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A “Hired Girl” Testifies against the “Son of a Prominent Family”: Bastardy and Rape on the Nineteenth-Century Nebraska Plains

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Abstract

In Red Cloud, Nebraska, in 1887, Anna “Annie” Sadilek (later Pavelka) pressed bastardy charges against the “son of a prominent family,” even though she could have, according to her pretrial testimony, pressed charges for rape. To the literary world, Sadilek is better known as *Ántonia* Shimerda, the powerful protagonist in Willa Cather’s 1918 novel, *My Ántonia*. However, it is Sadilek’s real-life experience that allows us to better understand life on the Nebraska Plains, specifically through an examination of the state’s rape laws and the ways these laws were subsequently interpreted by the courts. The Nebraska Supreme Court, between 1877 and 1886, established the need for the state to prove force as a primary component of the definition for rape, drew boundaries around acceptable reporting times, and solidified their stance on the requirement of corroborating testimony. These factors led Sadilek to charge Charley Kaley not with rape but with bastardy, a civil suit, which almost guaranteed a successful outcome for Sadilek and her child because it would not burden the county or state with their financial welfare. In analyzing Sadilek’s choices before the law, this article demonstrates the complexities of the gendered legal systems facing women like Sadilek who sought justice for crimes of a sexual nature. Additionally significant, this article draws attention to a space and place that lacks significant study in regard to the sexual power dynamics of the nineteenth-century Great Plains West, a multicultural contact zone highly susceptible to the influences of hypermasculine control.

On Saturday, December 10, 1887, a young woman named Anna Sadilek appeared before Samuel West, Justice of the Peace in Red Cloud, Nebraska. She claimed to be pregnant with Charles Kaley’s bastard child. Judge West issued a same-day warrant calling Kaley to

appear before him the following Monday, December 12. That day Sadilek also gave her testimony before the court. It would be the only chance she would get to do so, as a “quiet drama” soon unfolded in this small town in southern Nebraska.¹

Although Judge West acted quickly on Sadilek’s accusation, bastardy proceedings were delayed until the birth of the child as per Nebraska law. On April 13, 1888, Sadilek dropped the charges against Kaley. Her child had died of unknown causes, and Sadilek, better known to the literary world as *Ántonia* Shimerda, went back to work as a servant girl, a position not uncommon for young immigrant women. Wistfully commemorated in Willa Cather’s early-twentieth century novel *My Ántonia*, Sadilek is remembered as one of Cather’s “Hired Girls.” If not for new discoveries in the archives of the National Willa Cather Center and the Webster County courthouse, that is who she would remain, and historians would lose a valuable opportunity for understanding the legal straits that bound the choices of other women who likewise experienced sexual violence within the landscape of the Great Plains West.

A collection of old-fashioned index cards, prepared by Mildred Bennett, founder of the Willa Cather Foundation, and John March, an early Cather scholar, offered the first indication of a history untold. These mid-century notecards, often transposed with amusing brevity, described the real people of Red Cloud that Cather featured in many of her novels. Most importantly, they included the first-hand reports of Carrie Miner Sherwood, a childhood companion of both Sadilek and Cather. One set of notecards, entitled “PAVELKA, ANNIE,” offered an alternative chronology and seemingly extraneous details to the accepted narratives of Sadilek family history, presenting more questions than answers. If proven to be factual, this life narrative of Sadilek, the young “Bohemian girl” Cather “had known long ago” would soon change along with our understanding of the character she inspired. For Cather, “more than any other person . . . this girl seemed to mean . . . the country, the conditions, the whole adventure of . . . childhood. To speak her name was to call up pictures of people and places, to set a quiet drama going in one’s brain.”²

But beyond the significance of learning more about the real-life drama behind one of Cather’s most important fictional characters, one might wonder why this bastardy suit from 1887–1888 has any significance at all. The answer lies in another question. Why didn’t Sadilek charge Kaley with rape? As stated in her pre-trial testimony, Kaley had used “shears or [a] knife” to assault her, resulting in her pregnancy.³ Yet, instead of seeking sexual assault charges, she filed for bastardy. To a literary scholar, the distinction might be curious, but to a gender and legal historian of the Great Plains, the distinction requires deliberation, granting scholars an opportunity to survey the choices available to Great Plains women as they endured sexual and domestic violence. Newly uncovered, Sadilek’s case file allows legal historians the opportunity to consider why a Bohemian servant girl would use a civil suit for bastardy to recount a criminal assault.



Given the cultural and social familiarities that make such cases known within a rural community, it is possible that Sadilek decided she would likely fare better in a masculine courtroom with a civil claim of bastardy against Kaley, rather than a criminal charge of rape. In her novel, Cather acknowledged these gendered, cultural truths by making the distinction between Black Hawk's (Red Cloud's) wealthy and poorer classes:

The country girls were considered a menace to the social order. Their beauty shone out too boldly against a conventional background. But anxious mothers need have felt no alarm. They mistook the mettle of their sons. The respect for respectability was stronger than any desire in Black Hawk youth. . . . Our young man of position was like the son of a royal house.⁴

With such prejudices in favor of young men like Kaley, Sadilek may have felt the lack of corroborating evidence to Kaley's use of force hindered a rape conviction under Nebraska law. As her pregnancy advanced, becoming more visible to potential employers, she also more likely considered the serious nature of her financial situation. She probably knew she had little to lose socially, at that point, but could potentially experience a better outcome for her and her child in the long term. Additionally, Sadilek likely received advice from her first employer, J. L. Miner, who perhaps persuaded her that a bastardy conviction would provide her with financial assistance and give her the opportunity to testify to Kaley's assault; alternatively, a rape conviction would be unlikely and would serve only to place Kaley in prison, leaving Sadilek with the financial burden of providing for herself and her child.⁵

Despite the clarity of Sadilek's testimony, we know little of her inner conflict as she parceled out this personal and legal dilemma. Reading her actions and testimony in dialogue with an analysis of bastardy and rape law in practice on the nineteenth-century Great Plains can make Sadilek's course of action much clearer, however. Such an approach reveals the difficulty of achieving a rape conviction and the emergence of a smoother path forward for those pursuing civil bastardy charges, a statutory resolution generally motivated by the state's interest in providing for the poor.⁶ Sadilek, a working girl with little leverage in society, probably felt she had only one option. Ultimately, her decision might best be explained by the last words she uttered before the court. When asked by the county attorney if she had "any means" of her own, she answered, "No, Sir I have not."

When placing Sadilek's experience and legal strategy in context with the law, it becomes clear that young women in the late nineteenth century faced unsympathetic jurists. Women fought the basic inequality of the law as subpar citizens with few political rights.⁷ They challenged the legal and cultural institutions of marriage and family, faced desertion and loss, and confronted violence leveled against them, all while bound by laws made without their consent. In this environment, they came face to face with "the masculine world," a legal arena within which men gave definition to both sexual consent and coercion.⁸ In Foucauldian terms, the nineteenth-century American courtroom met within a hierarchical framework of procedural discipline that "manifest[ed] the subjection of those . . . perceived as objects" and "objectif[ied] those" who faced subjection."⁹ The legal world of

the past—and some would say present—served as host to intimidation and shame for the female litigant, as so many records in the judicial archives demonstrate.

