wife he had been charged with beating, several dollars shorter. It was an ineffective punishment at best, actively harmful at worst. The crime of assault, on the other hand, had the punishment of "confinement in the penitentiary not less than one year nor more than five years."[28] The assault of a stranger was more strongly enforced than the assault of a man's wife, perhaps a showcase of the still-lingering belief in a wife as a man's property. In the case of the state intervening into marriages in protection of women, it was largely ineffectual.

Rockingham County only had one abuse case in the first three decades of the twentieth century. The charge against Joseph Frazier was that he did "unlawfully, beat, wound, and disfigure his wife without the least provocation."[29] Mollie Frazer, his wife, did not make the complaint to the judge and even requested the warrant against her husband be dismissed. Her request was denied and Frazier was fined $25 (approximately $700 in 2021). The jury perhaps did not look too favorably upon the defendant despite his wife's protestations because Frazier "did unlawfully attempt to intimidate...a Deputy

[27] Loren Schweninger, *Families in Crisis in the Old South: Divorce, Slavery, and the Law*, (Chapel Hill, NC: University of North Carolina Press, 2012), 49
[28] *The Commonwealth of Virginia v. James Dawson,* 1910.
[29] *The Commonwealth of Virginia v. Joseph Frazier,* 1911.

Sheriff of the said County...in the discharge of his duty," while he was in the process of being arrested[30] The intimidation attempt included Frazier's effort to acquire a gun with which to shoot the said deputy sheriff, although the description of the event was physically struck from the arrest warrant and simplified. Frazier did not receive jail time and returned home. A little over a year later, Mollie Frazier was dead and Joseph Frazier was being tried for her murder. His arrest was based on the testimonies of several neighborhood women, who claimed Mollie had, on her deathbed, confessed her husband's brutality and begged them "not to let her husband know she had been talking. She feared further violence."[31] Frazier admitted, on the stand, he had previously struck his wife, although he was not asked to provide further details about the assault.[32] His defense was his wife had died from complications from childbirth as she had given birth a little over a week before. Other witnesses included several of Frazier's children, the oldest son testified against his father and two younger daughters testified in favor.

The case took a turn for the odd when Frazier insisted his wife's body be exhumed. The body was exhumed and the coroners declared any discolorations on the skin to be from natural decay, not premortem bruises. The prosecution argued the wrong body had been exhumed, a declaration which the jury did not believe. However, facts not known by the jury must be discussed. When the supposed body of Mollie Frazier was exhumed, a Dr. Hammer identified the body as the woman in question, having known the deceased in life.[33] The *Rockingham Daily Record* published the list of realty transfers the

[30] *The Commonwealth of Virginia v. Joseph Frazier,* 1911
[31] "Dug Up Wrong Grave? Startling Development in Frazier Murder Trial," *Alexandria Gazette*, December 7th, 1912.
[32] "Jury Has All Evidence: Rapid Progress in Murder Trial in Circuit Court," *Rockingham Daily Record*, December 9, 1912
[33] "Realty Transfers," *Rockingham Daily Record*, December 9th, 1912.

month of November, 1912. At this time, Frazier was currently on trial for his wife's murder, but he is listed as having transferred twenty-two acres of land to a Charles Hammer. The judge excluded the death-bed testimony because although "in the matter of dying declarations, the law presuming that a person facing certain and practically immediate death and believing themselves to be so situated will endeavor to speak the truth with as much accuracy as if testifying under oath," he assessed that Mollie Frazier did not believe herself to be at death's door.[34]

Frazier was acquitted by the all-male jury. With the modern understanding of domestic violence, the events surrounding Mollie Frazier's death become even more deplorable. What the jury had seen as the prosecution's far-fetched argument for the wrong body being exhumed was probably a bribe from Frazier to Hammer to identify the wrong body. Mollie Frazier's last words were silenced in favor of the husband who abused her. At the beginning of this saga, Frazier was only fined because his crime was a misdemeanor; assaulting a stranger was a felony, but the assault of a woman by her husband was only a crime if it was done "without provocation," and even then it wasn't as serious a crime. The day Frazier left court after being fined, he returned home to the woman he beat, with significantly less money and probably enraged.

