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# New Zealand's 'Incorrigibles'

Tackling the vices of the socially problematic

1870-1930

A thesis presented in partial fulfilment of the requirements for the

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## Abstract

Some of those on the edge of New Zealand society have been labelled 'incorrigible'. Examining their experiences offers a way of understanding the lives of poorer people during the period of major social change between the 1870s and the 1930s. This period saw the State expand its scope in response to social clamours, moral panics, and newfound responsibilities. As a result, it was thrust into the position of not only governing, but also of exploring social problems; that is, regulating them or providing some form of institutional response. This required a balance between accommodating some elements of the problem and controlling the unacceptable extremes.

For the most part, attempts to deal with the incorrigible were attempts to deal with the 'undeserving poor', and looking at those labelled incorrigible shows considerable overlaps with generalisations made about that group. Despite being identified as the cause of social problems, the undeserving have largely been excluded from established narratives, or recognised by historians mainly for the ways in which they allegedly undermined social morality. This thesis shifts the focus by centring five groups associated with unrespectable behaviours. Prostitution in New Zealand saw older common prostitutes convicted as incorrigible rogues. Among railway labourers, an unexpected number of informal and bigamous marriages leads to questions about a working-class subculture with values different from those of the majority. The actions and motives of women who provided a home for unwanted children were distrusted when the baby-farming label was used to generate moral panic. Difficult reformatory girls housed at Te Oranga Home, the national girl's reformatory, were supposed to be turned into useful domestic servants, but those who resisted reform were termed incorrigible. 'Mental defectives' were the subject of a Committee of Enquiry report in 1925 as interest in eugenics led to a particular focus on hereditary in degeneracy. The families used as case studies demonstrate how readily these ideas were accepted and imposed on the New Zealand context. The approach taken primarily focuses

on the people themselves, with evidence about their lives gathered using genealogical tools and practices.

State efforts to control social behaviours were often mitigated by the desire for the transformation of those behaviours into more acceptable forms, with recognition of a lack of capacity to address the contributing factors. New Zealand society and the State tolerated informal marriages due to unwillingness to accept divorce, it allowed troublesome older women to be labelled common prostitutes, it tolerated baby-farmers as they provided necessary foster-care, and it provided institutions to care for young women rather than provide support for families. As society developed ways of dealing with social problems, it seems to have been accepted that eradication was not possible, nor was it necessarily desirable. There was often a practical underlying reason, a real issue that the behaviour addressed, and social labels served a useful purpose, enabling a degree of community policing and control of the objectionable. Investigating groups of 'incorrigibles' deepens our knowledge of how society attempted to control those it feared. In addition, this thesis also shows how people dealt with being labelled. The perceived problem was often symptomatic of other less obvious tensions and expectations. In fact, the 'misfit' was part of the community, and their behaviours show the strength of middle-class norms, despite the obstacles the underserving encountered.

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## Thesis with Publications

This thesis follows the guidelines of a thesis with publications, which is an option available for thesis submission at Massey University. For a thesis with publications, already published or submitted manuscripts can be included in their original forms. I am the sole author of these peer-reviewed publications. One of the studies of the current thesis has been published, three have been accepted for publication in international journals and one of the studies is currently under review.

The references for the papers and conference presentations resulting from this thesis are given below:

Blondell, Delwyn. "Till Death Do Us Part: Laborers' Marriage Practices in Late Victorian New Zealand." *Journal of Family History*, 48 No. 1, Jan 2023 pp.81-102, <https://doi.org/10.1177/03631990221078588>

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"The Reformatory that Didn't", paper presented at the 2021 New Zealand Historians Conference.

"'Depraved and Vicious': The Incurrible Inmates of New Zealand's Girls' Reformatory", paper presented at the 2023 New Zealand Historians Conference.

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## Chapter One: Introduction

Twenty-year-old Jessie Cheriton was familiar with making an appearance in court. Within six months of her arrival in Dunedin, she was in court for a second time on a charge of using abusive language, described by one witness as 'most abominable, filthy, foolish and unfit for any female to use', towards a former fellow passenger.<sup>1</sup> Jessie was part of a group known as Brogdenites. She and her husband had been onboard the *Christian McAusland* which arrived on 5 December 1872. The Brogdenites were labelled troublesome because of the men's reputation as railway navvies. Their unruly behaviour on arrival: drinking, fighting, and loitering in the street, had seen a few in court as the colony's population quickly educated them on the limits of acceptable behaviour.

Back in England, Jessie had been something of a rebel, testing the relationship with her parents even after she had spent three years in a Devon reformatory.<sup>2</sup> She stole clothing from their house and assaulted her mother.<sup>3</sup> She continued to take her parents' market goods even after marriage, meaning her husband had to promise the court to remove her from the town.<sup>4</sup> He did not follow through, however, and Jessie continued to provoke conflict until the pair left to go to New Zealand. Once at her destination, she again attracted public attention, protesting her husband's reduced wage, criticising another woman's child, and then brawling with her now estranged husband and current lover on a city's streets during an end-of-contract 'spree'.<sup>5</sup> Her life then slips out of the public record. She was last known to be living in Dunedin in 1881, but did not subsequently appear in court or other official records by any of the names she had previously used.<sup>6</sup>

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<sup>1</sup> Identified as Jessie Charrington, *Evening Star*, 23 May 1873, 2, <https://paperspast.natlib.govt.nz/newspapers/ESD18730523.2.12>.

<sup>2</sup> "An Unnatural Daughter", *Devon Weekly Times*, 30 Jul 1869, 3.

<sup>3</sup> "An Incurrible Girl", *Devon Weekly Times*, 10 Sep 1869, 6.

<sup>4</sup> "A Painful Case", *Western Times*, 26 Jul 1871, 2.

<sup>5</sup> Identified as Mrs Candy (using her husband's nickname), *Otago Daily Times*, 1 May 1873, 3, <https://paperspast.natlib.govt.nz/newspapers/ODT18730501.2.17>; *Otago Daily Times*, 23 Dec 1875, 3, <https://paperspast.natlib.govt.nz/newspapers/ODT18751223.2.15>.

<sup>6</sup> *Ashburton Guardian*, 21 May 1881, 2, <https://paperspast.natlib.govt.nz/newspapers/AG18810521.2.9>.

Others in marginalised groups fared differently.<sup>7</sup> Frank Birch was the supposedly ‘feeble-minded’ father of a large family, who were given as an example of the type of families that showed hereditary degeneration in the 1924 Mental Defectives and Sexual Offenders enquiry.<sup>8</sup> Arriving in the colony as a small boy, he was reportedly sold to local Māori after his parents separated. He was found and sent to an Industrial School as a neglected child. Frank married Charlotte and they had eleven children, most of whom were described as feeble-minded to the enquiry board, and thus in need of life-long care. Frank’s family was presented as an example of the problems of poor genetics, thought to have been carelessly imported under the assisted immigrant programme that allowed in the end products of Old World urban decay. Frank worked as a hotel porter and a barman, but mostly as a labourer. His children were systematically taken into State care, the first three in 1911, then five in 1919, and the two youngest within their first six months. He, too, vanished from official records having lost his children and left his wife.

Bad behaviour was less problematic than repeated bad behaviour. When it appeared that people were unwilling or unable to change their offending behaviour, they and the groups they belonged to might be labelled incorrigible. Incorrigibility is a rather nebulous concept. The term incorrigible is now largely used in jest, and little resembles the stigma of the term in the nineteenth century. The incorrigible was what might now be regarded as an anti-social individual, in the sense of anti-social behaviour, which was then defined as vulgar, common, immoral, and indecent. The most important aspect was that the incorrigible was unable or unwilling to change. In the 1870s, the New Zealand community assumed Brogdens’ Navvies were hardened drinkers, who would inevitably continue their hard living behaviour unless swiftly punished. By the 1920s, the blame had partially shifted, and incorrigible behaviour was increasingly thought to be involuntary, the result of bad genetics and resulting poor upbringing. Such people were considered a threat to society, not for their actions, but because they were unwilling or incapable of changing them. They would continue to threaten or be an ongoing expense to the majority: the respectable, hardworking, right-living citizens.

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<sup>7</sup> The language deemed acceptable for describing both mental ill-health and intelligence and the institutions that dealt with patients has changed considerably over time. The lunatic asylum had replaced the mad-house, until negative associations led to the new phrase, in use in the 1920s, of Mental Hospital. During this period, ‘mental defective’ was the phrase used for those nowadays termed ‘intellectually disabled’ or ‘developmentally delayed.’ The subcategories of ‘idiot’, ‘imbecile’ and ‘feeble-minded’ sound unnecessarily harsh to the modern reader but were then defined labels of intellect determined by those in the field.

<sup>8</sup> Frank’s surname Birch is a pseudonym given to protect the privacy of case study families’ descendants, and to comply with archive access conditions.

Historians, criminologists, and contemporary practitioners can learn from the life paths taken by Jessie, Frank and others like them, their lives linked by their experiences on the margins of respectable society. It is necessary that even aberrant behaviour have a history, so policymakers can assess which factors encourage either offending persistence or desistance. This thesis aims to investigate groups of 'incurrigibles' to improve understanding of them and as a way of exploring the experiences of those on the margins of New Zealand society, by asking the following questions: To what extent did ideas of 'incurrigibility', as a means of describing and controlling social behaviour, change throughout the late nineteenth and early twentieth centuries? What role did beliefs about 'incurrigibility' play in moulding or modifying New Zealand's increasingly modernising society over that time? To what extent did the debate surrounding 'incurrigibility' reflect the dynamics of class and gender in New Zealand over time? Finally, using digital database analysis, to what extent can the 'incurrigible' label be seen to have affected the lives of those to whom it was applied?

This study argues that the narrowness of acceptable behaviour was merely a lens that concentrated on what was expected, which, in itself, was more illusion than reality. Pressure to encourage respectability and moral behaviour was led by the Protestant majority, but widely accepted. Morality and its application have been debated by philosophers and thinkers, with Friedrich Nietzsche offering the insight that European morality tends to operate as if it is the only possible morality and applies to all.<sup>9</sup> This assumption seems evident in the desire to control distinctive working-class behaviours. It is possible, therefore, that the assumption was foundational to the desire to legislate, embraced by the Liberal Government for most of this era. Yet, such legislation required constant adjustment to counter the challenge of those who resisted or undermined its intentions.

Peter Gibbons has proposed that the government used legislation 'to control and to coerce recalcitrant elements'.<sup>10</sup> Legislation made a prostitute first 'common' and then the unreformed an 'incurrigible rogue'. Legislation, or the want of legislation, was behind the pragmatic relationship-forming of labourers who could not divorce. Legislation was applied to women working in their homes to allow inspection and monitoring of the private space.

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<sup>9</sup>*Friedrich Nietzsche: On the Genealogy of Morality*, trans. Carol Diethe, ed. Keith Ansell-Pearson, Cambridge Texts in the History of Political Thought, (Cambridge: Cambridge University Press, 2006), xvi-xvii.

<sup>10</sup> P. J. Gibbons, "'Turning Tramps into Taxpayers': the Department of Labour and the Casual Labourer in the 1890's" (PhD (History) thesis, Massey University, 1970), iii.

Legislation problematised youthful sexuality and incarcerated young women for excessive periods. Legislation attempted to prevent the breeding and liberty of those deemed not only feeble-minded, but also morally or socially deficient. Some behaviours changed as a result, others were hidden or silenced and driven underground. Legislation did not always work and was not always enforced in the courts in the ways its proponents intended.

The legislation enacted to control prostitutes, baby-farmers, and young women in New Zealand often followed international trends. However, efforts concentrated on proving the problem existed in New Zealand and building a case for legislative action to prevent further trouble developing. Gibbons called this an era of 'radical legislation'.<sup>11</sup> It was, he argued, the 'high-tide of Anglo-Saxon social conscience', which, in New Zealand, was expressed as the government of a society intent on controlling others for their own good and the good of society as a whole.<sup>12</sup> Erik Olssen added to this idea, saying people are not just products of their society, they shape it. He argued that this was not confined to the political, but at the community level people shaped society with their activities, ideas, arguments, and plans.<sup>13</sup> Olssen seemed to imply an equality of input, which might be questionable, as the poor lacked power even at a local level. James Belich coined the term the 'Great Tightening' to capture something of the mood by the mid-twentieth century.<sup>14</sup> This tightening aimed to minimise differences of class, of virtue, of acceptable behaviour, and of whiteness.

## **Time Frame**

The period chosen was between the 1870s, the start of Julius Vogel's immigration and public works schemes and the abolition of the provinces, and the 1930s, before the Great Depression and the beginning of the Labour era. The end of provincial government, an influx of white immigrants, and a centralised government that promoted a national vision for the country made for great social change. As the population grew, from just over 256,000 in 1871 to 1.4 million in 1930, and infrastructure became more established, New Zealanders were forced to confront Old

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<sup>11</sup> Gibbons, "Tramps into Taxpayers," 99.

<sup>12</sup> Gibbons, "Tramps into Taxpayers," 101.

<sup>13</sup> Erik Olssen, Clyde Griffen, and Frank Jones, *An Accidental Utopia?: Social Mobility & the Foundations of an Egalitarian Society, 1880-1940* (Dunedin: Otago University Press, 2011), 16.

<sup>14</sup> James Belich, *Paradise Reforged: A History of the New Zealanders from the 1880s to the Year 2000* (Auckland: Allen Lane, Penguin Books, 2001), 121-25.

World ills in their New World setting.<sup>15</sup> As New Zealand society attempted to tackle issues that had previously been dealt with in Britain and elsewhere, they tended to emulate overseas regulations. However, they increasingly looked for solutions tailored to the local conditions and situation.

One of the chief changes was in the increasing responsibility the State was expected and needed to take in providing services. These initially included hospitals and asylums, as well as assisting with charitable aid to the deserving poor, specifically widows and orphans, with one of the chief concerns of both the government and society being the well-being of children.<sup>16</sup> The government focus on 'progress' and 'reform', which attracted some criticism as 'incessant meddling', meant there were increasing levels of regulation.<sup>17</sup> Expanding regulations enabled the creation of government departments for almost every function. In 1890 there were ten departments: Justice, Post-master, Customs, Stamps, Education, Native Affairs, Mines, Working Railways, Public Works, and Defence. By 1910, departments and subdepartments had been added that oversaw a range of activities from Valuations, Public Health, and Industries and Commerce to Tourist and Health Resorts.