With a “heightened authority,” such archives illuminate the power dynamics of the past.¹⁰ Through trial transcripts, judges’ chambers and courtrooms come alive again, allowing the “witness, the neighbor, the thief, the traitor, and the rebel” to give accounts they perhaps “never wanted to leave.”¹¹ Perhaps to some readers’ surprise, women’s voices appear frequently in Great Plains county historic records, and this article seeks to grant them a twenty-first century audience.

Although most of us know Sadilek through Cather’s novel, in this article Sadilek becomes the author of her own life story, and not the type of “quiet drama” of nostalgic reminiscence found in Cather’s generally endearing prose.¹² She presents, with her testimony, a story that resonates uncomfortably with many more than a century later. She gives us a chance to hear the voice of a woman who had few options before the law and a case through which to pursue a better understanding of how courtrooms of the nineteenth-century Nebraska Plains dealt with matters of sexual violence and coercion.

In Sadilek’s case, as in the cases of many other women, the laws did not work in her favor. With no trial, she found no justice; the charges for bastardy were moot without a living child, and rape no longer remained a viable charge, almost a year having passed between the assault and the dismissal of bastardy charges.¹³ Sadilek went back to work as a “hired girl,” while Kaley, the son “of a royal house,” remained free to roam.¹⁴ In the end, however, Sadilek’s justice would be a long life lived among loved ones near Red Cloud, and Kaley’s life would be cut short by an overdose of morphine.

Red Cloud, the quiet, prairie town in which Sadilek lived and worked in the mid-1880s, remains roughly the same geographic size today as then, but it has lost about half of its population in the decades since. Like many of its neighboring towns, Red Cloud saw its population peak in the late nineteenth century, many of its new inhabitants arriving from across the Atlantic.¹⁵ Called the “Gate City of the Great Republican Valley” in 1885, it was home to approximately two thousand inhabitants.¹⁶ Serving as the prototype for Black Hawk in Cather’s 1918 novel, it still maintains the grassland aesthetic Cather embraced with her pen. Neighbor knows neighbor with little distinction made between the residents of town and countryside; and within Catherland, the restful, confident nature of community remains. In that, not much has changed.

What has changed for small communities like Red Cloud, however, is the reality that often times more residents exist in the town cemetery than those presently living in the town proper. Speaking truths about these small Plains communities, then, requires us to weave together the experiences of all who have walked its streets, given voice to personal histories, and perhaps even kept lurid secrets. Ephemeral though their lives may have been, the individuals resting in Webster County cemeteries represent the story of the rural American West, which attracted young immigrants seeking economic opportunity in the late nineteenth century. Permanently embedded in the historical literature of Cather’s imagination, these early Plains newcomers, and their subsequent histories, provide a heritage for many still residing within a stone’s throw from their ancestors. Yet much related to their legal encounters remains unknown. Sadilek’s story reveals just how much our

nostalgic tendencies have blinded us to the real-life dramas that played out in the courtrooms of the Great Plains.

Outside the nearby Nebraska town of Bladen, Annie Sadilek Pavelka rests in Cloverton Cemetery. A green sign marks her grave and describes her as the “inspiration for *My Antonia*.” Born March 16, 1869, she arrived on the Nebraska Plains from Bohemia in 1880, settling into a crude dugout on a 160-acre farm with her family northwest of Red Cloud.¹⁷ Sadilek lived on the family farm only a short time, her young life interrupted by her father’s suicide. Later, she moved into town to live as a “hired girl” in the home of J. L. and Julia Miner, just one block away from Cather.¹⁸ Though Sadilek was approximately four years older than Cather, the two began a lifelong friendship continuing well into their later years when personal visits became difficult.

In 1921, Cather said that Sadilek was the person “who interested [her] most as a child” and she “always had it in mind to write a story about her.” In later reminiscences, Cather noted a dilemma before her—how to write Sadilek’s story without creating “a lurid melodrama.” She “deserved something better than the Saturday Evening Post sort of stuff.”¹⁹ Cather’s solution to this dilemma, apparently, was to leave out many of the full details of Sadilek’s life.

According to Bennett’s notes, Sadilek worked for Mrs. Gardner at the time of the assault. Sadilek’s pregnancy, most likely obvious to Gardner, threatened her with dismissal. In the form of assistance, Sadilek’s previous employer, Mrs. Julia Miner, tried to send her out of town, while Mr. Miner attempted to secure legal services. Rather than leaving the county, Sadilek “went home” to have the child, presumably northwest of Red Cloud on the Sadilek family farm, according to Bennett’s informant, Carrie Miner Sherwood. Sherwood recollected that Sadilek, at some point, had “brought the baby . . . sick to Mrs. Miner.” Sadly, “[w]hen the baby was uncovered, it was dead.”²⁰

As with archival notes, which often detail oral histories like Sherwood’s, legal documents are perhaps more significant for what they do not articulate as for what they leave open for interpretation. Historians must attend to such silences for the benefit of “discovering what special place” that silence fills.²¹ In this particular case, that means dissecting the testimony of Sadilek in relation to both the silent and verbal actors in the courtroom. Kaley, present during the interrogation according to the court documents, serves as the most important silent actor in this case.²²

In the recorded testimony, only Judge West refers to the accused as Charles, both with his questions and on the official court documents accompanying Sadilek’s deposition.²³ After West questions Sadilek under oath, she is then cross-examined by Kaley’s unidentified defense counsel who continually refers to him as “Charley,” perhaps distinguishing him from Charles W. Kaley, his uncle who also resided in Red Cloud and would have been approximately forty years old at the time.²⁴ Clearly supporting this distinction, when asked to name the father of the child, Sadilek named “Charley Kaley,” not Charles Kaley, as the accused.

To further help identify the accused, the case file introduces another silent actor to this court drama, Elizabeth Besse. She, along with two other individuals, posts Kaley’s \$1,500 recognizance bond. Census records prove out that Besse was Kaley’s mother.²⁵ She had remarried Charles Besse after the death of her first husband, Henry S. Kaley, who had a

distinctive career as a prominent lawyer, a member of the Nebraska State Legislature, and an appointed German ambassador prior to death in 1881.²⁶ Young Charley Kaley was most definitely the “son of a prominent family,” and perhaps as Cather alluded, “the son of a royal house.”²⁷

Without any counter testimony from Kaley—the law at the time did not require it to prove guilt—little more is known about his early life other than what can be gleaned from the newspapers of the time. A young man of means, Kaley and his escapades appeared in the paper quite often. The man Sadilek knew for only “about one year” prior to her testimony in December 1887 spent much of his young life traveling and entertaining. *The Red Cloud Chief* noted on April 6, 1883, that “‘Little Charley’ Kaley was sent” to school in Atchison, Kansas.²⁸ The July 31, 1885, edition of the *Chief* reported Kaley returning home from New Mexico, “having become tired of a cowboy’s life.”²⁹ In the March 19, 1886, edition, Kaley went hunting with friends, returning “on foot” and without their team of horses, and in the August 6, 1886, *Chief*, Kaley entertained “prominent young capitalists” from St. Joseph, Missouri.³⁰ Clearly one to seek adventure and amusement, Kaley also likely attended the same town dances where Sadilek appeared quite frequently.