Alongside the state beginning to legislate men's dereliction of duties in regards to marriage, they did also begin to litigate marriage in general. The laws in Virginia had always been strict in regards to "acceptable" interpersonal romantic relationships, but in 1924 the law regarding interracial marriage became one of the strictest in the country. The Racial Integrity Act of 1924 was colloquially known as the "one drop" law, which

[34] "Murder Case is Now on Trial: Joseph Frazier is Charged with Killing His Wife," *Rockingham Daily Record*, December 7th, 1912

defined whiteness as having not a single drop of non-Caucasian blood. Having a single ancestor of color, regardless of how remote, rendered a person ineligible to marry a white person. The law also increased the punishment for attempting interracial marriage to a possible jail sentence of two to five years. Throughout the years, Virginia had enacted stricter and stricter laws in the attempt to safeguard white supremacy and white racial purity. While Rockingham County was, demographically, largely white, it was no stranger to interracial relationships and the prosecution for daring to cross the color line in intimate and familial matters.

The first case to be tried under the new Racial Integrity Act, according to the *Norfolk Journal and Guide,* occurred in Rockingham County, the case of *The Commonwealth of Virginia v. William Dove and Mary Grove.*[35] William and Mary Dove were not even married in the state of Virginia; they were married in Maryland. They moved into Virginia to live on land owned by William's family. The state punished them for a crime which did not even occur under Virginia's jurisdiction, against the United States Constitution's full faith and credit clause, which states "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State."[36] Their autonomous choice to forge a life together, a life that had begun outside the state of Virginia was judged invalid against both the wording of the Constitution and even the wording of the 1924 Act itself. The Virginia Racial Integrity Act explicitly said "No marriage license shall be granted until the clerk or deputy clerk has reasonable assurance that the statements as to color of both man and woman are

[35] *Norfolk Journal and Guide*, 28 August 1926; According to other records, Mary was known as Mary Dove, having taken William's surname as was standard for married couples of the time. However, the case record explicitly names her as Mary Grove, perhaps to further undermine the legitimacy of their marriage.
[36] Article IV, Section I, United States Constitution

correct...It shall hereafter be unlawful for any white person in this State to marry any save a white person, or a person with no other admixture of blood than white and American Indian."[37] It also became clear the state would try the two for daring to exist as an interracial couple against the will of the Commonwealth. The state judged their union to be illegal and so, they were not considered married despite being tried for interracial marriage. Not only were the two tried for interracial marriage, but they were also tried for cohabitation. Cohabitation was only a misdemeanor, but the intention was clear; the two being an interracial couple existed outside the bounds of acceptability.

As seen with *The Commonwealth of Virginia v. Mary Grove and William Dove*, cohabitation was a misdemeanor for which a person " did lewdly and lasciviously associate and cohabit…" with another person "not being married to each other during all the time aforesaid."[38] Seven cases of cohabitation were prosecuted before a jury in Rockingham County in thirty years, although many more were probably settled privately. The first two decades had a majority of men prosecuted (one woman and three men). It is possible the women were also charged, but settled privately with a judge rather than a jury trial, but the amount of men suggests the state charged a man in particular under the assumption he had seduced his partner rather than an agreement existing between the two. The last few cohabitation cases of the 1920s had both partners charged on the same docket, putting equal weight to both partners' decision to remain in a relationship outside of the bounds of marriage perhaps as a result of changing ideas of female sexuality in the latter-half of the 1920s; while sex outside of marriage was still unacceptable, women were equally responsible for the decision to break with custom.

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[37] *Racial Integrity Act of 1924,* The Virginia State Legislature
[38] *The Commonwealth of Virginia v. Etta Caplinger*, 1908.