The State met public clamour with regulation in the name of progress, and the Liberal government presided over increasing legislative, regulatory, and administrative responsibilities. Geoff Bertram has described the State created by 1930 as 'a pragmatic embodiment of the great interest groups that had consolidated in the post-colonial settler state.'<sup>18</sup> While individual need for assistance had been tightly defined and judged on the basis of morality, by the 1930s the relationship between morality and state policy was changing.<sup>19</sup> For the early period, Margaret Tennant noted that, 'There was no lack of coercive intentions towards the consumers of charitable aid, of a distinction between the deserving and the undeserving poor, and of an acute

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<sup>15</sup> "Results of a Census of New Zealand, 1871", [https://www3.stats.govt.nz/historic\\_publications/1871-census/1871-results-census.html#idsect1\\_1\\_506](https://www3.stats.govt.nz/historic_publications/1871-census/1871-results-census.html#idsect1_1_506); *New Zealand Official Year Book 1930*, [https://www3.stats.govt.nz/new\\_zealand\\_official\\_yearbooks/1930/NZOYB\\_1930.html#idchapter\\_1\\_18582](https://www3.stats.govt.nz/new_zealand_official_yearbooks/1930/NZOYB_1930.html#idchapter_1_18582)

<sup>16</sup> Bronwyn Dalley, "Deep and Dark Secrets: Government Responses to Child Abuse," in *Past Judgement: Social Policy in New Zealand History*, ed. Bronwyn Dalley and Margaret Tennant (Dunedin: University of Otago Press, 2004), 175.

<sup>17</sup> David Hamer, *The New Zealand Liberals: The Years of Power, 1891-1912* (Auckland: Auckland University Press, 1988), 221.

<sup>18</sup> Geoff Bertram, "Reflections on *Not in Narrow Seas: The Economic History of Aotearoa New Zealand*," *Journal of New Zealand Studies* NS34 (2022): 95, <https://doi.org/https://doi.org/10.26686/jnzs.iNS34.7675>.

<sup>19</sup> Michael Belgrave, "Needs and the State: Evolving Social Policy in New Zealand History," in *Past Judgement: Social Policy in New Zealand History*, ed. Bronwyn Dalley and Margaret Tennant (Dunedin: University of Otago Press, 2004), 27.

fear of “pauperisation”<sup>20</sup>. In relation to provisions for the poor, any perceived dependence was usually described as pauperism. As a result, government willingness to provide assistance was tempered by constraints imposed by fears about creating dependence. The other constraint was cost. The social role of the State was unquestioned and grand schemes were proposed, but there were constant references to the cost to the State, and in the case of institutions for those in need, there was an insistence that they should be as self-supporting as possible.

The 'narrow moral judgement' of need changed to an emphasis on family wellbeing in the 1930s.<sup>21</sup> Judgements about morality which had underpinned policy making had shifted with science playing a more influential role in legislative decisions. Science did not replace religion, but it substantially augmented it in public debate and thinking on crucial issues. There was a greater emphasis on social sciences, the fields of psychiatry and psychology gathered authority, and, with new ideas on beneficial environments and social equality, the attempted introduction of universal individual right-based entitlements.<sup>22</sup>

## Terms and Definitions

Terms used in this thesis have at times proven complicated. In the nineteenth century, words like incorrigible had a specific meaning. Incorrigible was the label given by contemporaries to people who failed to adjust their behaviour to meet social norms. It encompassed those who 'chose' to repeatedly break the rules, and those regarded as having mental or moral defects. People have been represented as incorrigible, and some would argue it was part of the disciplining social rhetoric. Debate focussed on social perceptions of incorrigibility rather than the specific actions that led to someone being considered incorrigible. There was also a specific legal meaning that paralleled the popular understanding. The charge of incorrigible rogue was one given to someone with previous convictions, mostly for vagrancy. The Vagrant Act 1866 defined the offence:

V. Any person who shall commit any of the next following offences shall be deemed an incorrigible rogue and be liable to the punishment next hereinafter specified-

1. Any person who shall break or escape out of any place of legal confinement before the expiration of the term for which he shall have been committed

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<sup>20</sup> Margaret Tennant, *Paupers & Providers: Charitable Aid in New Zealand* (Wellington: Allen & Unwin and Historical Branch, Dept. of Internal Affairs, 1989), 8.

<sup>21</sup> Belgrave, "Needs and the State," 25.

<sup>22</sup> Belgrave, "Needs and the State," 29.

2. Any person committing any offence against this Act which shall subject him to be dealt with as a rogue and vagabond such person having been previously convicted as a rogue and vagabond

3. Any person apprehended as a rogue and vagabond and violently resisting any constable or other peace officer so apprehending him and being subsequently convicted of the offence for which he shall have been so apprehended

shall be liable to imprisonment in any gaol for any term not exceeding two years with hard labour. Provided that nothing shall prevent such offender being committed to the nearest gaol there to remain until the next sittings of the Supreme Court or of the District Court whichever shall then next be held in the district wherein or nearest to which the said offence shall be committed and every offender who shall be so committed as aforesaid shall be there kept to hard labour during the period of his imprisonment.<sup>23</sup>

Terms used in some of the chapters also have specific legal or scientific definitions. The Vagrant Act 1866, spawned by the arrival of 'suspicious characters' lured by the gold rushes, allowed 'common prostitutes' in public places to be arrested as idle and disorderly persons only if they behaved in a riotous or indecent manner.<sup>24</sup> Prostitution was not illegal, and 'common prostitute' was not defined. In practice, the Superintendent of Police had to provide information to the court which had to state the woman was a 'common prostitute'.<sup>25</sup> The legislation was augmented by the Police Offences Act 1884, which allowed the arrest of prostitutes for loitering and importuning.<sup>26</sup> 'Mentally defective person' on the other hand was clearly defined in the Mental Defectives Act 1911. This included the classes of 'mental defect' using the scientifically accepted terms, 'unsound mind', 'mentally infirm', 'idiots', 'imbeciles' and 'feeble-minded', and 'epileptics'.<sup>27</sup> These were appropriate at the time and the terms I have utilised.

Social exclusion is not a term commonly used by historians of the pre-World War II period. In broad terms, social exclusion can be defined as the process that prevents full participation in the community. Use of the term arose from French republican ideas in the 1970s about the disruption of bonds between the individual and society. It was embraced as a more sophisticated way of understanding poverty and deprivation and is mostly used in sociology and

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<sup>23</sup> Vagrant Act 1866 (30 Vict, No.10), *New Zealand Acts as Enacted*, [http://www.nzlii.org/nz/legis/hist\\_act/va186630v1866n10217/](http://www.nzlii.org/nz/legis/hist_act/va186630v1866n10217/), 3.

<sup>24</sup> *Vagrant Act 1866 (30 Vict, No.10)*.

<sup>25</sup> *Otago Daily Times*, 3 Nov 1869, 2, <https://paperspast.natlib.govt.nz/newspapers/ODT18691103.2.7>.

<sup>26</sup> Police Offences Act (48 Vict, No. 24), *New Zealand Acts as Enacted* [http://nzlii.org/nz/legis/hist\\_act/poa188448v1884n24217/](http://nzlii.org/nz/legis/hist_act/poa188448v1884n24217/).

<sup>27</sup> Mental Defectives Act 1911 (2 Geo V, No. 6), *New Zealand Acts as Enacted*, [http://nzlii.org/nz/legis/hist\\_act/mda19112gv1911n6240/](http://nzlii.org/nz/legis/hist_act/mda19112gv1911n6240/), 14.

social policy. However, it has a variety of interpretations. One political ideology regards social exclusion as a wilful individual choice, with the excluded seen as a morally deficient underclass.<sup>28</sup> Another view emphasises a severing of the bond between an individual and society, generally through unemployment. The excluded are thus seen as being 'other' or 'outsiders'. In the Marxist view, the excluded are the victims of capitalism, subordinated by low income and changing demands for labour. Sociologists Norbert Elias and John Scotson investigated differences between similar groups living adjacent to one another, with one group regarded as superior and the other as inferior.<sup>29</sup> Their finding, that the 'superior' group's self-image was based on the best of its members while the 'inferiors' were characterised by the attributes of the worst of that group, has proven to be evident in these New Zealand case studies.

Historians seldom focus on social exclusion, but it could be argued feminist historians like Anne Summers wrote about the exclusion of women in society as well as historical subjects.<sup>30</sup> 'Exclusion and contestation' were also the subjects of Leonore Davidoff and Catherine Hall's *Family Fortunes*, first published in 1987.<sup>31</sup> They regarded the 'absence of property as capital' to be a form of social exclusion, whereby women were deprived of agency.<sup>32</sup> Linda Mahood has written more explicitly about police repression and social control of Glasgow prostitutes, which falls into the realm of exclusion and marginalising.<sup>33</sup> The topic of exclusion also appears in the history of mental health and of disability, where Catharine Coleborne has presented the institutionalizing of the mad as a form of social exclusion.<sup>34</sup> Likewise, the means of policing social exclusion has eluded the historian's attention. According to Barry Godfrey and Graeme Dunstall, little work has been done on the efforts of quasi-policing agencies such as health inspectors and truancy officers, which has rendered it largely invisible and understudied.<sup>35</sup>

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<sup>28</sup> Markku Jahnkainen and Tero Järvinen, "Risk Factors and Survival Routes: Social Exclusion as a Life-Historical Phenomenon," *Disability and Society* 20, no. 6 (2005): 670.

<sup>29</sup> Norbert Elias and John Scotson, "Conclusion," in *The Established and the Outsiders: A Sociological Enquiry into Community Problems* (London: Sage, 1994).

<sup>30</sup> Anne Summers, *Damned Whores and God's Police*, Revised ed. (Ringwood, Victoria: Penguin, 1994); Anne Summers, *Damned Whores and God's Police Four Decades on*, 2016, Sydney.

<sup>31</sup> Leonore Davidoff and Catherine Hall, *Family Fortunes: Men and Women of the English Middle Class 1780-1850*, 3rd ed. (Routledge, 2019), xxix.

<sup>32</sup> Davidoff and Hall, *Family Fortunes*, 315.

<sup>33</sup> Linda Mahood, "The Magdalene's Friend: Prostitution and Social Control in Glasgow, 1869-1890," *Women's Studies International Forum* 13, no. 1/2 (Jan 1990); Linda Mahood, *The Magdalenes: Prostitution in the Nineteenth Century* (London: Routledge, 2013).

<sup>34</sup> Catharine Coleborne, *Why Talk About Madness? Bringing History into the Conversation* (Cham, Switzerland: Palgrave Macmillan, 2020), 16-19.

<sup>35</sup> Barry S. Godfrey and Graeme Dunstall, eds., *Crime and Empire, 1840-1940: Criminal Justice in Local and Global Context* (Cullompton, Devon, UK & Portland, Or., USA: Willan Pub, 2005), 142-43.

## Collective Biography

Collective biography (to modern historians) or prosopography (the tongue-tangling term of ancient and classic historians) gained favour in the 1970s as a method to research the lives of the anonymous ordinary men and women of our pasts. Melanie Nolan commented, 'Collective biography helps establish the historical significance and representativeness of individual subjects.'<sup>36</sup> To make this contribution requires the historian to follow the life path of individuals through their triumphs, tribulations, and changes over time. In the last five decades, prosopography has endured its own triumphs and tribulations, but has a longer history, with Charles Tilly calling it 'the single most influential innovation in historical practise of the postwar period'.<sup>37</sup> It was Lawrence Stone's much cited 1971 article that defined both the origin of the term and its use for a variety of disciplines.<sup>38</sup> In the decade that followed, the concept was much used under a multitude of names, but the intention remained the same – to examine representative samples of social groups to contextualise their behaviour and actions. A database that contained biographical information on relevant individuals was the common tool. Reporting on the lives of people who transgressed social norms often contains significant gaps and silences, which the collective biography approach can investigate to show the interaction of social forces on ordinary lives, thereby complicating the dominant narrative of cohesion and order.

My research uses the approach in a similar way to other works noted as using a prosopographical approach, including Peter Linebaugh's *The London Hanged*, Russell Davies's *Secret Sins*, and *Young Criminal Lives: Life Courses and Life Chances from 1850* authored by Barry Godfrey and others. Linebaugh researched the lives of condemned men and women to form biographies that could inform on the meaning of their deaths to eighteenth-century Londoners.<sup>39</sup> Davies built a social history from public records and newspaper reports to reveal more about those on the margins of society in rural Wales during 1870 to 1920.<sup>40</sup> In exploring the world of vices, misconduct, and mental illness behind the façade of sleepy country life, he challenged traditional notions of division and emphasised the continuities of the rural

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<sup>36</sup> Melanie Nolan, "Book Review: *Comrade: Bill Andersen - A Communist, Working-Class Life*. By Cybèle Locke and *Anderton: His Life and Times*. By David Grant," *New Zealand Journal of History* 57, no. 1 (2023): 116.

<sup>37</sup> Charles Tilly, "The Old New Social History and the New Old Social History," *Review (Fernand Braudel Center)* 7, no. 3 (1984): 366-7.

<sup>38</sup> Lawrence Stone, "Prosopography," *Daedalus* 100, no. 1 (1971), <http://www.jstor.org/stable/20023990>.

<sup>39</sup> Peter Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (London: Penguin, 1991).

<sup>40</sup> Russell Davies, *Secret Sins: Sex, Violence and Society in Carmarthenshire 1870-1920* (Cardiff: University of Wales Press, 2012).

communities with the industrial towns, showing the complexity and colour hidden by stereotypes. Davies argued statistics had been analysed 'but the actual people involved have been ignored and forgotten. They remain anonymous in a ghostly army of statistically summoned spirits.'<sup>41</sup> It is only by seeking out the details found in sources like court records that their voices might be recovered. *Young Criminal Lives* covered a similar period and similar social grouping to this thesis, but with a tightly defined young offender profile.<sup>42</sup> These works demonstrate the utility of the approach to create new narratives about the marginalised.

Closer to home, New Zealand historians Rollo Arnold and Erik Olssen utilised collective biographies on different scales. Working before the advent of today's digital world, Arnold suggested that working-class immigrants in the 1870s deserved closer scrutiny.<sup>43</sup> Brogdens' Navvies were part of his dataset as they came not only to build the railways; they also built the New Zealand population. Olssen headed the long-term and wide-ranging Caversham Project focused on the importance of place. This project would have originally fitted the description of cliometrics; a large-scale collection of data by a team of assistants with computer-driven statistical analysis of large datasets. Olssen's focus shifted from working-class to working lives, as the project fuelled the work of other historians. Its urban working-class focus has since been balanced by work on working culture, miners' unions, and rural workers, among others.<sup>44</sup> Arnold and Olssen used datasets of New Zealanders to examine social structure and social mobility from settlement into the twentieth century. Nolan's award-winning family biography *Kin* was collective biography on a small scale, concentrating on the lives of five siblings. She aimed to connect biography and social history, and wanted to emphasise the variation of life experiences among the working-class.<sup>45</sup> The findings of these historians depended on the use of databases of biographical information, on collective biographies.