Sadilek enjoyed dancing and socializing with her friends and the town’s young men. A pretty young woman, she “could literally dance the shoes off anyone who challenged her . . . and still work the next day.”³¹ In the Miner home, she had become an important part of the family’s daily routine, giving as well as taking from this culturally rich family with a well-known appreciation for art and music. Julia Miner taught Sadilek the art of sewing, cooking, and how to keep house; and Sadilek introduced them to her Bohemian culture in return—particularly, her *koláče*.³² She became fast friends with the Miner children and the neighboring Cather family, and remained so even after Mr. Miner dismissed her from his service.

Not born into wealth or prominence, Sadilek worked a position common to other immigrant girls, and because of such, lived within a social framework unlike Kaley’s. Even while working, her money served to support her mother and brothers on the farm.³³ Seeking to determine which male head of household could be held financially accountable for Sadilek’s illegitimate child, Red Cloud jurists asked about her family conditions. When asked where her father lived, she responded, “My father is dead.” In giving her testimony, Sadilek made clear that instead of being a dependent of her father, as the terms of coverture designed, she actually supported her widowed mother and unmarried brothers through her earnings as a domestic. For Red Cloud’s social and economic fabric to remain whole, someone needed to be made accountable for Sadilek’s child. However, once the child had died, the search for accountability came to an abrupt end.

In addition to detailing her family and financial background, Sadilek described in her testimony the circumstances leading up to her pregnancy. On “Decoration Day,” May 30, 1887, Sadilek danced with Kaley at Mr. Mason’s store although she testified she “expected to have trouble with him.” Kaley asked to see where she lived, and they departed the dance together. Upon arriving at the fence gate, Kaley let her know that he “had got tired of the other women and wanted to bang someone else,” at which point Sadilek told him that she “didn’t want to have any trouble with him.” When she resisted, he then tripped her and “threw [her] down beside the gate,” eventually using “shears or knife” to cut down her

“tight drawers.” He covered her mouth, told her to “shut up,” and not make a noise. When he was “perfectly through,” he buttoned his trousers and left.



The defense attorney pressed Sadilek on “how long” the act took and whether there were any witnesses to the event. To the witnesses, she stated there were none; as for the accounting of time, she responded, “I could not tell. I know when he was through, he was

through." When asked if she tried to scream, she replied, "No, Sir. I did not want to raise any racket with him." The defense council then asked if she was "afraid if [she] did not give up to him [she] would have a racket with him"; Sadilek replied no. He then rephrased his question to ask if she were concerned that "if [she] did not yield to him, he would harm [her]." She answered, "I knew he would harm me . . . he said . . . he was going to have it anyway." Sadilek's response illustrates the difficult choice other women in her position faced, one that rape law has inconsistently considered: whether to incur additional violence during a sexual assault or to endure the attack in hopes it would end less violently.

Though she may not have physically resisted Kaley to the utmost that May evening, Sadilek did fight back, legally, in a remote county courtroom. In her bastardy claim, Sadilek disclosed the rape that Kaley subjected her to even though the proceeding did not require such detail. Kaley never objected to Sadilek's account—even though he had a legal right to do so. Although she refrained from charging Kaley with rape, Sadilek did leave her story on public record and leveled a credible accusation against one of Red Cloud's most "prominent" sons, waiting until she was approximately six months pregnant to do so.

Kaley's defense attorney did try to cast suspicion on the timeframe of Sadilek's conception, her acquiescence, and her chastity by using the language of the law. Bastardy and rape law, written to distinguish the chaste from the unchaste by allowing interrogation of a woman's virtue and past sexual history, obviously served the accused male and offered a loophole of sorts. Chastity, difficult to prove or disprove, was often applied indeterminately in cases related to sexual violence, coercion, and even bastardy suits, as demonstrated here.³⁴ Kaley's lawyer continued by pressing Sadilek about her menstrual cycles and her possible "connections" with other boys, a common strategy to ascertain, and undermine, the accuser's chasteness.³⁵ She answered firmly in defense of her chastity, and no one countered her testimony. Ultimately, Sadilek's account of sexual assault and conception received no challenge, and the formal trial awaited the birth of the child in question.

Sadilek's employment record offers some insights as to why she filed a bastardy claim rather than a rape suit. She most likely began working for the Miner family after she turned sixteen, an acceptable age for working outside the home.³⁶ In May 1887, however, she served and lived with Eugene and Helen Stowell, their fence gate providing the setting for Kaley's assault.³⁷ Perhaps because the Stowells only wintered in Red Cloud, Sadilek also sought work at the Gardner House, a place for local boarders and a position identified by Carrie Miner in her report to Mildred Bennett. She recounted that "Mrs. Gardner was going to dismiss her [and] when Annie said she couldn't go home Mrs. Miner made all arrangements and bought [a] ticket to send her to Denver." Then Sadilek went home to have the baby. This timeline places her at the Stowells in late May and early June 1887, at the Gardner House for the summer months, perhaps even fall, and then dismissed at a time when she would have begun to show her pregnancy. Her dismissal likely made her financial needs as apparent as her pregnancy, and Sadilek was in the courthouse by early December. Charging Kaley with rape in June would likely have limited her employability as a domestic in respectable homes, while her dismissal from service because of pregnancy made a bastardy claim necessary by the end of 1887.

Without knowing Sadilek's inner thoughts on the matter, we can imagine how she felt, and we can ask what her legal options were in 1887. Given Kaley's status and reputation, we could assume Sadilek might initially have liked him. In the aftermath of his assault, it is also reasonable that she might have suffered from personal doubt and an assumption of complicity, common sentiments held by victims of sexual violence. Additionally, due to her lack of social standing, and her family's reliance upon her income, she may have wanted to suppress the whole matter to maintain a brief window of gestational privacy and respectability in the small town of Red Cloud. As a servant girl, her future employment likely would have suffered more by publicly charging Kaley, who had a strong family name, for rape.