Virginia laws implemented during this time period defined acceptable forms of fornication for members of the community, essentially outlawing sex outside of marriage. While sex outside of marriage certainly occurred, consensual sexual encouters were typically prosecuted in only a few circumstances, such as men promised marriage in return for sex (the crime of seduction) or cohabitation, when unmarried and unrelated adult men and women brazenly flaunted their sexual relationship by openly living together. Virginia had never had laws in support of common law marriages, so members of the opposite sex were required to marry or be prosecuted. Every cohabitation prosecuted, with the exception of the Dove case, were of white men and women who challenged the standards set by the state. These standards were "that single women should remain chaste; that gentlemen should not seduce white women...judges strongly objected to relationships that appeared too open and thus too much resembled marriage."[39] The state set heterosexual standards of acceptability for sexuality; while men were allowed to have sexual encounters outside of marriage, they were expected to be with a woman of poor social standing, either meaning poor white women or African-American women. White women were to remain chaste until marriage. Cohabitation between unmarried adults challenged societal norms of virtue for women, an essential concern of both the population and the state. In order to maintain social norms and establish state control over those standards, laws entered into the domestic sphere and litigated consensual relationships between legally single adults.

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[39] Mary Frances Berry, *The Pig Farmer's Daughter and Other Tales of American Justice: Episodes of Racism and Sexism in the Courts from 1865 to the Present*, (New York City, NY: Alfred A. Knopf Inc., 1991), 39.

In a similar vein to cohabitation were the crimes of adultery and bigamy. In both cases, as with cohabitation, there was an implied necessity of habitual intercourse, but unlike cohabitation, adultery and bigamy were considered felonious.[40] In all the cases brought before the court in Rockingham County, it was always the injured spouse who filed the suit because "judges considered adultery to be injurious to the innocent spouse, even if that spouse later divorced his or her adulterous partner."[41] Extramarital affairs came under the purview of the court under the philosophy that the adulterous partner had harmed their spouse; further, they also came to believe that adultery and bigamy harmed the institution of marriage itself. Once again, the state used these crimes as a way to show their authority over the regulation of social norms and acceptable relationships by litigating extramarital affairs. In an interesting turn of events, in the seven cases of adultery and bigamy which went before a jury, there was a relatively equal split of men and women prosecuted (three men and five women: one case had both partners charged).[42]

While the laws surrounding fornication in and outside marriage prosecuted both men and women, another crime allowed for women to charge for coerced sex by male partners. Seduction did not challenge the accepted beliefs of female chastity, but did give women an avenue for receiving justice when men deceived them into becoming "fallen women." Seduction was defined in law as the unlawful and felonious seduction of an

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[40] Bigamy and adultery were used interchangeably in multiple cases; the main focus for both was if the charged party was married, but cohabitating with a partner they were not married to.

[41] JoAnne Sweeney, "Undead Statutes: The Rise, Fall, and Continuing Uses of Adultery and Fornication Laws." *Loyola University of Chicago Law Journal* vol. 46 no. 1 (2016): 143.

[42] There were probably more cases which went before a judge rather than a jury, as well as civil cases for divorce where adultery/bigamy were used as justification for the divorce, but these cases do not fall under the scope of this study.

unmarried woman of previously chaste character under promise of marriage. The law was meant as a way to both curb male sexual behavior and also to avoid private vengeance. It also had the side benefit of bringing public disgrace to the violator, exposing his immoral behavior to the community in which he lived. In its original inception, seduction was not a crime under the law, but instead fell under the jurisdiction of common law, for which reparations were bestowed in pecuniary form. The civil damage remedy was not initially received by the involved women, but their fathers. Under civil law, the father of the seduced woman was characterized as the damaged party under the assumption he had lost her "services," which placed the father-daughter relationship into a master-servant context, not a parent-child relationship. As historian Mary Frances Berry described the situation, "the measure of damages was only such that a master would recover for a disabling physical injury to his servant."[43] A father owned his daughter's body and the "damage" to it was a loss for which he was compensated; the loss of her virtue directly impacted her prospects for marriage and the loss of those opportunities meant her family would have to support her. Further, because the suits could only be brought by fathers, it meant fatherless women were left without just compensation.