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<sup>41</sup> Davies, *Secret Sins*, 166.

<sup>42</sup> Barry S. Godfrey et al., *Young Criminal Lives: Life Courses and Life Chances from 1850*, First edition ed. (Oxford University Press, 2017), Online resource.

<sup>43</sup> Rollo Arnold, *The Farthest Promised Land: English Villagers, New Zealand Immigrants of the 1870s* (Wellington: Victoria University Press: Price Milburn, 1981).

<sup>44</sup> Belich, *Paradise Reforged*; Jock Phillips, *A Man's Country? The Image of the New Zealand Male – A History* (Auckland: Penguin, 1987); John E. Martin, *The Forgotten Worker: The Rural Wage Earner in Nineteenth-century New Zealand* (Wellington: Allen & Unwin/Trade Union History Project, 1990); Len Richardson, *Coals, Class and Community: The United Mineworkers of New Zealand 1880-1960* (Auckland: Auckland University Press, 1995).

<sup>45</sup> Melanie Nolan, *Kin: A Collective Biography of a New Zealand Working-class Family* (Christchurch: Canterbury University Press, 2005), 17.

## Methodology

Recently, Margaret Galt has suggested a database that links different datasets would be a useful tool for studying British settlers to New Zealand.<sup>46</sup> In the absence of such a database historians continue to assemble datasets for their own projects. In that pursuit, collective biographic history is made possible by the surge of digitisation of archival materials. Databases of biographical information about individuals can help to test general or statistical theories postulated by historians. Biographical information about these people helps to enrich our understanding of the previously invisible, supposedly unrespectable, poor, and challenge assumptions made about them. Often these people only exist in the records of their births, marriages, and deaths, with maybe electoral roll or postal directory entries. Some had children in public schools with accessible records. Any encounters with the law adds information about their situations and the complications of their lives.

Exploiting non-traditional digital research sources to create a database of such individuals as part of an academic project is becoming more common. In New Zealand, the Caversham Project has initiated numerous papers but began before digital resources were available.<sup>47</sup> Using similar sources, Michael Belgrave has studied doctors, Jim McAloon the wealthy, Lyndon Fraser the Irish, and Rebecca Lenihan the Scottish, while Charlotte Macdonald must be acknowledged as an early adopter of a variety of family history sources.<sup>48</sup> Technology allows access to a greater range of primary sources via websites from government and private providers, which, used together, can compensate for some of the deficit about specific groups. There is an increasing convergence between historical research and the methods used by the experienced family historian.

Genealogical sources and methods are increasingly being incorporated into the work of some historians. These sources have considerable value to the academic historian and are

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<sup>46</sup> Margaret Galt, "Following Through: The Value of Tracing British Settlers Across Time and Space," *Journal of New Zealand Studies*, no. NS36 (2023), <https://doi.org/https://doi.org/10.26686/jnzs.iNS36.8330>

<sup>47</sup> The Caversham Project. <https://caversham.otago.ac.nz/>

<sup>48</sup> Michael Belgrave, "'Medical Men' and 'Lady Doctors': the Making of a New Zealand Profession, 1867-1941" (PhD (History) thesis, Victoria University of Wellington, 1985); Jim McAloon, *No Idle Rich: The Wealthy in Canterbury and Otago 1840-1914* (Dunedin: University of Otago Press, 2002); Lyndon Fraser, "To Tara via Holyhead: The Emergence of Irish Catholic Ethnicity in Nineteenth-century Christchurch, New Zealand," *Journal of Social History* 36, no. 2 (2002), <https://doi.org/https://doi.org/10.1353/jsh.2003.0013>; Rebecca Lenihan, *From Alba to Aotearoa: Profiling New Zealand's Scots Migrants 1840-1920* (Dunedin: University of Otago Press, 2015); Charlotte Macdonald, *A Woman of Good Character* (Wellington: Allen & Unwin and Historical Branch, Department of Internal Affairs, 1990).

sometimes exploited as a repository of data, unavailable via any other source. Tanya Evans is one historian who has noted the potential to challenge popular myths, including those about illegitimacy.<sup>49</sup> She followed up by using family history to rewrite the history of poor families in New South Wales.<sup>50</sup> Although those tracing their family origins have traditionally been seen as amateurs practising in a field far removed from the academic community, there is an increasing overlap. Skilled family historians seek to locate their families in the context of their time and place, while historians find that useful primary sources are digitally available on websites catering to the genealogist. Fortunately, we might now be moving beyond the disparaging attitudes from academics that Evans, Jerome de Groot, and Matthew Stallard identified towards the research work of family historians. They summarised the academy as regarding these practices as 'unscientific, uncritical, emotional and of little value to the academy or anyone else bar their own family group.'<sup>51</sup> In contrast, Evans and others found that family historians generally had high levels of historical research skills.<sup>52</sup> Sue McCliskie has suggested that genealogists form a 'community of practice' rather than a historical discipline, challenging Margaret Mary Selman Brown's assertion that the field was 'ready to take its place in academia.'<sup>53</sup> Australasian interest from the early 2000s consolidated in the mid-2010s, as historians began to focus on their own families, according to Malcolm Allbrook and Sophie Scott-Brown.<sup>54</sup> Their work seems less inclusive of the New Zealand experience than the title of their edited volume suggests.

Websites catering to family historians have made research of origins and outcomes possible. This thesis makes extensive use of the wealth of digitised historical source material available on commercial and non-commercial genealogy websites developed to serve family historians and genealogists. These platforms offer materials collected, indexed, and made available by, or for the benefit of, genealogists. They give easily searchable access to images of censuses,

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<sup>49</sup> Tanya Evans, "Secrets and Lies: the Radical Potential of Family History," *History Workshop Journal* 71, no. 1 (2011), <https://doi.org/https://doi.org/10.1093/hwj/dbq065>.

<sup>50</sup> Tanya Evans, *Fractured Families: Life on the Margins in Colonial New South Wales* (Sydney: UNSW Press, 2015).

<sup>51</sup> Tanya Evans, Jerome de Groot, and Matthew Stallard, "'I Don't Even Trust Now What I Read in History Books': Family History and the Future of Co-production and Collaboration," *Rethinking History* (2023): 2, <https://doi.org/https://doi.org/10.1080/13642529.2023.2228629>.

<sup>52</sup> Evans, de Groot, and Stallard, "Family History," 8.

<sup>53</sup> Sue McCliskie, "Dangerous Ground or Rich New Research Methods? Using Digital Genealogy to Trace Colonial Mobility," *Britain and the World* 13, no. 2 (2020); Margaret Mary Selman Brown, "Genealogical Family History in Aotearoa-New Zealand: From Community of Practice to Transdisciplinary Academic Discourse?" (PhD (History) thesis, University of Waikato, 2008), <https://hdl.handle.net/10289/2561>.

<sup>54</sup> Malcolm Allbrook and Sophie Scott-Brown, eds., *Family History and Historians in Australia and New Zealand: Related Histories* (New York and London: Routledge, 2021), 4.

electoral rolls, probate records, and police gazettes. Archives New Zealand has been increasingly providing online access to digitised primary sources, and this project makes use of their probates, passenger lists, and military records. When combined with indices for births, deaths, and marriages, and cemetery databases, the range of information about individuals enables a more comprehensive picture to emerge.

Access to family trees created by researchers enhances the ability to identify the correct individual and, in particular, to find family groups. Family trees found on genealogical websites can present methodological challenges and are best regarded as a clue rather than conclusive proof. It must be remembered they have been created by people of variable experience for a range of reasons and often fail to link to images of primary sources. As gateways into the digital archive, any assessment would recognise that genealogy websites, and their records, are not created with historians in mind. Their search engines are optimised to search for specific individuals, rather than for events, or to capture all the occurrences of an event. Genealogy websites can be used as a source and as a means of accessing primary records but, as Graeme Davison has written, 'The academics are freeloaders hitching a ride on a vehicle designed and paid for mainly by millions of individual genealogical subscribers.'<sup>55</sup> Even with an array of primary sources, it can be hard to find the right Mrs Smith. Despite this, Galt's recent study found that Ancestry genealogies were a useful tool and stated 'Family researchers proved very reliable and particularly useful for untangling people with common names.'<sup>56</sup>

Family research does not always provide all the answers. As alluded to, one of the obvious obstacles encountered is common names. The pool of first names was limited in this period, thus a William Harris is far more difficult to follow with any certainty than an Archibald Harris. Name changes present another obstacle, as does geographic mobility. There were few obstacles for those who wished to disappear as they could easily adopt another name, which usually presents an insurmountable obstacle to the researcher. At times, these moves were made to escape a difficult past event, but generally people changed names or moved to pursue an opportunity. A young woman moved into a relationship without the benefit of marriage, but the couple assumed the normal form, and she became the missus. A young man moved to work on the railway or took to swagging to avoid urban unemployment. A family might move to Australia for work

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<sup>55</sup> Allbrook and Scott-Brown, *Family History and Historians*, xii.

<sup>56</sup> Galt, "Following Through," 110.

opportunities or because a relative or friend already living there provided a link. Tracing people as they entered and left the colony is hampered by incomplete or missing passenger lists. Those accessible from Archives New Zealand are generally reliable for assisted immigrants, but independent travellers are not included. Newspapers are often the only available source; however, the arrival or departure of those in the early period might simply have been reported as the number of steerage passengers on board.

This research makes use of historical newspaper websites. A very basic version of the Papers Past website became operational in 2001.<sup>57</sup> In response to user demand, the functionality was increased with optical character recognition (OCR). This allows keyword searches to access the digitised copies of nineteenth century and twentieth century newspapers. Australian and British newspapers of the same period are similarly accessible, and all deliver the ability to search broadly as well as to focus on individuals. Newspaper reports and advertisements play a major role in mitigating omissions, providing otherwise undocumented details to complete or complicate a life-history. For poor people, it mostly captures those in conflict with others or the law, their bankruptcies, accidents, and inquests, and an occasional land ownership transaction, alongside their arrival on ships' passenger lists. Notices of births, marriages, deaths, and anniversaries can provide biographical data on individuals whose lives are otherwise rarely documented. However, very few of the marginalised could afford to pay for such announcements, so they were not found to be particularly common.

Despite newspapers being made searchable via OCR, misreading of the text is still high. Papers Past does not support OCR correction at this stage, but this facility would enhance searchable results if adopted. Another potential weakness of accessing newspapers in the digital form is that valuable information might be lost by not viewing the extracted article in its original context, however, that context is generally available on the website. Another complication can be incorrect names reported in newspapers. These have occurred via an occasional error or deliberate misinformation by the subject, through mishearing of information, or misprints in the process of getting an article into print. The principal limitation of using predominately digital newspaper resources is that what is found is limited by what has been digitised. For example, the focus on providing access to larger newspapers can limit the availability of smaller local titles. As Anna

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<sup>57</sup> Tracey Powell, "Papers Past A Brief History," *National Library blog*, accessed 20 October 2023, <https://natlib.govt.nz/blog/posts/papers-past-a-brief-history>.

Blackman noted, to rely only on the larger titles 'is to neglect a wider range of perspectives and possibilities for enquiry.'<sup>58</sup> However, this has not prevented historians from enthusiastic adoption of such facilities. The website for the Australian newspaper site Trove states that 97% of historians in Australia use it.<sup>59</sup>

What this methodology provides is the ability to look closely at the records created about people in the poorest part of the community, ones who seldom left their own records or expressed their views about society and their role in it.

## Case Studies

As a thesis with publications, a slightly different approach to traditional 'narrative' theses has been taken. The groups selected for study were developed as case studies, allowing articles to be produced on a specific group. The subjects selected were as follows:

Prostitutes

Informal marriages

Baby-farmers

Reformatory inmates

'Mentally deficient' families

To study how ideas about incorrigibility changed over time, the topics are presented in chronological order.

This chapter situates the thesis and its methodologies within their broader historiographical context. A review of relevant literature follows in Chapter Two. Chapter Three examines the phenomenon of the aging prostitute. Previous scholars have noted that the average age of prostitutes listed in police returns was above 30 but have not observed that this was typical in New Zealand. Chapter Four examines the marriage practices of a group that, recruited as railway navvies, were perceived as occupying the territory of the incorrigible. They were neither as exclusively drawn from that labour pool as represented, nor as incorrigible as their occupations suggested. Instead, most married and stayed married, while some demonstrated a range of marriage alternatives at odds with New Zealand's moral agenda.

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<sup>58</sup> Anna Blackman, "Going past Papers Past: A Mass of Mastheads," *The Hocken Blog*, accessed 20 October 2023, <https://blogs.otago.ac.nz/thehockenblog/going-past-papers-past-a-mass-of-mastheads/>.

<sup>59</sup> "Trove," National Library of Australia, accessed 20 October 2023, <https://trove.nla.gov.au/blog/2023/08/31/how-research-trove>.

Chapter Five's notorious baby-farmers met a community need, yet their essential service was vilified when society focused its attention on infant deaths and possible ill-treatment in paid child-care. It investigates some of those accused of baby-farming and notes the wide range of cultural practices used to care for the unwanted child. In Chapter Six, an investigation of reformatory girls continues the work of using digital methods to uncover the life paths of children passing through care and reformatory institutions. It assesses some long-term effects, and questions if these girls provide evidence of positive or negative impacts of their encounters with a society intent on their rescue and reform. Chapter Seven follows six families labelled mentally deficient, who were allegedly breeding further generations of damaged citizens who could not contribute to, and would instead drain, community resources. The families were given as examples to the 1924 Enquiry into Mental Defectives and Sexual Offenders and chosen for the board's 1925 report. However, they were not a representative sample of the cases presented, but rather the worst of the cases given in evidence. They ranged from a family of 'morally deficient' prostitutes to one family that required lifelong care for most of its intellectually impaired family members. All six families were seen as worthless, socially and economically, by those in authority.

The thesis ends with Chapter Eight's discussion of the findings about the groups, the reasons they were labelled incorrigible, and the implications on society and the individual's journey through life.