Domestic service offered the best employment opportunities for young women throughout the nineteenth century.³⁸ Early nineteenth-century servants, called "help" or "hired girls," the term used by Cather in *My Ántonia*, transitioned into a labor market industry in which girls became known as "domestics" by the late nineteenth century. As America changed, so did employment for these women; domestics became a status symbol of the rising middle and upper classes in urban areas.³⁹ These positions were less familial and often filled by young immigrant girls, particularly Irish and German. A general preference for White, Protestant, English-speaking immigrants, or poorer classes generally, found favor.⁴⁰ In rural and western regions, like Red Cloud, Nebraska, domestic service remained more similar to the early nineteenth-century system of employing "hired girls."⁴¹ This resulted, however, in a common concern for all female domestics by middle- and upper-class White women, with great apprehension regarding the potential to slide into prostitution.⁴²

In the Gilded Age, middle- and upper-class moral reformers sought to regulate the localized environments of young, working-class women, confronting the more public, and perceptively dangerous, fields presented by sexual freedom. Yet moral expectations were not the same for all classes. These "girl cultures" of the late nineteenth and early twentieth centuries left "hired girls" like Sadilek outside respectable social circles, as conveyed by Cather in *My Ántonia*.⁴³ Even in small towns, class-based sexual expectations for girls left domestics in an ironic position; young girls like Sadilek worked for those with wealth and community standing, but they never quite rose above their approved social station.

Domestic positions did introduce new spaces for sexual coercion to occur, not only from male employers, but other men in the community who might classify them as desirable, yet not of a class considered proper for marriage. When mixed with a "new cultural emphasis on female purity, a young woman who was 'ruined' by rape or seduction might have difficulty finding respectable work or a marriage partner."⁴⁴ Sadilek, the "hired girl," knew enough about her world to understand her future depended, in part, on how she proceeded in the legal matter before her.

For their part, what options did nineteenth-century Nebraska jurists offer women like Sadilek? Although we tend to think most readily of the survivors of rape, legal historians also understand the prosecution of rape as "the product of an almost exclusively local and state process." White male lawmakers defined, and White male judges applied, rape law, and not universally; across the United States, rape law exhibited "wide variation from state to state."⁴⁵

During the period in which Sadilek lived, state jurists and legal reformers tackled morality by policing the age of consent, prostitution, and the criminal zones surrounding sexual violence and coercion. In particular, the 1880s marked an important decade for the nation in this regard as most states began to reexamine English common law's very low bar—the age of ten—as the precedent for age of consent.⁴⁶ In 1885, Nebraska lawmakers raised the age of consent to twelve. By 1887, they raised it to fifteen. Only in 1895 did the Nebraska legislature raise the age of consent to eighteen with an amendment that made an exception for “previously unchaste” behavior, affirming the importance of chastity as seen in Sadilek's testimony.⁴⁷ Sadilek would have been eighteen at the time of the assault, but age-of-consent laws were important in any proceeding pertaining to sexual misconduct because the law defined who needed to provide evidence of consent or dissent. Further, in 1887 in Nebraska, although girls over fifteen could consent to sex under the law, they had to be sixteen to consent to marriage (for boys, it was eighteen), reflecting a common linkage between age-of-consent laws and marriage laws, a license to wed the single greatest factor for determining the social propriety of sexual intercourse.⁴⁸

In Sadilek's case, age-of-consent laws in Nebraska, always gender specific and marking males as the accused and females as the accusers, applied more specifically to Kaley.⁴⁹ In this limiting environment, legislative efforts to raise the minimal age of consent for women also corresponded with an increase in the minimal age a male perpetrator could be prosecuted for rape, raised from age seventeen to eighteen effective July 1, 1887. In the debates surrounding the amendment, Nebraska legislators expressed concern about the potential for a falsity of charges. In giving support to the idea that young men could also become victims of the law, they adjusted the age of prosecution to eighteen to help alleviate the likelihood for perhaps unjust accusations by “designing young women,” noting the current incarceration of “several young men from highly respectable families” who had been sent to prison in recent years “by immoral young women.”⁵⁰ This context is important for understanding Sadilek's decision not to seek charges for rape. Born on June 14, 1869, Kaley would have been only seventeen in May 1887, and eighteen at the time of his arrest in December 1887. Together, these two statutes contributed to the difficulty in bringing rape charges. According to the law, Sadilek was old enough to consent to sex, and Kaley was not old enough to be charged with rape.

Rape laws varied by state in regard to age of consent as well as to the extent to which accusers must present evidence of force. The Nebraska statute of 1887, for instance, defined rape as “carnal knowledge . . . forcibly, and against her will,” requiring women like Sadilek to prove the use of force as evidence of their dissent.⁵¹ Given Sadilek's testimony, in which she offered her dissent, she also stated she did not want any “trouble” from Kaley. Without corroborating evidence to the use of force with “shears or knife,” however, it is possible that Sadilek and any confidants were unsure that she had enough evidence of force to prove out a rape charge.

In regard to the interpretation of rape law, *Garrison v. State* established in 1877 that the reliable testimony of a “competent” female litigant who “oppose[d] the act” served as the absolute component to a guilty verdict for rape. Despite this seeming affirmation of the word of the accuser as sufficient evidence, the jury also had to take into consideration the good character of the accused, and even if he established “no defense of distinct and

independent facts" in offering his plea of innocence, it was still the burden of the state to prove guilt.⁵² Additionally, if such charges were not brought "until about six months after the commission of the alleged offense," the courts could dismiss charges as they did in their 1879 decision in *Fisk v. State*.⁵³

Fisk laid the groundwork for requiring corroborating testimony on behalf of the accuser, a provision made more explicit in 1886 when the corroboration rule became settled law with *Matthews v. State*.⁵⁴ The Nebraska Supreme Court decided in *Matthews* that if "no marks [were] left upon the person or clothing, and no complaint [was] made at the first opportunity," doubt could then be placed upon the accuser, and the corroboration of witnesses became necessary to validate claims by the accuser even if the accused offered no testimony in his defense.⁵⁵

In July 1887, the Nebraska Supreme Court acknowledged the dilemma it had created. In *Fager v. State*, justices admitted they did not "understand the rule . . . in such cases to require corroborating testimony to the positive fact of the rape. If such cases were required, convictions could seldom be had, even in the most flagrant cases. Men engaged in the commission of offenses of this kind seldom call witnesses to the fact or attack women who are not alone and within their power."⁵⁶ The legal environment surrounding sexual assault met with change so quickly even the courts expressed confusion about how to proceed in rendering judicious verdicts.

With such case law coinciding with Kaley's assault, Sadilek likely saw difficult legal waters ahead; charges for rape would have found significant obstacles. By December 1887, six months had passed since Kaley's assault, and Sadilek might have concluded that without evidence of force and without a corroborating witness, a rape charge would have been dismissed, especially given the blurred lines she and Kaley occupied in regard to age of consent. Instead, she sought charges for bastardy.