Initial changes occurred with the enactment of laws regarding married women's property in Virginia late in the nineteenth century, which also gave women legal responsibility over their children. Mothers could now file suit for compensation for their daughter's loss of virtue, a process which shows the shift from outright patriarchal authority to equal parental authority over children. It was only post-Reconstruction that women were permitted to sue their seducers on behalf of themselves, which showed a

[43] Mary Frances Berry, "Judging Morality: Sexual Behavior and Legal Consequences in the Late-Nineteenth Century South." *Journal of American History* vol. 78 no. 3 (1991): 848.

shift from patriarchal authority over a daughter's body to a woman's autonomous jurisdiction over herself. However, the seduction case's compensation was still given on behalf of a woman's disgrace rather than punishment for sexual coercion. Virginia made seduction a crime in 1873, where:

> "Any person who shall, under promise of marriage, seduce and have illicit connection with any unmarried female of previous chaste character, shall be guilty of a felony, and upon conviction thereof shall be punished by confinement in the penitentiary not less than, nor more ten years."[44]

There were still cases which received monetary compensation, but it was also possible for the seducer to be given jail time. Rather than placing a financial value upon the loss of virtue, the act of seduction became a crime for which women could receive justice for having been deceived.

Rockingham County had twelve seduction cases in thirty years. In several of these cases, the suit was not brought by the victim, but by various family members. Catherine Heatwole's father filed suit against Jesse Kiser in 1917. Kiser and Heatwole had absconded in the night without her family's knowledge. Her father and brother immediately went out searching and her father went to the police. Several other family members made complaints to the county on behalf of their relatives who had been deceived and coerced into a sexual relationship, including in *The Commonwealth of Virginia v. Noah Roach* and *The Commonwealth of Virginia v. Henry Rexrode*. In every case, it was a male relative who made the initial complaint although female relatives did testify on behalf of the wronged women. Men, rather than owning a female relative's

[44] Acts 1872/3, p. 178; Va. Code, 1873, p. 1190, sec. 16.

virtue and demanding compensation, instead used the law to protect and provide justice for their wronged family.

In another seduction case, *The Commonwealth of Virginia v. Henry Rexrode*, a family member once again filed a complaint on behalf of a wronged female relative. However, in this case, the assailant was his father-in-law and the victim was Rexrode's daughter. A.G. Ruleman made a complaint to the court on behalf of his sister-in-law, Willie Rexrode, in 1922. He alleged that his father-in-law, "did unlawfully and feloniously seduce, and have illicit connection with and carnal knowledge of the body of Willie Rexrode, his daughter."[45] Rexrode was arrested and charged with seduction. It is unclear why he was tried for seduction, rather than rape or incest, but the faults of the judicial system were never more apparent than in the case of *The Commonwealth of Virginia v. Henry Rexrode*. In this case, it is clear that the laws, which were only then becoming strictly enforced, were still made with patriarchal authority in mind. Virginia did have a law against incest, which had been instituted in 1887. There were also laws against rape. However, there are several possible reasons for why Henry Rexrode was charged with seduction rather than any other crime.

Incest laws stipulated that individuals convicted of incest would be fined a maximum of five hundred dollars or imprisoned not more than six months.[46] The crime of seduction had a punishment of no less than two years, compared to the much shorter sentence for incest. Also, as historian Lynn Sacco described, the issue with incest laws was that "because the language and intent of the laws in most states were vague, courts wrangled over whether they only applied to consensual marriage between adults and not

[45] *The Commonwealth of Virginia v. Henry Rexrode*, 1922.
[46] Virginia Code (1887), sec. 3786, page 899.

to cases of child sexual assault."[47] In regards to the crime of rape, it was defined by many courts and welfare agencies as "the act of a stranger rather than a family member," and it was an apparent belief among young women that coerced encounters and even violent assaults were not rape, but a form of sexual initiation.[48] As Willie Rexrode was over the age of consent at the time, the possibility of a successful charge of incest or rape was unlikely. Perhaps seduction was considered the type of felony which would have the highest chance of indictment. Much of this case is shrouded in total mystery. The court records for *The Commonwealth of Virginia v. Henry Rexrode*, which consists of four pieces of paper (the official complaint, the official arrest warrant, the letter to the sheriff, and the grand jury indictment) are all that remain of the official records for the case. No newspaper articles were written in regards to this case, which wasn't unusual. Historian Estelle Freedman wrote in her book *Redefining Rape*, "incest began to disappear from public view, as evidenced by sparser reporting in newspapers and the closing of courtrooms during incest hearings."[49] The four documents held within the court file are all that remain of a family using the law to protect one of their own against the patriarch.