## Chapter Two: Literature Review

The concept of incorrigibility is not one discussed in the existing historiography. Thus, examining various aspects of New Zealand historiography is necessary, as the subject matter intersects with several bodies of literature: histories of the working class, of gender, of social services and the poor, of criminology and crime history.<sup>60</sup> The incorrigible individual was often seen as engaging in activities that society was concerned about and determined to control. These activities might offend the sensibilities of the respectable, particularly sexual activity outside marriage, or impinge on their enjoyment of private property or public space. As a result, the behaviour of otherwise respectable working people could be reframed as anti-social, and even criminal, as the socially powerful defined acceptable and unacceptable actions. Thus, the ordinary people who might be labelled incorrigible existed in an area between the specialities of historians. They were of the working classes, but the reasons why they came to public attention often fell outside areas that have traditionally been the focus of labour historians. They were on the edge of criminal activities, but even when tried and incarcerated, their stories are not the focus of legal historians or included in the history of institutional punishment. They were often poor and in need of charitable aid, but the fact their lack of respectability often saw them turned away means they are little studied by historians of social welfare. What unites them is that they were either poor or working class, and on the social margins.

### Working-class History

Sandwiched between advertisements in Dunedin's *Evening Star* wanting a good general servant and a second-hand piano, a 'widow lady' advertised for a child, premium required.<sup>61</sup> Such advertisements were quite common, placed by those seeking homes for unwanted infants and by those wanting to provide care. Largely a working-class solution to a working-class problem, they appeared regularly through the 1890s and into the 1900s.

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<sup>60</sup> Some literature discussed in the articles of this thesis is also considered in this chapter, therefore there is some repetition of literature within the thesis.

<sup>61</sup> *Evening Star*, 1 Jul 1889, 3, <https://paperspast.natlib.govt.nz/newspapers/ESD18890701.2.32.1>.

The current body of literature concerning working-class history originated in the innovative investigations of social historians like E. P. Thompson. Thompson and his cohort of Marxist social historians intended to recover the working-class from the 'enormous condescension of posterity.'<sup>62</sup> However, their interest was dominated by a focus on the workers' potential political force and the effects of economic policy. *The Making of the English Working Class* showed that ordinary people were worthy of serious study. Thompson said that the working class was formed by the interaction of political, cultural, and economic factors, but mostly economic abuse and political repression.<sup>63</sup> He drew attention to the complex nature of class and culture and set aside the guiding assumptions of the accepted narrative. Thompson was not working alone, as he was part of the Marxist Historian's Group of the late 1940s and 1950s, the output of which constituted an assault on traditional progressive history. This inspired others to seek out additional hidden histories, as well as opening new areas in labour history and feminist and women's history. *The Making of the English Working Class* remains a central text on the English working class of the nineteenth century, one that rejected traditional political history but politicised social and cultural history. In the 1970s, New Zealand historians debated the importance of class, particularly if the Marxist concept could be applied to New Zealand's working men and women.<sup>64</sup> The overall conclusion was that class as a form of social structure was important, and that working people thought of themselves as of the working class in a general sense.

Subsequently, historians in the 1970s and 1980s examined various aspects of working-class life and the institutions that dealt with them, often using the methods of collective biography, while focussing on rebalancing the narrative to include working men and women. The republication in 1979 of Maud Pember Reeves' study of the spending patterns of English working families between 1909 and 1913, which revealed serious economic deprivation, reflected this interest in workers.<sup>65</sup> Her detailed analysis showed that decisions had to be made between rent and housing quality versus food, clothing, and fuel. Among the 'respectable poor', women and children lived in a semi-starvation state to feed the breadwinner, even in families fortunate enough to have steady employment. This element of economic deprivation of the working poor

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<sup>62</sup> E.P. Thompson, *The Making of the English Working Class* (London: Penguin, 1991), 12.

<sup>63</sup> Thompson, *MEWC*, 217.

<sup>64</sup> Erik Olssen, "The 'Working Class' in New Zealand," *New Zealand Journal of History* 8, no. 1 (1974); W. H. Oliver, "Correspondence: Class in New Zealand," *New Zealand Journal of History* 8, no. 2 (1974).

<sup>65</sup> Maud Pember Reeves, *Round About a Pound a Week* (London: Virago, 1979).

links to a key theme of working-class historians, from E. P. Thompson to David Taylor.<sup>66</sup> New Zealand's working classes were less defined, according to David Thomson. He noted labels like casual labourer and skilled wage earner did not 'fit neatly'.<sup>67</sup>

Historians have examined working class cultural practices which survived to challenge middle-class expectations. This survival seems to have operated in marriage, with the prevalence and meaning of marriage alternatives debated. Ginger Frost, Joanne Klein, Rachel Pimm-Smith, and Rebecca Probert have made significant contributions in the area for Victorian England.<sup>68</sup> In the 1970s, historians studying the children of New Zealand's working-class documented middle-class concerns that the working-class were not providing proper parental control. Both Penelope Gregory and Jan Beagle noted that parents were thought to be failing in the supervision of their children.<sup>69</sup> Gregory suggested they were simply neglectful, while Beagle offered an array of explanatory factors including a lack of social activities and facilities, and the mobility required for seasonal work.<sup>70</sup> The connection between young people's public actions and the harsh punishments created by criminalising youthful behaviours was made by both authors.<sup>71</sup> Raewyn Dalziel reiterated similar arguments in 1993, noting larrikins in the city were associated with concerns about irresponsible parenting and the breakdown of family life.<sup>72</sup> However, she also noted the repeated failure to get a Juvenile Depravity Suppression Bill passed in the late 1890s on

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<sup>66</sup> See Thompson, *MEWC*; David Taylor, *Crime, Policing and Punishment in England, 1750-1914*, ed. Jeremy Black, *Social History in Perspective*, (Houndsmill, Basingstoke: Macmillan Press, 1998); Gareth Stedman Jones, *Outcast London: A Study in the Relationship between Classes in Victorian Society*, Reprinted with new Preface ed. (Harmondsworth, Middlesex, England: Penguin, 1984); John Macnicol, "In Pursuit of the Underclass," *Journal of Social Policy* 16, no. 3 (July 1987).

<sup>67</sup> David Thomson, *A World without Welfare: New Zealand's Colonial Experiment* (Auckland: Auckland University Press with Bridget Williams Books, 1998), 4.

<sup>68</sup> For example, see Ginger Frost, *Promises Broken: Courtship, Class and Gender in Victorian England* (Charlottesville: University Press of Virginia, 1995); Ginger S. Frost, *Living in Sin: Cohabiting As Husband and Wife in Nineteenth-Century England* (Manchester and New York: Manchester University Press, 2008); Joanne Klein, "Irregular Marriages: Unorthodox Working-class Domestic Life in Liverpool, Birmingham, and Manchester, 1900-1939," *Journal of Family History* 30, no. 2; Rachel Pimm-Smith and Rebecca Probert, "Evaluating Marital Stability in Late-Victorian Camberwell," *Family & Community History* 21, no. 1 (Apr 2018); Rebecca Probert, *The Changing Legal Regulation of Cohabitation: From Fornicators to Family, 1600-2010* (Cambridge: Cambridge University Press, 2012).

<sup>69</sup> Penelope Gregory, "Saving the Children of New Zealand: A Study of Social Attitudes Towards Larrikinism in the Later Nineteenth Century" (BA (Hons) thesis, Massey University, 1975), 1, 26; Jan Margaret Beagle, "Children of the State: A Study of the New Zealand Industrial School System 1880-1925" (MA (History) thesis, University of Auckland, 1974), 210, 22.

<sup>70</sup> Gregory, "Saving the Children," 28-29; Beagle, "Children of the State," 204, 06, 07.

<sup>71</sup> Beagle, "Children of the State," 212, 13; Gregory, "Saving the Children," 12.

<sup>72</sup> Raewyn Dalziel, *Focus on the Family: The Auckland Home and Family Society, 1893-1993* (Auckland: Auckland Home and Family Society, 1993), 12.

the grounds that it was too drastic and unduly restricted liberty.<sup>73</sup> When examining the survival of working class cultural practices, the interplay between repression and individual agency must be considered.

Moving beyond the traditional focus on elite businesswomen, Catherine Bishop wrote about economic contributions of working-class women in New Zealand. She included material on prostitutes and brothel-keepers, boarding houses, and laundry services, but home-based child-care was missing from her otherwise comprehensive list of businesses. This omission might be explained by the prevalence of baby-farming's infanticide focus, identified in England by Jim Hinks as the cause of limited scholarship on paid child-care.<sup>74</sup> While the result has been a literature in criminology rather than child welfare, recent historical research has challenged this narrow perspective by situating baby-farming within the context of paid child-care arrangements, with Margaret Arnot an influential force.<sup>75</sup> The existing body of New Zealand literature on baby-farming as a criminal practice rather than a business one fails to fully capture the nuances and complexities of the issue, highlighting the need for additional research.

Researching the incorrigible in the working-class has not produced any links to the history of organised labour, nor the Labour Party.

## Gender

The case of May Brown and Annie Maher appeared in the *NZ Truth* under the headline: "A Wild Life. Two Tarts That Took To The Town. Auckland Girls Sent to the Reformatory."<sup>76</sup> Charges of idle and disorderly were reported alongside a colourful portrayal of distraught girls, 'rather finely clad' who had led 'A Wild, Hilarious Life' in 'low' company. The magistrate sentenced May to time in gaol before she rejoined Annie in Te Oranga. Despite the *Truth's* sensational reporting, this case was not mentioned in Wellington newspapers.

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<sup>73</sup> Dalziel, *Focus*, 26.

<sup>74</sup> Jim Hinks, "Other People's Children: Representations of Paid Child-care in Britain, 1867-1908" (PhD (History) thesis, University of Liverpool, 2015), 12.

<sup>75</sup> Margaret L. Arnot, "Infant Death, Child Care and the State: The Baby-Farming Scandal and the First Infant Life Protection Legislation of 1872," *Continuity and Change* 9, no. 2 (1994): 275; Daniel Grey, "Discourses of Infanticide in England, 1880-1922" (PhD thesis Roehampton University, University of Surrey, 2008); Joanne Pearman, "Bastards, Baby Farmers, and Social Control in Victorian Britain" (PhD (History) thesis, University of Kent, 2017), <https://kar.kent.ac.uk/62866/>; Joseph George Stuart-Bennett, "Modernity and 'Baby Farming': The Privatised Commerce of Motherhood and Respectability in Victorian and Edwardian London" (PhD (History) thesis, University of Leicester, 2019).

<sup>76</sup> *NZ Truth*, 20 October 1906, 3, <https://paperspast.natlib.govt.nz/newspapers/NZTR19061020.2.16>.

Gender has shaped how people, women and men in their feminine or masculine roles, were expected to live, and what they were expected to do. The study of women's history began to challenge gender role expectations and aimed to counteract an existing male domination. The emphasis has been on agency as when Charlotte Macdonald wrote about single women immigrants. In the 1990s, studies of women, and of men, of femininities and masculinities, evolved into studies of gender.<sup>77</sup> These analyse how masculinity and femininity operated in concert with one another. The relational approach refutes the separate spheres of public and private for men and women. Instead, the two genders interact with one another, and rely on each other for their definition.<sup>78</sup> Daley notes there was also a theory of separate cultures of women and men which precipitated much study.<sup>79</sup>

This thesis has a significant emphasis on women. Prostitution was a women's occupation, and most fostering of children had women as primary caregivers, both situations appear to fit with separate culture theory. Studying a girls' reformatory naturally had a female focus, while the case studies of marriages and defective families looked at both women and men in relationships and as part of families. However, the thesis fits into the category of placing women in the established historical narrative, as identified by Caroline Daley and Deborah Montgomerie in the introduction of their edited volume, *The Gendered Kiwi*.<sup>80</sup> It also contributes to the literature that notices the difference between women and their experiences, which seeks to understand their subordinate role and relatively powerless situation.<sup>81</sup>

## Poverty and Provision

In 1912 the *NZ Truth* described the problem Julia Crowley posed to the community as a homeless elderly person.<sup>82</sup> Criminal convictions prevented her collecting a pension, so she chose, or was forced into by circumstances, an existence on the streets between terms in reformatory homes and prisons until her death.

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<sup>77</sup> Caroline Daley and Deborah Montgomerie, eds., *The Gendered Kiwi* (Auckland: Auckland University Press, 1999), 9.

<sup>78</sup> Daley and Montgomerie, *Gendered*, 10.

<sup>79</sup> Caroline Daley, "Gender in the Community: A Study of the Women and Men of the Taradale Area 1886-1930" (PhD (History) thesis, Victoria University, 1992), 17.

<sup>80</sup> Daley and Montgomerie, *Gendered*, 9.

<sup>81</sup> Daley and Montgomerie, *Gendered*, 9.

<sup>82</sup> *NZ Truth*, 23 Mar 1912, 7, <https://paperspast.natlib.govt.nz/newspapers/NZTR19120323.2.39.1>.

The body of literature on the poor underlines some of the social and political processes that contributed to how the poor were viewed and solutions to combat poverty. The poor have a long history of being regarded as victims of their own failings. By the late eighteenth century in Britain, they were thought to be wasteful spenders rather than underpaid or underemployed. A century later, Charles Booth and Benjamin Seebohm Rowntree published studies, from London and York respectively, which classified degrees and causes of poverty.<sup>83</sup> They contributed towards the discussion that imagined an outcast underclass, a residuum of nonworkers. English historians note that 'degeneration theorists' saw signs of poverty as symptoms of the problem rather than its cause.<sup>84</sup> Instead, it was claimed that urban living conditions caused degeneration, worsening with each generation.<sup>85</sup> Urban growth from the influx of unemployed agricultural workers, and improved medical and sanitation services which prevented some early deaths, fuelled perceptions of imminent danger, and fears that degeneration would spread to newcomers.<sup>86</sup> The correlation of growing poverty with increasing wealth informed Jeremy Seabrook's *Pauperland*. He argued the underlying injustice has been severely misunderstood, and that 'having' and 'wellbeing' have mistakenly been equated. It has been easy for those with means to see those without as lazy 'rather than victims of vagaries of expansion and contraction.'<sup>87</sup> He suggested those labelled as undeserving serve as symbols of social ills, although they are not as numerous as portrayed.<sup>88</sup>

Groups continue to be identified by their behaviour and characterised as breeding further generational problems. Paul Michael Garrett, writing from a social work perspective, confirmed that the concepts persisted in Britain.<sup>89</sup> He, like professor of social policy John Macnicol, investigated how the 'undeserving' were constructed, identified, and classified.<sup>90</sup> Labels used have included 'industrial residuum', 'social problem groups', 'problem families', and 'underclass'. That the same kind of attitudes existed (and exist) in New Zealand has been documented by sociologist Liz Beddoe. She found that attitudes towards welfare support were fuelled by rhetoric about 'feral

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<sup>83</sup> Albert Fried and Richard M. Elman, eds., *Charles Booth's London, A Portrait of the Poor at the Turn of the Century, Drawn from his 'Life and Labour of the People in London'* (London: Hutchinson & Co, 1969); B. Seebohm Rowntree, *Poverty: A Study of Town Life* (Macmillan and Co, 1901).