In 1887, Nebraska's legal mechanism of bastardy had a more static definition. With specific standards for the successful prosecution of bastardy, fewer challenges made their appearance in early case law in Nebraska. The most prominent early case to make it to the Nebraska Supreme Court, *Altschuler v. Algaza*, established the principle that "a preponderance of evidence [was] sufficient" for a guilty verdict.⁵⁷ Generally speaking, it did not require any more proof than that provided by the unmarried woman under oath, supported by a lack of denial on the part of the accused, so long as she herself did not lack from a "want of credibility."⁵⁸

Bastardy proceedings required the accused to sit before the court while the justice of the peace examined the complainant. After her testimony, the accused or his counsel, was allowed to ask "any question he may think necessary for his justification." If, as in Sadilek's case, the child was still in utero, the trial would commence at the "next court," the accused held by a recognizance bond of not less than \$500 and not more than \$2,000.⁵⁹ Sadilek's case proceeded this way until the death of her child. Without a need to establish paternity, no trial commenced, and Kaley never faced punishment through the courts for bastardy—or rape.⁶⁰

Kaley did face a life of difficulty, however. At age fifty-seven he died an early death from "Morphine Poisoning Accidental." On his death certificate, he is listed as a "Morphine addict," the certificate also recognizing a death complicated by "Syphilis—

Alcoholism.”⁶¹ An April 15, 1927, obituary described him thusly: “Blessed with an abundance of means, he traveled extensively and viewed life from all angles,” and he “never grew old, except as the passing years made him the victim of his own abounding life.”⁶²

Sadilek, however, lived a long life. After the loss of her first child, she had a serious relationship with James William Murphy (featured in Cather’s novel as Larry Donovan), which resulted in a second child, Lucille, in 1892. After Sadilek married John Pavelka in 1896 in the first Catholic Church in Red Cloud, Nebraska, he adopted Lucille as his own. Together, they eventually purchased a farmstead where they raised nine additional children.⁶³ At the age of eighty-six, Sadilek (now Pavelka) died on April 24, 1955—eight years to the day after the death of Cather, the author who introduced her to the literary world as *Ántonia Shimerda*.



Sadilek’s story is but one of thousands that can be found in the local courthouses of the Plains, yet few have been considered historically. Collectively, they offer a new understanding of the history of sexual violence and coercion in the Great Plains. Late nineteenth-century laws defined the lives of women everywhere, including those gravitating to the Plains between 1870 and 1900. Sexual violence and coercion become a part of the social and legal landscape as women faced tremendous vulnerability in a White settler society

deeply imbued with a keen sense of masculine domination. In this environment, both women and land became commodities of exceptional desire. As men controlled law, and by extension, land, the space within which women could maneuver against sexual violence and coercion had significant limitations. Nonetheless, women like Sadilek did use the courts, despite their economic status or their position as secondary citizens, to challenge sexual violence and coercion.

Ultimately, this article offers an introduction and invitation to further critical studies of the legal landscape of the Great Plains. Applying legal analysis to Sadilek's choices demonstrates significant commonalities for women seeking redress in Nebraska courts. First, proof of consent or dissent depended on a number of factors including age, evidence of force, perceived chastity and reputation of the accused and accuser, and the presence of corroborating witnesses. Second, some factors seemed to work in women's favor on occasion—pregnancy seemed to validate charges of sexual misconduct, for instance, and a greater age difference between accuser and perpetrator seemed to carry with it a higher probability of prosecution. Finally, certain factors worked against women—if the woman was of a lower class, or there was evidence of prior or concurrent sexual activity, successful prosecution seemed less likely. These instances seemed to influence whether or not charges might be brought in the first place and the type of legal remedy sought.

We know that the boundaries of consent developed in significantly different ways in the states, but we know little about how this contestable phenomenon intersected with the lives of women on the Great Plains. This article has begun to demonstrate the complexity and importance of such gendered legal history. The Nebraska Legislature, among others, began to clarify legal sexual boundaries with age limits and marriage laws in an attempt to protect the moral virtue of young White women during the post-Civil War era. They did this, in part, in opposition to an American society which included newly freed Blacks and growing numbers of young women in the workforce who collectively and “fundamentally altered the context of female labor” and challenged the accepted binary spheres of private and public social and moral behaviors.⁶⁴ Revisions in this era to age-of-consent, marital age, and rape laws, as well as the application of these laws in courts, need to be put in dialogue with one another, and as a fundamental component of Gilded Age Plains cultural and social practices.

Until now, the Great Plains region, a landscape ripe for sexual violence and coercion, has been significantly understudied. As Mary R. Block recounts in her 2009 article, “[w]hile there has been a spate of new and exciting research on rape in the 19th-century American South, it has been narrowly focused on black-white relations.” Block identifies a “striking paucity of studies on how rape law operated in the Midwest and . . . in the Far West,” noting that these regions exhibited extraordinary diversity in the nineteenth century, just as the northern and eastern regions of the United States experienced in earlier centuries. This diversity emanated from within society in the form of race, ethnicity, class, and religious multiplicity which structured Plains society and law in an interpretive fashion unique to time and place. Within that environment, Block goes further to ask how women fared on this “frontier of American society,” hypothesizing that women had to adjust to new dangers and increased vulnerability during this period of rapid settlement.⁶⁵ To understand the forces at work in Sadilek's world is to understand the plight of thousands of

women experiencing many of the same influences of a society dominated by White male hegemony.

Sexual relations, forcible or not, did not find definition only through law. American society had a vested interest in regulating sexual behaviors as well. Thus, this history is more than an examination of law; it is a study of the national social forces at play on the Great Plains which ultimately influenced local legal actors to legislate, and then interpret, a sexual morality unique to the space and place of these expansionist regions. This spatial environment had an effect on women's agency before the law, and despite the stereotypical narratives which present women as passive residents of White settler societies, Sadilek's story is but one which demonstrates the alacrity with which many took matters into their own hands and challenged their inferior social and political status by taking judicial action.

Nineteenth-century legal records offer new insight into the sexual power dynamics on the Great Plains, a region highly susceptible to the influences of hypermasculine control. Additionally, these agrarian spaces, as evidenced by land records, plat maps, census records, and school records, presented unique opportunities for White men to take advantage of young women like Sadilek. Historians studying such legal regionalism know that women on the Plains faced very real dangers from within their community much more sinister perhaps than the mythic dangers pioneer narratives typically recount, yet most disregard the history of sexual violence and coercion. Moving forward, it is this danger, not the mythic one, that asks us to consider how Sadilek's case might have been a shared experience among other young women, particularly immigrant girls serving the families of the Plains.

Based on her own personal experiences, Cather understood the nature of the Plains and its settlers to be less than perfect, yet she continually crafted tales that made her readers reconsider its allure. Late in her own life, Cather wrote that "memories outlast the short term of human life," and so we remember Sadilek years beyond her passing.⁶⁶ In a letter dated January 27, 1934, after her last visit to Red Cloud, Cather wrote reverently about Sadilek, calling her *Ántonia*.

[S]he is really just a figure upon which other things hang. She is the embodiment of all my feeling about those early emigrants in the prairie country. The first thing I heard of when I got to Nebraska at the age of eight was old Mr. Sadalaak's [Francis Sadilek's] suicide, which had happened some years before. It made a great impression on me. People never stopped telling the details. I suppose from that time I was destined to write *Ántonia* if I ever wrote anything at all.⁶⁷

Now, with this new history, Sadilek becomes more than the fictional character of Cather's imagination; she becomes the figure upon which a new understanding arises of the legal landscape within which Great Plains women lived. Shortly before her death, Sadilek penned her own letter recounting her personal story and the long trip to Nebraska with her family, Bohemian immigrants seeking a better life. She relayed how difficult it was to see her father's disappointment with dugout life, the isolation of the Plains, and how she suffered the loss of her father to suicide.⁶⁸ In the end, Sadilek may have found herself fulfilling the domestic role of loving wife and mother, but we now know she first showed

resilience by surviving the loss of her father, her first-born child, and the isolating experience of assault. Her courage in filing a bastardy suit against one of the town's foremost sons—facing the scrutiny of her inherited community not once but twice as an unwed mother—will no longer remain silenced.