In a more traditional seduction case, Daisy Monger filed a complaint on behalf of herself against George Bear in the year 1900. Daisy was the third child of seven, born to a farming family. Bear was the oldest of three, also from a farming family; newspapers recorded George as belonging "to a prominent East Rockingham family," in an article

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[47] Lynn Sacco, *Unspeakable: Father-Daughter Incest in American History*, (Baltimore, MD: Johns Hopkins University Press, 2009), 34.
[48] Estelle Freedman, *Redefining Rape: Sexual Violence in the Era of Suffrage and Segregation*, (Cambridge, MA: Harvard University Press, 2013), 161.
[49] Freedman, 160.

entitled "Prominent Young Man of Rockingham, Convicted of Seduction."[50] Bear was often written in regards to his family ties, while Daisy was largely only mentioned briefly. The criminal court case went through two jury trials, after the first was deadlocked. The second trial ended in a two-year penitentiary sentence for Bear. Based on available evidence, it appears the seduction suit was a last resort in response to Daisy's pregnancy. She gave birth to a son she named after George, possibly in an attempt to get Bear to acknowledge his son and follow through on his promise to marry her. It was only after this failed that she filed the suit, to gain justice and compensation for his broken promise and failure to provide as a father. Her father also filed a civil suit to gain monetary compensation for "the alleged betrayal of his daughter."[51] Daisy was left an unwed mother in a time where female virtue was still meant to be conserved and fallen women were scorned. Her ruin would also have negatively impacted her sister's marital prospects (she had five sisters). The seduction suit would not only reveal Bear's own fault, but the civil suit would provide the funds for raising the child that Bear was not providing otherwise. Bear wasn't providing for the woman he promised marriage nor the child he fathered, so both Daisy and the law found ways to punish him for it.

Turning from crimes involving the authority of the law in litigating sexual crimes, the three murder cases which are focused on below are examples of the relationship between the traditional beliefs held by the populace and the authority of the law. In each case, the question of honor and the acceptability of violence in response to insult comes to the forefront. Each case also involves the intersection of these beliefs and family

[50] "Two Years for Bear: Prominent Young Man of Rockingham, Convicted of Seduction," *The Richmond Dispatch*, September 1, 1901.
[51] "Proceedings in Circuit Court," *Harrisonburg Rockingham Register*, November 1st, 1901

matters; two cases involve a father's protection of his children, and one describes a feud between members of the same family. While the law had the power to litigate these informal feuds, the juries made the decisions in regards to the harshness of punishment based on the accepted notions of honor and violence.

When Maximilian Hirsh killed his brother-in-law, Louis Isaacs, on June 29th 1909, it was during a violent exchange after a long history of intense feuding. Louis Isaacs was the husband of Emma Hirsh, Maximilian's sister. According to the deceased's widow, the relationship between the deceased and her brother had always been tense and spread to his relationship with this sister, who stated that after her wedding, Hirsh treated her "more like a dog than a sister."[52] Hirsh also apparently stated at some point after her marriage that he believed she no longer belonged to the family. The final altercation, which resulted in Isaac's death, had occurred after Hirsh refuted his relationship to his sister's son, angrily stating "Don't call me Uncle to that damn brat."[53] Mrs. Isaacs asked why he had spoken so harshly in regards to her son and when it looked as if Hirsh might strike her, Isaacs struck first. A fight ensued, but ended abruptly when Hirsh struck Isaacs in the head with a plank of wood, leading to Isaac's eventual death.