<sup>84</sup> Macnicol, "Pursuit of Underclass," 299-300; Stedman Jones, *Outcast London*, 135, 40.

<sup>85</sup> Ben Schrader, *The Big Smoke: New Zealand Cities 1840-1920* (Wellington: Bridget William Books, 2016), 343.

<sup>86</sup> Stedman Jones, *Outcast London*, 287.

<sup>87</sup> Jeremy Seabrook, *Pauperland* (London: Hurst & Company, 2013), 119.

<sup>88</sup> Seabrook, *Pauperland*, 121-22.

<sup>89</sup> Paul Michael Garrett, "'Sinbin' Solutions: The 'Pioneer' Projects for 'Problem Families' and the Forgetfulness of Social Policy Research," *Critical Social Policy* 27, no. 2 (2007).

<sup>90</sup> Macnicol, "Pursuit of Underclass."

families' and the 'underclass'.<sup>91</sup> These findings are not explicit in the rich historiography of poverty in New Zealand, which instead reveals a society that at first denied poverty a place in its story.<sup>92</sup> Ben Schrader has identified a consistently negative attitude towards the poor, from middle-class immigrants in the early decades lamenting the filth of Auckland 'rookeries', to modern representations of the poor as neglectful of their children and financially incompetent.<sup>93</sup> He suggests three underlying explanations. First, they serve the purposes of a 'mainstream' middle class culture to blame 'others' for their 'deviant' behaviour.<sup>94</sup> Second, this type of reporting, sanctioned by the mainstream, entertains.<sup>95</sup> Finally, the fact that a few were and are difficult, even incorrigible, is taken as widely applicable instead of an exceptional example.<sup>96</sup>

Returning to Victorian views, a popular belief was that pauperism was created by the immoral choice of individuals to rely on charity instead of seeking work. This, in turn, led to the idea that restrictions on charity would encourage a return to paid work and eliminate poverty, a concept also applied in New Zealand. Paupers were thought to transmit their defect to their families. This defectiveness was embraced as explanatory and expanded on by the eugenicists in the postwar era. Writing in the late 1980s about New Zealand's welfare provisions, Margaret Tennant noted the move from celebratory commentary in the 1940s and 1950s to critiques in the 1960s and 1970s, with an increased focus on poverty, growing expenditure, and abuses of welfare, and on social control as a subtle power play not confined to the State.<sup>97</sup> From 1976, Tennant has been one of the most prolific writers about charitable aid and social welfare in New Zealand. Her work has covered topics from Homes for 'Fallen Women', Old Men's Homes, and the role of women's organisations in providing them, to the provision of welfare by the government and non-profit sector. Her focus has largely been an institutional and organisational one. She provides a wealth of illustrative examples, but her work is not an investigation of those being provided for. Likewise, Peter Gibbons's thesis looked at how tramps were treated by the

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<sup>91</sup> Liz Beddoe, "Feral Families, Troubled Families: The Spectre of the Underclass in New Zealand," *New Zealand Sociology* 29, no. 3 (2014).

<sup>92</sup> Annabel Cooper and Marian Horan, "Poverty in the New World Dream: Families and Gender in Southern Dunedin, New Zealand 1890-1920," *Journal of Family History* 29, no. 2 (2004): 127. Margaret Tennant also noted local boards found the presence of poverty difficult to acknowledge. See *Paupers and Providers*, 75.

<sup>93</sup> Ben Schrader, "The *Other* Story: Changing Perceptions of State Housing," *New Zealand Journal of History* 40, no. 2 (2006): 163.

<sup>94</sup> Schrader, "The *Other* Story," 165.

<sup>95</sup> Schrader, "The *Other* Story," 166-67.

<sup>96</sup> Schrader, "The *Other* Story," 167.

<sup>97</sup> Tennant, *Paupers & Providers*, 6-8.

government, rather than engaging in tales about the men themselves. He analysed the Liberal government's tendency to gradually exert control and pressure on the unemployed who refused to follow societal expectations. He argued that for the government, achieving equality meant using coercion against those who challenged the existing norms, an 'aggressive egalitarianism'.<sup>98</sup> While valuable contributions have been made in the New Zealand context, the scarcity of research on specific facets of the issue warrants further scholarly attention.

### **Criminology and Crime History**

Timothy Colbridge was nearing retirement when accused of maintaining an infant apart from its parents in a house not registered for the purpose. The police prosecutor asked for a nominal penalty, and the magistrate acceded, noting this was only small-scale baby-farming, as he imposed a small fine.<sup>99</sup>

The literature on the criminal is particularly relevant for this thesis, because it offers insights into attitudes about those on the margins who broke social rules. The history of crime and punishment suddenly garnered significant attention in the 1980s with different interpretations between academic disciplines, as sociologists, criminologists, and historians debated social control, crime, and madness. While the scholarship surveyed within this section concerns the history of crime and punishment, an argument can be made that the marginalised have been ignored, with a historiography more about prisons than prisoners.<sup>100</sup>

The 'othering' of the criminal element was noted in the 1960s by E. P. Thompson, who warned that there was no sharp distinction between the good and the bad despite contemporaries fostering that division. He cited 1790s fears of revolution and factory work as encouraging elites to increase controls and enforce discipline in the workforce, while Methodism promoted foregoing the common pleasures.<sup>101</sup> It was a 'convenient fiction' that law-abiding masses were threatened by an identifiable few belonging to a criminal underworld.<sup>102</sup> During the nineteenth century, closer surveillance of the working class, where criminals were thought to proliferate, resulted in more crime being found, apparently confirming the initial theory.<sup>103</sup> Linebaugh is

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<sup>98</sup> Gibbons, "Tramps into Taxpayers," iii, 108.

<sup>99</sup> *New Zealand Herald*, 24 Sep 1894, 3, <https://paperspast.natlib.govt.nz/newspapers/NZH18940924.2.8>.

<sup>100</sup> See Linebaugh, *The London Hanged*, xviii-xix; William M. Meier, "'Thief's progress': Crime and Society in Britain, 1865-2000" (PhD (History) thesis, University of Wisconsin-Madison, 2009), 4.

<sup>101</sup> Thompson, *MEWC*, 60-63.

<sup>102</sup> Taylor, *Crime, Policing and Punishment*, 168-69.

<sup>103</sup> Taylor, *Crime, Policing and Punishment*, 70.

another who noted the difficulty in distinguishing between London's general labouring population and the 'criminal class'.<sup>104</sup> Instead, the purported divide between the poor and the criminal element simply did not exist, thus there was no distinct criminal underclass.

From the idea of crime as a social construct emerged a body of seminal works that have shaped the understanding of criminality. Michel Foucault has been influential in his description of prisons not merely as punishment, but as a means of social control and an exercise of power.<sup>105</sup> Foucault's view of absolute power was opposed by Peter Linebaugh and others. Linebaugh argued that ordinary labourers routinely defied the constraints imposed upon them.<sup>106</sup> It was the outsider who was blamed for criminal or deviant behaviour.<sup>107</sup> David Jones added that outsiders were thought to threaten social harmony.<sup>108</sup> There was a critical shift in attitudes to punishment, from a form of character development to a system of reform for defective people.<sup>109</sup> The image of the criminal changed from tough and threatening, to degenerating and feeble-minded, as Martin Wiener has observed.<sup>110</sup> Wiener also noted the emergence of repeat offenders as a distinct challenge for the English penal system, raising questions about the effectiveness of crime prevention strategies.<sup>111</sup> In the same period, both Linda Mahood and David Taylor emphasised the role of class in perceptions of crime.<sup>112</sup> Taylor argued that class helped shape views of crime as a working-class problem.<sup>113</sup> John Macnicol chronicled the cyclical investigations into Britain's 'social problem group', fuelled by the futile pursuit of hereditary causes through eugenics.<sup>114</sup> This reflects society's recurring need to identify and label the 'other', a need noted by Stedman Jones.<sup>115</sup> Similar techniques were used in America. There, Nicole Hahn Rafter argued, the socially constructed 'born criminal' was often a metaphor for 'otherness'.<sup>116</sup> Evolutionary theory that

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<sup>104</sup> Linebaugh, *The London Hanged*, xxi.

<sup>105</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan, 2nd Vintage Books ed. (New York: Vintage Books, 1995), 22-23.

<sup>106</sup> Linebaugh, *The London Hanged*, 3.

<sup>107</sup> David Jones, *Crime, Protest, Community and Police in Nineteenth-century Britain* (London & Boston: Routledge & Kegan Paul, 1982), 179.

<sup>108</sup> Jones, *Crime, Protest*, 197.

<sup>109</sup> Martin J. Wiener, *Reconstructing the Criminal: Culture, Law, and Policy in England 1830-1914* (Cambridge: Cambridge University Press, 1990), 11-12.

<sup>110</sup> Wiener, *Reconstructing the Criminal*, 341.

<sup>111</sup> Wiener, *Reconstructing the Criminal*, 342-43.

<sup>112</sup> Linda Mahood, *Policing Gender, Class and Family: Britain 1850-1940*, ed. June Purvis, Women's History, (London: UCL Press, 1995).

<sup>113</sup> Taylor, *Crime, Policing and Punishment*, 47.

<sup>114</sup> Macnicol, "Pursuit of Underclass."

<sup>115</sup> Stedman Jones, *Outcast London*, 336.

<sup>116</sup> Nicole Hahn Rafter, *Creating Born Criminals* (Urbana and Chicago: University of Illinois Press, 1997), 8-9.

deemed certain groups 'uncivilised' led criminal anthropologists to define a criminal class marked by inferior physical attributes.<sup>117</sup> Recognising that the working class was not separate from the criminal element drew attention to the myths perpetuated by the middle class as crime was made a problem.

Victorians grappled with the moral and societal ramifications of prostitution, a topic that has also captured historians' attention. The linguistic turn shifted historians' focus from prostitution as a subculture to concentrate on contextualising the rhetoric around prostitution. Alongside this, systematic studies of reformatories undertaken by Frances Finnegan and Judith Walkowitz in England, and by Ruth Rosen in America, have tended to confirm Acton's 1857 London observations of a trade dominated by young women with short careers.<sup>118</sup> Historians such as Julia Laite and Hollie Rubenhold have demonstrated that investigating the cohort of working-class women accused of prostitution can challenge established suppositions about them.<sup>119</sup>

Barry Godfrey, Heather Shore, Pamela Cox, and Zoe Alker, the authors of *Young Criminal Lives*, contribute a useful analysis of theories about life chances for the marginalised. They studied children in British reformatories using a life-course criminology approach influenced by European studies with roots in both criminology and sociology.<sup>120</sup> The disadvantaged's 'life chances' were found to worsen through interactions with criminal justice, while sociology and social work studies show the protective effects within care systems can mitigate the impact of poor life chances.<sup>121</sup> The authors identified that Industrial Schools had both protective and harmful effects, and also noted the historical research view has tended to argue the system was unfair and continued to disadvantage its inmates.<sup>122</sup> They argued predicting a future criminal pathway is more complex than a simple assessment of deprivation or disadvantage and any resultant labelling.

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<sup>117</sup> Rafter, *Creating Born Criminals*, 57, 118-9.

<sup>118</sup> Frances Finnegan, *Poverty and Prostitution: A Study of Victorian Prostitutes in York* (Cambridge: Cambridge University Press, 1979); Judith R. Walkowitz, *Prostitution and Victorian Society: Women, Class and the State* (Cambridge: Cambridge University Press, 1980); Ruth Rosen, *The Lost Sisterhood: Prostitution in America, 1900-1918* (Baltimore & London: John Hopkins University Press, 1982).

<sup>119</sup> Julia A. Laite, "Taking Nellie Johnson's Fingerprints: Prostitutes and Legal Identity in Early Twentieth-Century London," *History Workshop Journal*, no. 65 (Spring 2008); Hallie Rubenhold, *The Five: The Untold Lives of the Women Killed by Jack the Ripper* (Boston: Houghton Mifflin Harcourt, 2019).

<sup>120</sup> Godfrey et al., *Young Criminal Lives*.

<sup>121</sup> Godfrey et al., *Young Criminal Lives*, 11.

<sup>122</sup> Godfrey et al., *Young Criminal Lives*, 12.

Academic studies dedicated to exploring the history of crime in New Zealand are rare. New Zealand has histories of the police and of prisons. Donald McKenzies's *While We Have Prisons* mentions his 1953 study of New Zealand's habitual criminals.<sup>123</sup> However, this potentially relevant source was unable to be located. Richard Hill's weighty history of police, with the second part subtitled *The Theory and Practice of Coercive Social and Racial Control in New Zealand*, is perhaps predictably sympathetic to the marginalised and seems to doubt a defined criminal class.<sup>124</sup> More recently, criminologist John Pratt has produced offerings on the penal system, well regarded by those in his field.<sup>125</sup> Greg Newbold's 2007 book is on corrections reform, while Mark Derby's recent contribution is an unofficial history of one of New Zealand's earliest prisons. He notes the inmates are predominately from the poorest in society, but primary source restrictions prevented deeper investigation into prisoners.<sup>126</sup> Even the central theme in English historiography examining the line between respectable and unrespectable workers has not produced similar New Zealand studies.<sup>127</sup> Pratt's 2005 article sought historical explanations for New Zealand's high incarceration rate, finding that punitive attitudes were the flip side of strong conformity.<sup>128</sup> Pratt offered Durkheim's idea that rigid conformity led to anti-social behaviour being viewed as threatening. By portraying this threat as coming from those regarded as different, the perception of social cohesion was enhanced.<sup>129</sup> In framing the other, New Zealand settlers tended to blame insufficient screening of immigrants. Pratt noted that the aim had been to create an egalitarian British Utopia which rewarded the industrious.<sup>130</sup> Although Britons were the favoured immigrants, only a select kind were welcome, those ready to work. He wrote that the focus on social cohesion was deliberate and the State's dabbling in everyday life allowed it to manipulate acceptable behaviour. It is disappointing that this article has generated few, if any, citations in the field of New Zealand history. Pratt's study provides a useful benchmark, mainly

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<sup>123</sup> Donald F. McKenzie, *While We Have Prisons* (Auckland: Methuen, 1980).