A new understanding of Sadilek's life has emerged from a simple set of notecards, unnoticed among hundreds Mildred Bennett left behind, and an unknown file from the dusty, judicial archives of Webster County, Nebraska. Significant for its legal, social, cultural, and even literary portent, this legal case offers the opportunity to reexamine the novel, and *both* authors of *My Ántonia*, "the best thing" Cather contributed to "American letters."⁶⁹ Ultimately, Cather did what artists do—she found "what conventions of form and what detail" she could "do without" in her novel, and "preserve[d] the spirit of the whole" that was Sadilek.⁷⁰ Annie Sadilek Pavelka did what she needed to do—tell her own story of survival on the Nebraska Plains.

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Notes

1. Willa Cather, Charles Mignon, Kari Ronning, and James Woodress, *My Ántonia*, The Willa Cather Scholarly Edition (Lincoln and London: University of Nebraska Press, 1994), xi–xii.
2. Cather, *My Ántonia*, xi–xii. This tale of discovery in the Cather Archives has been published in a separate article by the author entitled, "A Pioneering Tale of a Different Sort: Annie Sadilek Pavelka and Sexual Assault," *Willa Cather Review* 61, no. 3 (Winter 2020): 13–19.
3. *Anna Sadilek v. Charles Kaley*, 17 December 1887, Civil Case No. 747, Webster County District Court, Red Cloud, Nebraska.
4. Cather, *My Ántonia*, 195.
5. Insofar as what Annie might have known about the law, Bennett's notes state that J. L. Miner "got a lawyer and a settlement" for Annie, possibly determining her course of action.
6. William M. Rockel, "Evidence in Bastardy Cases," *The Central Law Journal* 18 (1884): 305, accessed 30 September 2018, <https://heinonline.org/HOL/P?h=hein.journals/cntrlwj18&i=315&a=dW5sLmVkdQ>. Rockel offers a period examination of bastardy proceedings, which he calls a "hybrid" situation, having "some of the characteristics of a civil action, and some of a criminal prosecution . . ." He does note that mothers in bastardy suits were never "criminally liable. These statutes [were] mere police regulations, enacted solely to prevent the maintenance of the bastard child becoming a county charge." See "Illegitimate Children," Neb. Comp. Stat. § 37-2, in *Compiled Statutes of the State of Nebraska, 1881. With Amendments 1882, 1883, 1885, and 1887 Comprising All Laws of a General Nature in Force July 1*, third ed. (Omaha: Gibson, Miller & Richardson, 1887), 453–454.
7. Catharine A. MacKinnon, "Reflections on Sex Equality under Law," *The Yale Law Journal* 100, no. 5 (1991): 1281, accessed 7 December 2020, <https://heinonline.org/HOL/P?h=hein.journals/ylr100&i=1295&a=dW5sLmVkdQ>. For studies on the intersections between marriage, gender, and law, see: Michael Grossberg, *Governing the Hearth: Law and Family in Nineteenth-Century America*

- (Chapel Hill and London: University of North Carolina Press, 1985); Hendrik Hartog, *Man & Wife in America: A History* (Cambridge, MA, and London: Harvard University Press, 2000); Nancy F. Cott, *Public Vows: A History of Marriage and the Nation* (Cambridge, MA, and London: Harvard University Press, 2000); Peggy Pascoe, *What Comes Naturally: Miscegenation Law and the Making of Race in America* (New York: Oxford University Press, 2009). For scholarship specific to sexual violence, see: Sharon Block, *Rape & Sexual Power in Early America* (Chapel Hill: University of North Carolina Press, 2006); Estelle B. Freedman, *Redefining Rape: Sexual Violence in the Era of Suffrage and Segregation* (Cambridge, MA, and London: Harvard University Press, 2013); and Laura Edwards, *Gendered Strife and Confusion: The Political Culture of Reconstruction* (Urbana and Chicago: University of Illinois Press, 1997). A common thread in these narratives is the motivation to preserve the dominance of white masculinity in American society through the creation, application, and interpretation of laws which regulate and police sexual behavior.
8. Arlette Farge, *The Allure of the Archives*, trans. Thomas Scott-Railton (1989; repr., New Haven and London: Yale University Press, 2013), 34. See also Barbara Welke, *Recasting American Liberty: Gender, Race, Law and the Railroad Revolution, 1865–1920* (Cambridge, UK: Cambridge University Press, 2001), 86–87, as noted in Brian Donovan’s article “Gender Inequality and Criminal Seduction: Prosecuting Sexual Coercion in the Early-Twentieth Century,” *Law and Social Inquiry* 30, no. 1 (Winter 2005), 72–73.
 9. Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (1977; repr., New York: Vintage Books, 1995), 184–185.
 10. Antoinette Burton, ed., “Introduction,” *Archive Stories: Facts, Fictions, and the Writing of History* (Durham and London: Duke University Press, 2005), 5.
 11. Farge, *The Allure of the Archives*, 9.
 12. Farge, *The Allure of the Archives*, 6–7; Cather, *My Ántonia*, xi–xii.
 13. See precedent in *Fisk v. State*, 9 Neb. 62, 2 N.W. 381 (1879).
 14. Cather, *My Ántonia*, 195.
 15. For an extensive look at the ethnic populations and demographic shifts of this High Plains region during the late nineteenth century, see David J. Wishart, *The Last Days of the Rainbelt* (Lincoln and London: University of Nebraska Press, 2013).
 16. *The Red Cloud Chief*, Webster County, Nebraska, 10 July 1885, *Chronicling America: Historic American Newspapers*, Library of Congress, accessed 27 October 2018, <http://chroniclingamerica.loc.gov/lccn/sn84022835/1885-07-10/ed-1/seq-4/>.
 17. Barry Turner, *Simply My Ántonia* (Barry Turner, M.D., 1997), 12–14. Barry Turner, Annie’s grandson, is the only individual to have written a book-length biography of her and her family. See illustration number two in the back of the scholarly edition of *My Ántonia* for an 1885 Webster County map detailing the placement of the Sadilek farm in relation to the town of Red Cloud.
 18. The town plat presented as illustration number seven in the back of the scholarly edition of *My Ántonia* marks only those town sites mentioned in the novel, excluding the childhood home of Cather which was rented by the Charles Cather family from approximately 1884 to 1903. It is located at 245 North Cedar, in Red Cloud, one block east of the Miner home, located at 241 North Seward. Both homes are featured on the town tour offered by The National Willa Cather Center in Red Cloud, Nebraska.; see <https://www.willacather.org/7-building-tour> for accurate maps.
 19. Willa Cather, interview by Eleanor Hinman, *Lincoln Sunday Star*, 6 November 1921, in *Willa Cather in Person: Interviews, Speeches, and Letters*, ed. L. Brent Bohike (1986; repr., Lincoln and London: University of Nebraska Press, 1990), 44.