The judge dismissed Hirsh's claims of self-defense and sentenced him to nine years in the penitentiary for second-degree murder. The judge explicitly denied Hirsh's assertion he feared for his life, stating "This verdict means that the jury believed that you struck that blow in the heat of passion growing out of previous hatred for Louis Isaacs--that is to say out of malice of the heart."[54] Despite the testimonies of multiple

[52] *The Commonwealth of Virginia v. Maximilian Hirsh*, 1909
[53] *The Commonwealth of Virginia v. Maximilian Hirsh*, 1909
[54] "Mox Hirsh Must Serve Term in Pen: Supreme Court Refuses Writ of Error," *Harrisonburg Daily News Paper*, November 24th 1909.

witnesses which stated Isaacs threw the first punch, the judge and jury decided the long-held rivalry between the two men to be the defining piece of evidence which condemned Hirsh. The judge and jury found themselves the determining factor of Hirsh's emotions during the moment he struck the final blow and found his justifications wanting. He had previous malice towards his brother-in-law and had practically excised his sister from his life. He had not been the physical aggressor in the fight which led to Isaac's death, but he had expressed a vicious tone towards Isaacs' wife and child and looked, in that moment before the fight began, as if he was going to harm Mrs. Isaacs. To the jury, this confrontation probably didn't look as if he was fighting for his life; instead, Isaacs was responding to the threats towards his wife and child (who he was meant to protect). The death of Isaacs by Hirsh was not an acceptable form of violence. Hirsh wasn't protecting his honor from insult and his previous behavior was unbecoming of a gentleman. Isaacs probably looked more sympathetic to the jury; he was a man who was murdered in the defense of his wife and child. As said by the judge: Hirsh's actions were taken not for self-preservation, but in malice.

In a similar vein to *The Commonwealth of Virginia v. Maximilian Hirsh*, D.N. Vanpelt claimed self-defense when he shot a Mr. Matheny in 1919. Vanpelt's horse had trespassed onto Matheny's land and Matheny had put the horse into his stable. Vanpelt and his two daughters later went to retrieve the horse and during a confrontation between them, Vanpelt shot Matheny with a gun he had brought with him. During the trial, Vanpelt claimed self-defense, saying he had thought Matheny was going to attack his daughters, so he shot first. In a culture which promoted honor in addition to the abundant availability of firearms, arguments which demanded retribution could turn deadly. In

addition, "the knowledge that the other person may be armed and may begin acting violently may lead to preemptive first strikes."[55] Vanpelt worried his daughters were at risk of being harmed and so, he reacted violently, shooting Matheny. The court record is limited to the official transcripts and jury instructions, so the verdict is unclear, however the 1920 Census recorded Vanpelt as still living at his place of residence and was currently employed as a tinner.[56] Given this information and the jury instruction in the court record which stated "if [the jury] believe from the evidence that Matheny did any act...as to afford the accused a reasonable ground for believing that Matheny designed to kill the accused or either of his daughters...the jury must acquit the accused," it is likely Vanpelt was exonerated or given a fairly light sentence.[57]

In the case against D.N. Vanpelt, he testified he feared for his daughter's lives and possibly reputations. The testimonies of Vanpelt and both of his daughters claimed Matheny had said, "you are bitches, and thieves, and nothing but damn whores...there are two of your damned whores with you. You run a whore-house down there."[58] A woman's reputation could be irreparably harmed with language such as Matheny had used, which directly impacted not only her own place in the community, but also her family's reputation as honorable and proper. There were multiple witnesses to the confrontation between the Vanpelt family and Matheny, who could have spread the insults and tarnished the women's reputations forever. Studies into southern violence revealed that southerners viewed "violence as a legitimate response to insult" because southerners saw

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[55] Nisbett, Richard E., and Dov Cohen, *Culture of Honor: The Psychology of Violence in the South*, (Boulder, CO: Westview Press, 1996), 38.
[56] 1920 United States Federal Census; Year: *1920*; Census Place: *Ashby, Rockingham, Virginia*; Roll: *T625_1913*; Page: *12B*; Enumeration District: *84*
[57] *The Commonwealth of Virginia v. D.N. Vanpelt*, 1919.
[58] *The Commonwealth of Virginia v. D.N. Vanpelt*, 1919.