<sup>124</sup> Richard S. Hill, *Policing the Colonial Frontier: The Theory and Practice of Coercive Social and Racial Control in New Zealand, 1767-1867* (Wellington: Historical Publications Branch, Dept. of Internal Affairs, 1986).

<sup>125</sup> For example, John Pratt, *Punishment in a Perfect Society: The New Zealand Penal System, 1840-1939* (Wellington: Victoria University Press, 1992).

<sup>126</sup> Greg Newbold, *The Problem of Prisons: Corrections Reform in New Zealand since 1840* (Wellington: Dunmore Publishing, 2007); Mark Derby, *Rock College: An Unofficial History of Mount Eden Prison* (Auckland: Massey University Press, 2020).

<sup>127</sup> One exception is sociologist Liz Beddoe's 2014 article, which has generated numerous citations within the social work field but has not been utilised by historians. Beddoe, "Feral Families."

<sup>128</sup> John Pratt, "The Dark Side of Paradise: Explaining New Zealand's History of High Imprisonment," *British Journal of Criminology* 46, no. 4 (2005).

<sup>129</sup> Pratt, "Dark Side of Paradise," 546.

<sup>130</sup> Pratt, "Dark Side of Paradise," 553.

by establishing rates of criminal behaviour and international custody comparisons for the twentieth century, as well as suggesting underlying cultural motivations and their colonial origins. The *Aotearoa Handbook of Criminology* notes themes in the field. Two of these are that diverse groups are represented as marginal and criminal and in need of control, and that the power of criminal justice is often unfairly applied.<sup>131</sup> The focus of this volume is firmly in the present, with little acknowledgement that there is any kind of history, beyond the Treaty of Waitangi and 'colonisation', which might inform the current situation. It is into this context that this thesis seeks to uncover the experiences of those who passed through the justice system as it expanded its purview.

In contrast to the general history of crime, some specific areas have attracted New Zealand historians. Studies of prostitution and sexual crimes have been driven by feminist historians from the 1980s. For example, Charlotte Macdonald began writing about women, crime, and the law in 1977, and continued this interest in her 1989 article on the developing literature of crime and punishment, which she attributed to the archival depth of police and court records.<sup>132</sup> Macdonald also observed the kind of behaviour women were accused of: drunkenness, prostitution, minor theft, infanticide, abortion, and baby-farming.<sup>133</sup> She noted that while some were related to women's reproductive experiences, in most cases desperate circumstances played an important role in their offending.<sup>134</sup> Other historians have investigated the response of New Zealand society to women's sexuality, to compare the more complex nature of New Zealand society with the whore / madonna dichotomy of Australia, and examined the contextual factors that led women into providing sexual services.<sup>135</sup> Bigamy is often considered a male crime. However, as Raewyn Dalziel has shown, women have also been prosecuted for bigamy, and their

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<sup>131</sup> Elizabeth Stanley, Trevor Bradley, and Sarah Monod de Froidville, eds., *The Aotearoa Handbook of Criminology* (Chicago: Auckland University Press, 2021).

<sup>132</sup> Charlotte Macdonald, "Women and Crime in New Zealand Society, 1888-1910" (BA (Hons) thesis, Massey University, 1977); Charlotte Macdonald, "Crime and Punishment in New Zealand, 1840-1913: A Gendered History," *New Zealand Journal of History* 23, no. 1 (1989).

<sup>133</sup> Macdonald, "Crime and Punishment," 11, 15, 18.

<sup>134</sup> Macdonald, "Crime and Punishment," 18.

<sup>135</sup> Andrée Lévesque, "Prescribers and Rebels: Attitudes to European Women's Sexuality in New Zealand 1860-1916," *Women's Studies International Quarterly* 4, no. 2 (1981); Jan Robinson, "Canterbury's Rowdy Women: Whores, Madonnas and Female Criminality," *Women's Studies Journal* 1, no. 1 (Aug 1984); Heather Lucas, "'Square Girls': Prostitutes and Prostitution in Dunedin in the 1880s" (BA (Hons) thesis, University of Otago, 1985).

cases raise interesting questions.<sup>136</sup> The prosecution of bigamy can also be seen as a way of enforcing social norms about gender and marriage.

Comparative studies have also proven an area of interest for historians of crime testing theoretical models. New Zealander Graeme Dunstall collaborated with Barry Godfrey and Clive Emsley in an edited volume on comparative histories in 2003 and followed up with Godfrey to edit a collection of essays, by well-known figures in the field, on crime and policing within the British Empire.<sup>137</sup> Teaming up with specialists in other areas enhances the range of knowledge, enabling a more nuanced history. Catharine Coleborne, a historian with a long-standing interest in a transnational approach to mental illness, also favoured a comparative methodology and interdisciplinary understanding. She began to work on crime in colonial Australia and New Zealand looking at race, class, and gender using legal archive sources. Using court records, she found that low-status outsiders were prosecuted more as they came into closer contact with European society, especially once some of their everyday activities were redefined as crimes.<sup>138</sup> Her findings correspond with those of criminologist Greg Newbold, who reported that in the 1970s, working-class Pakeha boys had an arrest rate three times that of middle and upper-class Pakeha, with a higher rate for Māori boys.<sup>139</sup> Newbold has provided a useful background of the ideas around deviance and crime, while noting the lack of New Zealand literature on the topic.<sup>140</sup>

### **Expanding the State's responsibilities**

Those studied lived during a period of major social transformation. The cultural norms brought by the earliest settlers were challenged by unfolding economic and social developments. Olssen attributed many of the social and political phenomena of the time to the transformation of the middle-class, as salaried workers rose in status, affluence, and influence between 1890 and 1940.<sup>141</sup> He also noted some of the ways the State increased its control of various facets, including child welfare and public health.<sup>142</sup> The early belief was that respectable hard-working people

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<sup>136</sup> Raewyn Dalziel, "The privileged crime: policing and prosecuting bigamy in nineteenth-century New Zealand," *New Zealand Journal of History* 51, no. 2 (2017): 6.

<sup>137</sup> Godfrey and Dunstall, *Crime and Empire*.

<sup>138</sup> Catharine Coleborne, "Crime, the legal archive and postcolonial histories," in *Crime and Empire 1840-1940*, ed. Barry Godfrey and Graeme Dunstall (London: Routledge, 2005), 100.

<sup>139</sup> Greg Newbold, *Crime and Deviance*, Critical Issues in NZ Society, (Auckland: Oxford University Press, 1992), 137.

<sup>140</sup> Newbold, *Crime and Deviance*, 7, 9-15.

<sup>141</sup> Erik Olssen, "Towards a New Society," in *The Oxford History of New Zealand*, ed. W. H. Oliver (Wellington: Oxford University Press, 1981), 273.

<sup>142</sup> Olssen, "Towards a New Society," 260-61.

would only experience poverty temporarily or only in 'hard times'.<sup>143</sup> As a result, actions taken against the poor depended on the conviction that unrespectable behaviour was due to ignorance and bad environment. Therefore, the solution was education about morality and removal to a better environment. The general attitude was one that promoted self-help with families responsible to care for their own. This was manifest as a denial, at State and community levels, of any right to taxpayer assistance or public money and, very importantly, a 'strong faith in [community] charity'.<sup>144</sup> However, by 1884 Premier Robert Stout reluctantly acknowledged that poverty and vice were present in the colony.<sup>145</sup> There was generally little sympathy for those judged as undeserving.<sup>146</sup> A sharp demarcation was made between those who deserved help, mostly widows and the elderly, and those who did not, such as single mothers and the unemployed.<sup>147</sup> An example of these views is Duncan MacGregor who, in his position as inspector of both lunatic asylums and charitable institutions, recorded his views in annual reports to Parliament. He took the most extreme position on strict moral requirements for minimal aid, and Tennant has suggested that one of his legacies was lasting stigma of the able-bodied poor.<sup>148</sup>

Beliefs about the 'special' composition of New Zealand society meant the State was reluctant to follow too closely the provisions used in Australia and Britain.<sup>149</sup> David Thomson has even described the New Zealand reliance on charitable aid as a radical choice; an experiment with an ideology that relied on individuals and families to provide for themselves and their future.<sup>150</sup> It was by caring for one another that communities put the ideals of social welfare into practice.<sup>151</sup> Aid of any kind raised questions about whether it promoted or undermined the right attitudes and social participation.<sup>152</sup> Economic circumstances meant that by the late 1890s, New Zealanders had to acknowledge that not everyone was lucky, as a lifetime of work did not

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<sup>143</sup> Cooper and Horan, "Poverty in the New World Dream," 128.

<sup>144</sup> Thomson, *World without Welfare*, 5.

<sup>145</sup> Margaret Tennant, "Indigence and Charitable Aid in New Zealand 1885-1920" (PhD (History) thesis, Massey University, 1981), 1.

<sup>146</sup> Cooper and Horan, "Poverty in the New World Dream," 126; Tennant, "Indigence and Charitable Aid," 2.

<sup>147</sup> Margaret McClure, *A Civilised Community: A History of Social Security in New Zealand 1898-1998* (Auckland: Auckland University Press, 1998), 5.

<sup>148</sup> Margaret Tennant, "MacGregor, Duncan", Dictionary of New Zealand Biography, first published in 1993. *Te Ara - the Encyclopedia of New Zealand*, <https://teara.govt.nz/en/biographies/2m7/macgregor-duncan> (accessed 19 January 2024)

<sup>149</sup> Tennant, *Paupers & Providers*, 2-3.

<sup>150</sup> Thomson, *World without Welfare*, 5.

<sup>151</sup> McClure, *A Civilised Community*, 4.

<sup>152</sup> McClure, *A Civilised Community*, 21.

guarantee a secure old age.<sup>153</sup> This change in thinking shifted the view of New Zealand as the 'prosperous new world' to one of a 'humanitarian society'.<sup>154</sup>

Humanitarian ideals motivated campaigns for the State to provide for those in need, which allowed it to expand its role in providing services. While these services had been limited: hospitals, asylums, and industrial schools, expansion moved them into regulating public health and providing old age pensions. Legislation was passed that sought to protect infants, regulate drugs, and register midwives and nurses.<sup>155</sup> The chief problem was not the lack of good intention, opinions like MacGregor's notwithstanding, but rather a deficit of capacity. The cost of provisions, of suitable institutions, of classification within institutions, of trained and experienced staff, was always a limiting factor. This created gaps in the system such as where aged prostitutes should live, as their moral shortcomings prevented pension entitlement, their reputations denied them housing, and their continued public presence offended respectable residents. This gap was only partially filled by the State's partner in the 'mixed economy' of welfare provision, the voluntary organisations.<sup>156</sup>

State welfare in the form of old age pensions initiated demands for other deserving groups. Special interest groups played an important role in placing pressure on the government. They often had a focused agenda for reform which required the government's financial support.<sup>157</sup> For example, doctors positioned themselves as medical experts, and were included on boards of inquiry. As a group, they drew attention to children's health in the wake of the success of the Plunket Society. Well-placed public servants could be instrumental in driving reform in their specialist areas.<sup>158</sup> John Beck in Education influenced the direction of department policy, with special interest in minimising the numbers of children living in institutions. Inevitably, this created increasing demands over time. In particular, the decade after the Great War promised prosperity, but the economy remained volatile and social progress was uneven, leading to some

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<sup>153</sup> McClure, *A Civilised Community*, 6.

<sup>154</sup> McClure, *A Civilised Community*, 6.

<sup>155</sup> Belgrave, "Needs and the State," 28.

<sup>156</sup> Margaret Tennant, *The Fabric of Welfare: Voluntary Organisations, Government and Welfare in New Zealand, 1840-2005* (Bridget Williams Books, 2007), 9.

<sup>157</sup> Tennant, *Fabric of Welfare*, 72.

<sup>158</sup> Tennant, *Fabric of Welfare*, 73.

considerable hardship.<sup>159</sup> Resulting societal demands for government action led to a greater willingness to accept increased government intervention and taxes.<sup>160</sup>

In “Needs and the State”, Michael Belgrave argued that race protection was the motivation for the State interventions that encouraged desired behaviours and was evident in the pattern of this period’s social policies.<sup>161</sup> Social Darwinism evolved into a focus on social biology and eugenics. The underlying theories enabled arguments that protection of the white race was needed. The evidence was seen in declining fertility and the losses during the war and influenza epidemic, and the threat to white 'stock' of non-white, particularly Asian, immigrants.<sup>162</sup> These fears were behind much of the legislation that focussed on child health and well-being, and preserving the nation’s 'breeding stock'.

## Conclusion

This review of the international and New Zealand literature on the working class, gender, the poor, and the criminal has identified key themes relating to attitudes towards those on the social margins. It is clear that in New Zealand, as elsewhere, the middle class were effective in mobilising power to reduce risk, minimise harm, and protect both property and propriety. Their concerns have dominated the historical narrative. While some consensus exists among academics, such as the lack of a clear division between the working class and the criminal, much of the existing literature remains focused on institutions and policies, excluding the experiences and voices of the marginalised themselves. To move beyond these limitations, it is crucial to challenge dominant narratives and offer alternative perspectives on key themes.

The notion of the 'problem family,' often cited as a central concern of the past, has been used to justify policies and interventions that disproportionately targeted the working class and the poor. This narrative often ignores the complex social and economic factors that contribute to poverty and overlooks the pragmatism of individuals and families facing difficult circumstances. In addition, the existing literature on the working class and the poor is largely written from a middle-class perspective, focusing on the efforts of middle-class reformers to control and regulate marginalised groups. This approach minimises our knowledge of the lives of the working class

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<sup>159</sup> Bronwyn Labrum, "Negotiating an Increasing Range of Functions: Families and the Welfare State," in *Past Judgement: Social Policy in New Zealand History*, ed. Bronwyn Dalley and Margaret Tennant (Dunedin: University of Otago, 2004), 162.

<sup>160</sup> Tennant, *Fabric of Welfare*, 70.

<sup>161</sup> Belgrave, "Needs and the State," 28, 24.

<sup>162</sup> Belgrave, "Needs and the State," 26, 28.

and the poor, as it neglects their experiences and strategies for survival. Their lives were shaped by various factors beyond just their economic status. More broadly, gender, race, ethnicity, and sexuality play significant roles in how individuals and families are positioned within society. During the period studied in this thesis, the incorrigible were white, usually of British origin, and both male and female. By examining their lives, we gain a more nuanced and complex understanding of the lives of marginalised groups. This is because, while historical narratives often portray the working class and the poor as passive recipients of social control and regulation, the reality was more complex. The marginalised employed various strategies for survival and community building. This agency and resilience deserves greater attention in historical research and scholarship.