20. The phrase, "the son of a prominent family," and the remaining quoted material, comes from the transcribed notes of Mildred Bennett and her source, Carrie Miner Sherwood.
21. Michel Foucault, *The Archaeology of Knowledge and Discourse on Language*, trans. A. M. Sheridan Smith (1969; repr., New York: Pantheon Books, 1972), 119.
22. Though there are three Charles Kaley's in Nebraska census records, only one, based on his age and notable presence in Red Cloud at the time, makes for a feasible candidate.
23. Though the questioner is unnamed, it was the role of the Justice of the Peace to examine the complainant. As the rest of procedure appears to have been followed as per the statute, a reasonable assumption can be made that Judge West was the examiner. See "Illegitimate Children," Neb. Comp. Stat. § 37-1, in *Compiled Statutes*, 453–454.
24. "Nebraska State Census, 1885," FamilySearch, accessed 4 November 2018, <https://familysearch.org/ark:/61903/1:1:X3F6-8L4>. See also "United States Census, 1880," FamilySearch, accessed 4 November 2018, <https://familysearch.org/ark:/61903/1:1:M8YP-9BC>.
25. "Nebraska State Census, 1885," FamilySearch, accessed 4 November 2018, <https://familysearch.org/ark:/61903/1:1:X3F6-LBG>.
26. "United States Census, 1880," FamilySearch, accessed 4 November 2018, <https://familysearch.org/ark:/61903/1:1:M8YP-QBB>; "Died," *The Red Cloud Chief*, Webster County, Nebraska, 1 September 1881, *Chronicling America: Historic American Newspapers*, Library of Congress, accessed 4 November 2018, <https://chroniclingamerica.loc.gov/lccn/sn84022835/1881-09-01/ed-1/seq-4/>; United States Congress, "Promotions, Removals, and Appointments in the Consular Service. Message from the President of the United States," in *Index to the Executive Documents of the House of Representatives for the First Session of the Forty-Seventh Congress, 1881–82 In 26 Volumes*, United States Congressional Series Set 20, Nos. 87 to 116, Ex. Doc. 110 (Washington, D.C.: Government Printing Office, 1882), 7.
27. Cather, *My Ántonia*, 195.
28. *The Red Cloud Chief*, Webster County, Nebraska, 6 April 1883, *Chronicling America: Historic American Newspapers*, Library of Congress, accessed 27 October 2018, <http://chroniclingamerica.loc.gov/lccn/sn84022835/1883-04-06/ed-1/seq-4/>; "Chas. Kaley Answers Summons Wednesday Night," *Commercial Weekly Advertiser*, 15 April 1927, located in the Charles H. Kaley family file at the Webster County Museum, Red Cloud, Nebraska.
29. *The Red Cloud Chief*, Webster County, Nebraska, 31 July 1885, *Chronicling America: Historic American Newspapers*, Library of Congress, accessed 27 October 2018, <http://chroniclingamerica.loc.gov/lccn/sn84022835/1885-07-31/ed-1/seq-5/>.
30. *The Red Cloud Chief*, Webster County, Nebraska, 19 March 1886, *Chronicling America: Historic American Newspapers*, Library of Congress, accessed 27 October 2018, <https://chroniclingamerica.loc.gov/lccn/sn84022835/1886-03-19/ed-1/seq-7/>; *The Red Cloud Chief*, Webster County, Nebraska, 6 August 1886, *Chronicling America: Historic American Newspapers*, Library of Congress, accessed 27 October 2018, <https://chroniclingamerica.loc.gov/lccn/sn84022835/1886-08-06/ed-1/seq-3/>. Later issues note his travels to Kansas, Oklahoma, and a return trip to New Mexico.
31. Turner, *Simply My Ántonia*, 26.
32. The koláče is a traditional Czech Bohemian puff pastry often filled with various fruits or cheese. Recipes for this pastry and other family recipes can be found in the appendix of Turner's book.
33. Turner, *Simply My Ántonia*, 23.
34. Rockel, "Evidence in Bastardy Cases." Rockel points out that chastity carried more weight in charges of rape, but as evidenced in case law, this line of questioning generally found its way into bastardy proceedings to help identify any possible alternative source for paternity; an

- accused man's "credibility," Rockel notes, was also at stake; also see Donovan, "Gender Inequality and Criminal Seduction," 78–79.
35. The language of the law meant the accused needed to be the most likely suspect, so questions about other possible "connections" and menstrual cycles were commonplace. In an 1877 Webster County case, Mary Anderson fielded questions about her other possible "connections" and her menstrual cycles; as in Annie's case, the accused allegedly used "force," the case never went to trial, and her baby fell ill and presumably died as the case was postponed according to the *Red Cloud Chief* dated 25 October 1877, without concluding documentation. A case in 1894 offers another example. Carrie Hathaway, working for the Garbers in Red Cloud, became pregnant, the promise of marriage on the table. The defense attorney grilled Carrie at length as to time and place and menstrual cycles. The accused, Mark Million, was found guilty at trial for bastardy.
 36. Sadilek is listed as still living on the farm in June 1885, though her father died in late 1881. Cather recounts in her novel that *Ántonia* began working in town in the fall, saving her from husking corn for their neighbors. See the "Nebraska State Census, 1885," *FamilySearch*, accessed 4 November 2018, <https://familysearch.org/ark:/61903/1:1:X3F6-2FC>; see also Cather, *My Ántonia*, 143.
 37. It is also possible Annie worked for others in between the Miners and the Stowells. Webster County and Cather scholar Kari Ronning, associate professor at the University of Nebraska–Lincoln, believes Eugene and Helen Stowell wintered in Red Cloud during this time, though they owned a ranch in Nuckolls County, Nebraska. Interestingly, Helen Stowell was also the recipient of the first-known letter by Willa Cather in August 1888, approximately six months after the death of Annie's first-born child, substantiating the idea that Cather knew of Annie's predicament; see Willa Cather, Andrew Jewell and Janis Stout, *The Selected Letters of Willa Cather* (New York: Alfred A. Knopf, 2013), 5–7.
 38. Faye E. Dudden, *Serving Women: Household Service in Nineteenth-Century America* (Hanover, NH: Wesleyan University Press, 1983), 1.
 39. Dudden, *Serving Women*, 5.
 40. Dudden, *Serving Women*, 60–63.
 41. Dudden, *Serving Women*, 237.
 42. Dudden, *Serving Women*, 213–219.
 43. Ann Kordas, *Female Adolescent Sexuality in the United States, 1850–1965* (Lanham, MD: Lexington Books, 2019), 4–5. Kordas brings much-needed attention to the "girl cultures" of the late nineteenth and early twentieth centuries in order to highlight the shifting, class-based sexual expectations for girls, aged 12–19, during the Gilded Age in the United States.
 44. John D'Emilio and Estelle B. Freedman, *Intimate Matters*, 3rd ed. (Chicago and London: University of Chicago Press, 2012), 132.
 45. Hal Goldman, "A Most Detestable Crime: Character, Consent, and Corroboration in Vermont's Rape Law, 1850–1920," in *Sex Without Consent: Rape and Sexual Coercion in America*, ed. Merrill D. Smith (New York: New York University Press, 2001), 179. This sentiment is echoed by Rockel in relation to bastardy as well. He states that bastardy was "entirely regulated by statutes in the different States," 305.
 46. Jane E. Larson, "Even a Worm Will Turn at Last: Rape Reform in Late Nineteenth-Century America," *Yale Journal of Law & the Humanities* 9, no. 1 (1997): 2, accessed 30 September 2018, <https://digitalcommons.law.yale.edu/yjlh/vol9/iss1/1/>.
 47. See notes 36 and 37. See also Helen H. Gardener, "A Battle for Sound Morality, or the History of Recent Age-of-Consent Legislation in the United States: Part II. The Victory in Colorado, Nebraska, and Missouri," *The Arena* 14 (Sept.–Nov. 1895): 17–18, accessed 30 September 2018, <https://>