insults as much more harmful and damaging than other areas of the country did.[59] Both of Vanpelt's daughters were questioned during their testimonies by the defense attorney in regards to their characters. One daughter, who had a child out of wedlock, was questioned by the attorney, who said "Miss Van Pelt, there has been something said here that Mr. Matheny said something about whores and while I don't like to ask the question, I will ask you, are you the mother of a child?" When she answered in the affirmative, he continued, "I want to ask you, what has been your conduct--" before he was interrupted.[60] The defense attorney hoped to damage Miss Vanpelt's reputation, which could have shifted the blame in regards to her father's actions. If, according to the proper standards of behavior, she had not conducted herself accordingly, her father shooting Matheny was not in defense of his daughter's reputation, but a simple act of vengeance. While the judge refused to allow this line of questioning into the character of Vanpelt's daughters, the very fact that the attorney saw a reasonable line of inquiry in support of his client shows the power of words. Vanpelt responded to the insult to his daughter's reputations as well as his own as men historically had in the south, with violence. Men in the antebellum period responded to insults to their honor with violence and while the acts of violence in the twentieth century had become much more informal, the core aspects remained the same.

In the evening hours of August 26th, 1922 Milton Grimm and his son Albert were accosted at their home by Bernard Lam, who shot and killed Albert and wounded Milton. According to a local newspaper, the Harrisonburg *Daily News Record*, "the two Grims had been employed at the Norfolk and Western shops at Shenandoah since the calling of

[59] Nisbett and Cohen, 32.
[60] *The Commonwealth of Virginia v. D.N. Vanpelt*, 1919.

the strike...Lam [was] among the employees who walked out after the shopcrafts strike order."[61] The motive for the shooting appears to have been because the two Grims were crossing the picket line. Lam was arrested and tried, but eventually acquitted of the murder of Albert Grim. Months later, Milton Grim was arrested for attempting to murder Lam in retaliation for his son's death. When Lam drove past Grim's house on his motorcycle, "Grim rushed from the dwelling, swearing and carrying a shotgun. 'I speeded up the machine when I saw him coming...A number of balls struck my sister-in-law who was in the sidecar."[62] Both Lam and his sister-in-law sustained minor injuries after being struck with birdshot. Grim was remanded to jail and placed on trial for assault. He was found guilty, but not of malicious shooting, or unlawful shooting, but of assault and battery, the lowest possible sentence.[63]

In the Grim/Lam strife, the mythological southern blood feud became real. While it was short-lived and relatively small, it is clear a violent hatred existed between the men and, at least in the case of Milton Grim, they didn't care who was caught in the crossfire of their bitter strife. The Grims had crossed the picket line of the Great Railroad Strike of 1922, a strike which was largely supported by most communities, and in becoming strikebreakers, they became two of several casualties of the strike. Lam reacted with violence to the Grims' continued employment despite the nationwide strike; this response wasn't uncommon, according to a 1969 report, violence was more frequently aimed at replacement workers and scabs taking jobs during a strike than at managers or

[61] "Lam is Held for the Grand Jury," *Daily News Record*, September 26, 1922.
[62] "Bernard Lam Shot, Assailant Milt Grim, Of Whose Son's Death Lam Was Acquitted," *Daily News Record*, July 10th, 1923
[63] *The Commonwealth of Virginia v. Milton Grim*, 1923.

employers.[64] Their presence was a betrayal not only to the strikers, or the unions, but to the community as a whole, who were suffering from a loss of wages. Lam may have thought he was righting a wrong and retaliated because of that belief. Whatever his reason, Lam was acquitted of the shootings. For Milton Grim, the law had failed in providing justice for his son's death and his own injury, so old-fashioned, southern vigilantism was an acceptable response. Lam had been acquitted of violent crimes before, including the stabbing of a neighbor, but the acquittal for his son's murder would have made Grim realize the failure of the law. He was out for revenge.