The historical experiences of the working class and the poor offer valuable insights into the challenges and inequalities that persist in society today. By understanding how past policies and attitudes continue to shape the lives of marginalised individuals and families, we can better challenge dominant narratives in the history of the working class, the poor, and the criminal. This requires a multifaceted approach that involves rethinking key concepts like the intergenerational problem family, examining dominant perspectives, and incorporating diverse voices. By doing so, we can move beyond the limitations of the existing literature and gain a deeper understanding of the lives and experiences of those on the social margins. This ultimately contributes to a more accurate and inclusive historical record which can inform contemporary social policy, and even promote a more just and equitable society.

## Chapter Three: In Pursuit of the Persistent Prostitute

Christina Lawson was next boxed, and proved to be an unlovely-looking middle-aged person of vicious habits. She pleaded not guilty to keeping a brothel at 22 Antigua-street, and Constable Harvey testified that she was one of the “unfortunate class.”

*NZ Truth*, 11 September 1909, 6.

This chapter examines women prosecuted as common prostitutes, as there seemed an obvious interpretation of their behaviour as incorrigible. The lives of Christchurch-based prostitutes between 1866 and 1926 were investigated, using police gazettes, court reports, and genealogical data. I surveyed women convicted in Christchurch, using *Police Gazettes*. I searched for the term prostitute at ten yearly intervals, as this was recorded as the woman’s trade when she was convicted. Christchurch was chosen as the *Canterbury Police Gazettes* were available on Papers Past from 1863, whereas at the time of my research the *Otago Police Gazettes* began coverage later, and the nationwide *Police Gazette* started in 1877.<sup>163</sup> In addition, there was an 1867 report of Christchurch brothels listing known prostitutes with place of residence, while a remarks column noted their ship and date of arrival. A comparison of the Christchurch statistics to 10-yearly figures from Otago, and then a whole-country comparison for 1886, 1906 and 1926 supported the finding that the women were significantly older than the international literature states (see Figure 2). A return of prostitutes residing in Dunedin in 1897 was also consulted. For this case study, a complete database was not considered necessary, and most of the research was conducted on women active in Christchurch from the beginning of the period. This showed considerable mobility in the group, which was not emphasised in the case study article.

There was some evolution in how prostitutes were problematised, suggesting change in how social behaviour was interpreted. This begins to address the extent of change in perception of

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<sup>163</sup> The *Otago Police Gazette* often did not given the women’s trade or occupation, particularly in the early period.

the incorrigible over time. Their lives covered a period of significant social transformation, from a decade after the foundation of the major South Island cities through economic cycles of booms and busts. Prostitutes continued to attract attention as the early portrayal of 'social evil' altered to being considered a menace to public health, with legislation around prostitution the subject of feminist critique about sexual double standards.

In relation to incorrigibility's effect on New Zealand's modernising society, it would be difficult to argue that even the most incorrigible prostitutes had the power of influence. However, those who wanted them controlled, monitored, treated, or reformed did. The increasingly professional status of those in medicine enabled medical measures to be proposed and, to some extent, used in attempts to control prostitution.

This case study partially answers the question about the effect of being labelled incorrigible on peoples' lives: being labelled incorrigible could have a profound impact, effecting the lifestyles and reputations of older women.

The article presented below was submitted to the *New Zealand Journal of History* in September 2023 and has been accepted for publication in 2024 as:

Blondell, Delwyn. "Easy Virtue: New Zealand's Aging 'Common Prostitute', 1866 to 1926."

## Abstract

The article contributes to the historical debate on prostitution by examining older women labeled 'common prostitutes.' Based on close study of the lives of New Zealand prostitutes between 1866 and 1926, through police gazettes, court reports and genealogical data, a figure emerges which challenges the notion that prostitution was a short-term occupation of young women. Instead, the typical convicted prostitute was an older woman, often into her fifties or beyond, repeatedly sentenced for drunkenness and disorderly behaviour, as the label 'common prostitute' was applied to unruly conduct without any proof that sexual services were involved. In late nineteenth and early twentieth century New Zealand, older women, when judged to be disreputable, drunk, dirty or disorderly, were denied an easy return to respectability and virtue.

## Easy Virtue: New Zealand's Aging 'Common Prostitute', 1866 to 1926

'Is she that old?' the Magistrate in Christchurch's Police Court asked in 1925, when told that Christina Lawson was 68, 'She looks remarkably well.'<sup>164</sup> The prosecuting policeman explained: 'She is never at liberty long enough to get knocked about. She's usually in the home or the prison.' Despite her age, Christina was typical of prostitutes convicted of public nuisance offences in New Zealand before 1930. Their activities and crimes typically had little connection with actual prostitution. As older women, often deserted wives or widows, their perilous financial circumstances led to choices that excluded them from fitting the deserving poor criteria. Although they did not fit the prostitute clichés created by their contemporaries and re-examined by later historians, they can be seen, as feminist historians have long argued, both as women using their agency, and, despite their limited options, as people using their cultural resources to resist social pressures.<sup>165</sup>

The historiography of prostitution has largely ignored the older prostitute; they are glimpsed only in contrast with younger women. The older streetwalker, established madam, or experienced brothel keeper might be mentioned before attention returns to the young fallen woman, the seduced domestic servant, or the saucy factory girl. Earlier works tended to explore prostitution as a subculture in conflict with those in authority, although Jan Robinson included the 'old, drunken hag' when writing about Christchurch's 'rowdy women'.<sup>166</sup> However, older women were the ones who appeared, at least in New Zealand, again and again before the courts. The devolution of the term 'common prostitute' justified police action against their visible and confronting public presence, a blunt instrument to enable control through the regulation of sexuality. This article contributes to the historical debate by exploring the consequences for women of being labelled a 'common prostitute'. Older women tried the patience of police, taxed the resources of rescue homes and reformatories, and frustrated magistrates. Their situations show a continuum of economic hardship, a lack of social opportunity, and a working-class resistance to an imposed morality that had been transplanted into the settler colonial environment. Their

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<sup>164</sup> *Press*, 21 Feb 1925, 6, <https://paperspast.natlib.govt.nz/newspapers/CHP19250221.2.19>.

<sup>165</sup> Judith R. Walkowitz, "The Politics of Prostitution and Sexual Labour," *History Workshop Journal*, no. 82 (Autumn 2016): 191.

<sup>166</sup> Robinson, "Rowdy Women," 17.

identity as common prostitutes, reinforced by policing of public nuisance offences, defined their interactions with officialdom. The fluidity of their interactions with the trade contrasts sharply with the permanence of the label. No passive victims, it was an identity they resisted as they attempted to establish normative relationships with partners, family, and community. They were the public face of prostitution at a time when there was no easy return to virtue.



Figure 1: Christina Lawson aged 34. Official police photograph taken 12 July 1890 when she was about to be released after a six month sentence for having no visible means of support in Wellington. Used with kind permission of NZ Police Museum.

Christina Lawson was nearly as well known for her voluble manner as for her numerous court appearances on charges that reflected her reputation as a common prostitute. She pleaded for a chance before Magistrate Young in the Christchurch Magistrates' Court in April 1926, saying, 'I've done nothing to get here – my husband was a shipwrecked sailor, and maybe I've taken a drop too much sometimes. I've never had a chance since I started coming to this court.'<sup>167</sup> Christina had been charged with absconding from the Catholic home for 'fallen women', Mount Magdala. Seventy-year-old Christina refused to go back to Mount Magdala, so was given a month in prison.<sup>168</sup> Christina had arrived in Canterbury as an assisted immigrant with her husband

<sup>167</sup> *Star (Christchurch)*, 27 Apr 1926, 8, <https://paperspast.natlib.govt.nz/newspapers/TS19260427.2.79>.

<sup>168</sup> Historians have noted the reluctance of some older women to engage with the moral reform and enforced work regimes of the rescue homes. See Margaret Tennant, "'Magdalens and Moral Imbeciles': Women's Homes in Nineteenth Century New Zealand," in *Women in History 2: Essays on Women in New Zealand*, ed. Barbara Brookes, Charlotte Macdonald, and Margaret Tennant (Wellington: Bridget Williams Books, 1992), 57.

Thomas in 1879.<sup>169</sup> The couple moved from city to city, generating criminal records. Hers was mostly for drunkenness and his for theft, until they finally parted ways. Christina's criminal career spanned forty-six years, with the *New Zealand Police Gazette* identifying her occupation as prostitute from 1881.<sup>170</sup>

The whole area of prostitution is one of slippery definitions. In New Zealand, as in England, legislation was enacted to suppress the unruly prostitute without making the buying and selling of sex illegal, thus prostitution was not a crime. The term 'common prostitute' was initially used in New Zealand's Vagrant Act 1866, which drew on similar laws in Britain and its empire to imprison women for 'riotous or indecent' behaviour.<sup>171</sup> This type of legislation avoided giving a legal definition of 'common prostitute'. Police prosecutors tested their interpretation of the statutes in court. Prostitutes importuning or loitering were criminalised by an 1869 amendment, with the penalty of a £2 fine or one month's imprisonment.<sup>172</sup> The longer sentences available under the Vagrant Act for idle and disorderly behaviour meant charges of 'soliciting prostitution' under the 1869 amendment were used only occasionally from the early 1870s. This preference was even endorsed by the courts, as when a magistrate advised a Sergeant of Police to charge women thought to be soliciting under the Vagrant Act in 1875.<sup>173</sup> The 'common prostitute' label meant that a woman could be prosecuted for disorderly behaviour; drinking, swearing, or loitering in public places. Repeated convictions allowed her to be charged as a rogue and vagabond for a greater punishment. Those unreformed by such treatment could be convicted as incorrigible rogues. This further punished the habitual offender for being a criminal.<sup>174</sup>

Christina Lawson appeared in the *New Zealand Police Gazette* at least ninety-three times, with her occupation usually listed as prostitute. Her convictions dated from 1881, for habitual drunkenness as a twenty-five-year-old, and ended with the charge of incorrigible rogue in 1927, a criminal career of forty-six years.<sup>175</sup> A final charge reported in the newspapers in 1928 was not

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<sup>169</sup> *Globe*, 19 Jul 1879, 2, <https://paperspast.natlib.govt.nz/newspapers/GLOBE18790719.2.3>.

<sup>170</sup> *New Zealand Police Gazette* (NZPG), 29 Jun 1881, 112, <https://paperspast.natlib.govt.nz/periodicals/NZPG18810629.2.14>.

<sup>171</sup> *Vagrant Act 1866 (30 Vict, No.10)*.

<sup>172</sup> Vagrant Act 1866 Amendment Act 1869, *New Zealand Acts as Enacted*, [http://www.nzlii.org/nz/legis/hist\\_act/tva1866aa186932a33v1869n53364/](http://www.nzlii.org/nz/legis/hist_act/tva1866aa186932a33v1869n53364/).

<sup>173</sup> *Wanganui Chronicle*, 3 Jun 1875, 2, <https://paperspast.natlib.govt.nz/newspapers/WC18750603.2.10>.

<sup>174</sup> Laite, "Legal Identity," 111.

<sup>175</sup> NZPG, 29 Jun 1881, 112, <https://paperspast.natlib.govt.nz/periodicals/NZPG18810629.2.14>; *Star* (Christchurch), 11 May 1927, 4, <https://paperspast.natlib.govt.nz/newspapers/TS19270511.2.37>.

included in the *Gazette*.<sup>176</sup> Christina's experience was typical of women considered to work as common prostitutes who appeared again and again in the magistrate's courts.

Police dealt with public nuisance violations using the Vagrant Act 1866. Those picked up did not need to be homeless, merely without a lawful income, habitual drunkards, begging in public, or a 'common prostitute' publicly behaving 'in a riotous or indecent manner.'<sup>177</sup> William Acton's observation that in 1870s London there was a 'width of interpretation' in how prostitutes were identified held true in the colony.<sup>178</sup> In New Zealand courts, women protested this labelling, but no proof of the sale of sexual services was needed, just the testimony of two constables about the woman's reputation. Arrests of older prostitutes, as police responded to vocal condemnations of a lurking 'social evil', resulted in one of the characteristics of female criminality in the nineteenth century: a high rate of recidivism.<sup>179</sup> The label 'common prostitute' was a legal identity, a legal classification imposed by the police as Julia Laite argued.<sup>180</sup> Laite makes the point that it was convenient for the police and allowed a woman's record as a common prostitute to be used to convict her of further crimes. Laite's argument that court cases revolved around proving a woman's identity as a common prostitute, rather than on criminal actions that led to her arrest, is also evident in New Zealand.<sup>181</sup> The 'common prostitute' identity interpreted public misbehaviour and, once attached, continued to operate independently of any proof that sex was being sold.

Historians shifted their focus from a study of prostitution as a subcultural phenomenon to a study of the surrounding discourse, as prostitution had been repositioned from a necessary evil into a social issue. However, systematic studies of reformatories undertaken by Frances Finnegan and Judith Walkowitz in England, and by Ruth Rosen in America, have tended to confirm Acton's 1857 London observations of a trade dominated by young women with short careers.<sup>182</sup> Such studies rely on records from moral reformers who tended to focus their efforts on young wayward girls, new to the trade. This ensured they had a greater chance of successful reform as recidivist offenders resisted reform. It is, therefore, unsurprising that Walkowitz found

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<sup>176</sup> *Star* (Christchurch), 15 Sep 1928, 2, <https://paperspast.natlib.govt.nz/newspapers/TS19280915.2.33>.

<sup>177</sup> *Vagrant Act 1866 (30 Vict, No.10)*.

<sup>178</sup> William Acton, *Prostitution Considered in Its Moral, Social, and Sanitary Aspects, in London and Other Large Cities and Garrison Towns: With Proposals for the Control and Prevention of Its Attendant Evils* (Kiribati: J. Churchill and Sons, 1870), 3.

<sup>179</sup> Macdonald, "Crime and Punishment," 15; Robinson, "Rowdy Women," 17.

<sup>180</sup> Laite, "Legal Identity," 99.

<sup>181</sup> Laite, "Legal Identity," 107.

<sup>182</sup> Finnegan, *Poverty and Prostitution*; Walkowitz, *Victorian Society*; Rosen, *Lost Sisterhood*; Rubenhold, *The Five*.

that most British prostitutes rescued or treated in lock hospitals were generally under twenty years of age.<sup>183</sup> American reformers presented prostitutes as either an innocent young victim, seduced into vice, or, in complete contrast, unnaturally sexualised, immoral, and driven by hedonist cravings.<sup>184</sup> Rosen noted the short-term nature of the occupation: 'Nearly every study emphasised that the average number of years which most prostitutes practiced their trade rarely exceeded five or six years.'<sup>185</sup> She found former prostitutes married or reunited with family, some died of venereal disease or suicide, and a minute minority became successful brothel owners. Historians such as Laite and Hollie Rubenhold have demonstrated that investigation of the cohort of working-class women accused of prostitution can challenge established suppositions about them. Studies of settler colonial societies have noted the presence of the 'older prostitute', noting that she was less attractive, struggling to survive on her lower earnings or as the mother of young children in need of State protection.<sup>186</sup> However, the lives of these women, let alone those aged from their fifties to their seventies, have escaped study.