- ia902909.us.archive.org/22/items/ArenaMagazine-Volume14/189509-arena-volume14.pdf. This period piece gives a full detailed account of the changes to Nebraska law and the politicians' debates over the controversial amendment.
48. See "Rape upon other female," Neb. Comp. Stat. § 4-12, in *Compiled Statutes*, 872–873.
 49. For a definition of rape see *Garrison v. State*, 6 Neb. 274 (1877), 282. This case served as the first Nebraska Supreme Court case to provide definition to rape law in the state. "Rape is defined to be the unlawful carnal knowledge by a man of a woman, *forcibly and against* her will. . . . The general rule is well settled that the woman must oppose the act, and that if she in any manner favor it the party accused cannot be convicted of rape. The exceptions to the rule are where the woman is *non compos*, or has been reduced to a state of insensibility and violated while in that condition, and cases where consent has been induced by fears of personal violence."
 50. Gardener, 21.
 51. See note 49.
 52. *Garrison v. State*, 283; 286.
 53. *Fisk v. State*, 9 Neb. 62, 2 N.W. 381 (1879); for this specific reference, see note in *Matthews v. State*, 19 Neb. 330, 27 N.W. 234 (1886), 336.
 54. Frederick K. Starrett, "Nebraska's Rape Corroboration Rule—What and Why," *Creighton Law Review* 8 (1975): 56, accessed 30 September 2018, <https://dspace2.creighton.edu/xmlui/handle/10504/38813>. The corroboration rule was applicable to other crimes, but effective for rape cases in Nebraska until 1989, leaving Nebraska among the states with the toughest evidentiary standards for decades. See George Fisher, "The Jury's Rise as Lie Detector," *The Yale Law Journal* 107, no. 3 (December 1997): 702, n. 594, accessed 30 November 2018, <https://www.jstor.org/stable/797252>. Fisher also notes Nebraska's corroboration rule as "unusual" on page 701.
 55. *Matthews v. State*, 335.
 56. *John Fager v. The State of Nebraska*, 22 Neb. 332, 35 N.W. 195 (1887), 333.
 57. *Altschuler v. Algaza*, 16 Neb. 631, 21 N.W. 401 (1884), 631. Bastardy, an uncommon word today, is often found under the label of illegitimacy, and it has a much shorter historiography in American history as compared to rape and other issues of a sexual nature. For an examination of family law, particularly as it relates to the rights of bastards, a challenge to inheritance laws and poor laws, see: Jenny Teichman, *Illegitimacy: An Examination of Bastardy* (Ithaca, NY: Cornell University Press, 1982) and Michael Grossberg, *Governing the Hearth*; for a history of illegitimacy in relation to marriage and reproductive rights and responsibilities, see: John D'Emilio and Estelle B. Freedman, *Intimate Matters*; for a study highlighting interracial relations and bastardy, see: Kathleen M. Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs* (Chapel Hill: University of North Carolina Press, 1996); for an interesting take on bastardy and other issues of a sexual nature from the perspective of law and literature in American history, see: Kristin Kalsem, *In Contempt: Nineteenth-Century Women, Law, and Literature* (Columbus, OH: Ohio State University Press, 2012); for a more recent article that addresses the instances of bastardy (rape and sexual oddities included) at the state level in nineteenth-century Illinois, see: Melissa A. Hayes, "Sex in the Witness Stand: Erotic Sensationalism, Voyeurism, Sexual Boasting, and Bawdy Humor in Nineteenth-Century Illinois Courts," *Law and History Review* 32, no. 1 (2014); for a period piece on English bastardy statutes and case law, see: Thomas William Saunders, *The Law and Practice of Orders of Affiliation and Proceedings in Bastardy* (London: Law Times Office, 1873).
 58. See "Illegitimate Children," Neb. Comp. Stat. § 37-5, in *Compiled Statutes*, 454.
 59. See "Illegitimate Children," Neb. Comp. Stat. § 37-1, in *Compiled Statutes*, 453–454.

60. No district court news regarding this case has been found; many of the newspapers from this period are unavailable. One microfilm copy of the *Red Cloud Chief* dated 20 April 1888, has a portion of the paper mysteriously missing where the legal notices were printed. The publication date of the previous week's edition, 13 April, coincided with the motion to dismiss the case, so the first opportunity to publish district court news would have been 20 April.
61. "Death Certificate," Charles H. Kaley Family File, Webster County Museum, Red Cloud, Nebraska.
62. "Chas. Kaley Answers Summons Wednesday Night," *Commercial Weekly Advertiser*. To date, no photographs of Charley Kaley have been found.
63. Turner, *Simply My Antonia*, 32.
64. Mary E. Odem, *Delinquent Daughters: Protecting and Policing Adolescent Female Sexuality in the United States* (Chapel Hill and London: University of North Carolina Press, 1995), 2.
65. Mary R. Block, "Rape Law in 19th-Century America: Some Thoughts and Reflections on the State of the Field," *History Compass* 7, no. 5 (2009): 1395.
66. Cather to Bishop George Allen Beecher, 12 March 1947, in *The Selected Letters*, 668–669.
67. Cather to Sherwood, 27 Jan. 1934, in *The Selected Letters*, 492–493.
68. Mrs. Pavelka to Frances Samland, 24 February 1955, reprinted in Turner, 5–8.
69. Mildred Bennett, *The World of Willa Cather* (1951; repr., Lincoln and London: University of Nebraska Press, 1961), 203.
70. Willa Cather, "On the Art of Fiction," Willa Cather Archive, ed. Andrew Jewell, accessed 7 October 2018, <https://cather.unl.edu/nf062.html>.