As in the case of *The Commonwealth of Virginia v. D.N. Vanpelt*, in the case of *The Commonwealth of Virginia v. Milton Grim*, both men were tried for the protection of their children, although Grim's protection was done retroactively and Vanpelt proactively. While both men were considered guilty from a legal point of view, they were either exonerated or let off with a fairly light punishment. It is likely, due to the men being tried by a jury of their peers, "that the community's system of justice forgave the offender if the motive for the crime was justifiable in the community's eyes."[65] The jury instructions in the case against Grim explicitly laid out the various crimes the jury could find him guilty of, which varied from the highest crime of attempted murder to the lowest possible charge of assault and battery. An acquittal was also a possible finding, but due to the multiple witnesses of the attack, exoneration was unlikely. Instead, the jury found him guilty of the lowest possible crime with a fairly light sentence; assault and battery had a

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[64] Philip Taft and Philip Ross, "American Labor Violence: Its Causes, Character, and Outcome," in *The History of Violence in America: A Report to the National Commission on the Causes and Prevention of Violence*, ed. Hugh Davis Graham and Ted Robert Gurr, (1969): 290.

[65] William Lynwood Morrell, *Killings: Folk Justice in the Upper South,* (Lexington, KY: University Press of Kentucky, 1986), 155.

sentence of up to twelve months imprisonment and up to a five-hundred dollar fine. Milton Grim was sentenced to thirty days in prison and a seventy-five dollar fine. Grim could have been found guilty of "malicious shooting...with intent to maim, disfigure, disable or kill [Lam]."[66] Lam had killed Grim's son and the jury could have found the past malice as reason for a harsh sentence, as they had with Maximilian Hirsh. Instead, it appears the jury found the past malice as reason to support a light sentence. Albert Grim was dead and his father took vengeance against his murderer, an acceptable form of justice to the jury who understood a father's desire to protect his son.

In a similar vein, in the case against D.N. Vanpelt, the crime itself was never in question. Multiple witnesses testified to Vanpelt shooting Matheny, including Vanpelt's daughters. Instead, the question was whether the shooting was justified based on Vanpelt's worry for his daughters. While the existing court record isn't clear on the verdict in Vanpelt's case, the census taken the next year placed his residence at his home, so either he was acquitted or, like as was the case with Milton Grim, was given a fairly light sentence. Vanpelt had trespassed and preemptively armed himself, which implied he expected some sort of confrontation to take place. However, as revealed by the court testimony, the violent rhetoric Matheny used against Vanpelt's daughters, as well as the physical threats of violence, made the shooting more acceptable to the jury. Vanpelt was only acting as a father would, protecting his daughters' reputations and lives from harm. These two cases in particular show the continued strength in and support of vigilante justice, especially in regards to the protection of a man's family. While the emerging system of state governance had taken law and order into its own hands, it had not

[66] *The Commonwealth of Virginia v. Milton Grim*, 1923.

completely supplanted traditional ideas of patriarchal responsibilities and vigilante justice in the minds of the population.

State authority had slowly supplanted the traditional authority of the patriarch in matters of the household in the turn-of-the-century, rural south. With the criminal court cases of Rockingham County, Virginia as evidence for the progression, 1900-1930 is an important time period to showcase the tension between the two methods of authority. The state instituted many new laws with which to govern proper behavior and institute new standards of living in the household. These reforms included new avenues for women to challenge male authority, and protect both themselves and their families. Other reforms were less strongly supported by the community, especially those which harmed the economy of the household through the criminalization of alcohol and the reforms for labor. These progressive reforms, which were largely disliked, also contradicted the ideals of individual freedom of choice. Laws relating to cohabitation, marriage, and adultery also involved the state as an overseer of proper family structure and behavior. The state made itself the authority on the acceptable family and projected itself into the private dynamics and relationships of adults. Finally, while the laws governed violence, the juries still supported traditional notions of honor, especially when violence was used as a response to insult or harm. The laws defined the crime, but the juries established the sentence. The crimes of the rural, working-class population of Rockingham County, Virginia call attention to the shifting powers of authority in the south and the tensions between the population and the state.

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