The methods used by Laite and Rubenhold, building on trace evidence found in official and public records, allow women to be placed in the context of their era. This tapestry of sources answers Walkowitz's caution against relying on the criminal record, which she argued does not represent the person's life.<sup>187</sup> Using a similar methodology, this study extends the work done on individual women to reveal more about the lived experience of prostitutes. Police lists of prostitutes typically included name, address, and comments, with one Christchurch return detailing the women's arrival in the colony. From these returns and police gazettes, a database of prostitutes operating in the South Island between 1866 and 1926 was created.<sup>188</sup> While not a comprehensive list of women engaged in prostitution, it provides a valuable complement to statistics from other sources. Family history sources were used to find biographical material, particularly marriages and deaths. Some of the difficulty of women's informal name changes is overcome by police records showing such changes as aliases. Newspapers expand on women's interactions with the judiciary, including failed cases and those without a gaol sentence not found in the gazettes. Furthermore, some reporters produced detailed accounts of events in the courts.

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<sup>183</sup> Walkowitz, *Victorian Society*, 18.

<sup>184</sup> Rosen, *Lost Sisterhood*, 47-48.

<sup>185</sup> Rosen, *Lost Sisterhood*, 144-45.

<sup>186</sup> Raelene Frances, *Selling Sex: A Hidden History of Prostitution* (Sydney: UNSW Press, 2007), 126, 48, 64.

<sup>187</sup> Walkowitz, *Victorian Society*, 8.

<sup>188</sup> For the the importance of this archive see Macdonald, "Crime and Punishment," 8-9.

But they did not investigate whether women were engaged in prostitution or if their drunken actions had merely been a means of removing them from public space. The sources do not clarify if a woman was a working prostitute, although it seems more likely when she was convicted of charges of soliciting or importuning. Following women over their lifetimes reduces the possibility of misrepresenting the role prostitution played in their lives. Sensational headlines and biased court reporting can be balanced by views of women as daughters, wives, mothers, or even businesswomen, not simply members of the 'unfortunate classes', women of easy virtue and ill-repute, or incorrigible rogues.

Christchurch became the central focus of this study as the *Canterbury Police Gazette* provided information about women described as prostitutes from an early period. It was also a region whose citizens actively opposed the trade. Founded in 1856, Christchurch was imagined as a garden version of a university town, the service centre for a close-knit farming community.<sup>189</sup> This included the deliberate attempt to exclude the undesirable element, as Canterbury's founders sought the right combination of immigrants to mimic the British class system.<sup>190</sup> The lack of success was soon evident to Canterbury's respectable and religious communities. Margaret Bowen was removed from the Supreme Court while cursing fluently when found guilty of keeping a house of ill-fame with her husband in 1864.<sup>191</sup> A former transported convict, Margaret had married Stephen Bone, alias Bowen, and had a family of seven. Her outburst in court almost saw her sentence lengthened. Undeterred, she continued to ply her trade in Kilmore Street East, according to police.<sup>192</sup> Imbalance in the ratio of men to women is often cited as the reason behind the rise of prostitution, yet in 1867 Christchurch's population was almost exactly balanced, with 3,335 men and 3,312 women. Concerns about the fate of young women made Canterbury the first region to establish a female refuge, which Margaret Tennant links to the strong Anglican foundations of the city.<sup>193</sup> The respectable argued prostitution was known to be increasing, and venereal disease was rampant.<sup>194</sup> They demanded legislation to control both 'evils' at the same time as the province was sponsoring large numbers of young women immigrants.<sup>195</sup>

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<sup>189</sup> Jan Robinson, "Of Diverse Persons, Men and Women and Whores: Women and Crime in Nineteenth Century Canterbury" (MA (History) thesis, University of Canterbury, 1983), 81.

<sup>190</sup> Robinson, "Rowdy Women," 11.

<sup>191</sup> Robinson, "Rowdy Women," 14.

<sup>192</sup> "List of Brothels in Christchurch 31 Dec 1867," Archives NZ, File ref R22198680, viewed 13 Apr 2022.

<sup>193</sup> Tennant, "Women's Homes," 56.

<sup>194</sup> *Press*, 22 Nov 1867, 3, <https://paperspast.natlib.govt.nz/newspapers/CHP18671122.2.22>.

<sup>195</sup> Tennant, "Women's Homes," 52.

The province's campaign against venereal diseases led to a police report on Christchurch brothels in December 1867.<sup>196</sup> This showed twenty-three brothels, twelve of which housed only one woman, while the other eleven housed two. A further five women were of no fixed abode. The *Press* reported a portion of Kilmore Street contained some 'most depraved' women, who disturbed the neighbours with their noisy behaviour at night.<sup>197</sup> The brothel survey shows this area was home to six women – two houses with two known prostitutes, and another two houses with one (including Margaret Bowen). Unsubstantiated assumptions remain that large brothels were most common in the early years, but surviving police reports record predominately small brothels and sole-woman operations.<sup>198</sup> Robinson asserted that the Christchurch campaign against venereal disease was driven more by prostitutes as a public nuisance and an affront to public decency than by concerns about health.<sup>199</sup> Other historians have argued for the ideological connection between morality, health, and cleanliness.<sup>200</sup> However, those calling for legislation emphasised that the scientific approach would be more effective than religious moralising.<sup>201</sup> The campaign resulted in suspected prostitutes being subjected to the Contagious Disease Act 1869, which allowed examination for venereal disease. The Social Evil Committee which had considered the Contagious Diseases legislation rejected the idea that a prostitute could be legally defined as one selling sex, which would be difficult to prove, in favour of a definition based on the interpretation of her behaviour and reputation.<sup>202</sup> The Act was not in national use and was only enacted on a limited regional basis, with Canterbury one of two provinces to use it.<sup>203</sup> Christchurch's Addington Gaol had a reformatory wing added in 1871 for those who needed treatment under the provisions of the Act.

Canterbury's Superintendent William Rolleston argued the Act encouraged better behaviour in the city's streets, as the constabulary policed the Contagious Diseases Act from 1872

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<sup>196</sup> Archives NZ, File ref. R22198680.

<sup>197</sup> *Press*, 15 Apr 1865, 2, <https://paperspast.natlib.govt.nz/newspapers/CHP18650415.2.5>.

<sup>198</sup> Stevan Eldred-Grigg, *Pleasures of the Flesh: Sex & Drugs in Colonial New Zealand, 1840-1915* (Wellington N.Z.: Reed, 1984), 163.

<sup>199</sup> Robinson, "Rowdy Women," 15.

<sup>200</sup> This linking is also apparent in the title of William Acton's 1857 treatise, 'Prostitution Considered in its Moral, Social, and Sanitary Aspects'. T. C. Tulloch, "State Regulation of Sexuality in New Zealand, 1880-1925" (Ph.D. (History) University of Canterbury, 1997), 119; Lynda Nead, *Myths of Sexuality: Representations of Women in Victorian Britain* (Oxford: New York: B. Blackwell, 1988).

<sup>201</sup> Tulloch, "State Regulation of Sexuality " 195.

<sup>202</sup> Lucas, "'Square Girls'," 23.

<sup>203</sup> Lévesque, "Prescribers and Rebels," 140.

to 1885.<sup>204</sup> In contrast to the concentration of Dunedin prostitutes in the 'Devil's Half Acre', Christchurch's early-era convicted prostitutes were scattered on the city outskirts.<sup>205</sup> They came to the attention of the public, their neighbours, and the police when they were rowdy and disorderly.<sup>206</sup> Over time, police worked to confine prostitutes to a small area and minimise disruptive behaviour.<sup>207</sup> These measures were insufficient for the social purity movement, and their demands resulted in a 'clean-up' in 1906. Prosecutions led to the discovery of the one-woman brothel loophole when Christchurch police tried and failed to close down the houses of sole women occupants in Moorhouse Avenue in 1911.<sup>208</sup> Christchurch's experiences with prostitution reflected its residents' desires and fears. It had its own particular history with the trade and those thought to be engaged in it, but shared similarities to the national situation.

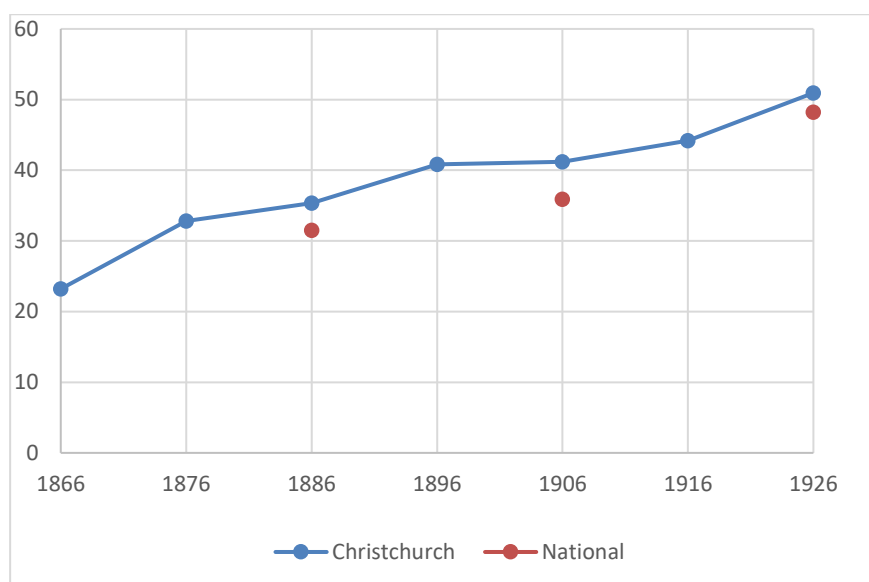


Figure 2: The average age at conviction of women in Christchurch and nationally. The Christchurch average is slightly higher, but corresponds to the same trends of older women with a rising average. Source: *New Zealand Police Gazettes 1878-1926* and *Canterbury Police Gazettes 1866-1876*.

In 1876, Christchurch's forty-two convicted prostitutes were significantly older than much of the literature on prostitution suggests, with an average age of 32.8 years. As seen in Figure 2, the only year during which the average age was under thirty was 1866.<sup>209</sup> Robinson considered the character of Christchurch's convicted prostitute group atypical. Their

<sup>204</sup> Tulloch, "State Regulation of Sexuality " 196, 94.

<sup>205</sup> Lucas, "'Square Girls'," 31.

<sup>206</sup> Robinson, "Diverse Persons," 210-11.

<sup>207</sup> Richard S. Hill, *The Iron Hand in the Velvet Glove: The Modernisation of Policing in New Zealand, 1886-1917*, The History of Policing in New Zealand, (Palmerston North: Dunmore Press, 1995), 197.

<sup>208</sup> Hill, *Modernisation of Policing*, 197.

<sup>209</sup> Additionally, while in 1866 the average age of convicted prostitutes was 23.2 in Christchurch, for Otago the average age of all women convicted in 1865 was 30.9. (This included two girls of 14 and 15 convicted of theft offences).

homelessness and alcohol use made them susceptible to arrest and their identification as common prostitutes drew social condemnation.<sup>210</sup> Police surveillance ensured repeated arrests linked to their lifestyle on the margins. The existence of an older cohort beyond Christchurch is confirmed by a report on Dunedin prostitutes in 1897, showing more than half aged between thirty and fifty-two.<sup>211</sup> Stevan Eldred-Grigg cited an earlier 1869 Dunedin brothel survey which showed an average age of almost thirty, but then inexplicably asserted the majority of common street prostitutes were much younger.<sup>212</sup> It is generally acknowledged that older women predominated on the streets and were less likely to be in brothels, as they could not command the premium prices of the desired and desirable young recruits.

More scholarly works support the existence of an older Antipodean cohort. Heather Lucas drew on *New Zealand Police Gazette* figures to give the average age between 1880 and 1890 as thirty-two.<sup>213</sup> Kerry Wimhurst's study of Queensland's convicted women likewise revealed a mean age for prostitutes of thirty-two years between 1886 and 1891.<sup>214</sup> This finding reflects the experience of the older deserted or widowed woman who discovered society had no place for her. Those without strong family bonds often found themselves on the streets, particularly those who broke the monotony of work with bouts of drunkenness. Women like Mary Blue, prosecuted for soliciting when she was sixty-five, and Margaret Bowen, who was forty-five when accused of living a dissolute life and leading her daughters astray, were typical.<sup>215</sup> Julia Crowley, a homeless charwoman, was questionably classified as a prostitute after police described her as of 'the worst prostitute class' when she was sixty-six.<sup>216</sup> Analysing the *Canterbury Police Gazette* and the *New Zealand Police Gazette*, using ten yearly intervals between 1866 and 1926, shows that women identified as prostitutes in Christchurch had an average age on conviction of thirty-nine years.<sup>217</sup> Convicted prostitutes were getting older over time, as seen in Figure 2. The average age moved through the forties to reach fifty in 1926. Minnie O'Connor was not exceptional when

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<sup>210</sup> Robinson, "Diverse Persons," 217.

<sup>211</sup> "Reports regarding Prostitution and Contagious Diseases Act," Archives NZ, File ref R24569957, viewed 15 Sep 2022.

<sup>212</sup> Eldred-Grigg, *Pleasures*, 40.

<sup>213</sup> Lucas, "'Square Girls'," 61.

<sup>214</sup> Kerry Wimhurst, "Age, Prostitution and Punishment in the Late Nineteenth Century," *Journal of Criminology* 47, no. 1 (2013), <https://doi.org/10.1177/0004865813497208>.

<sup>215</sup> *Star* (Christchurch), 23 Mar 1878, 2, <https://paperspast.natlib.govt.nz/newspapers/TS18780323.2.10.1>.

<sup>216</sup> *Lyttelton Times*, 14 Aug 1903, 3, <https://paperspast.natlib.govt.nz/newspapers/LT19030814.2.16>.

<sup>217</sup> Christchurch was chosen as the area with the greatest *Police Gazette* coverage available online, thus fully searchable.

prosecuted in 1935 for soliciting aged fifty-two.<sup>218</sup> Furthermore, age was associated with long criminal careers among New Zealand prostitutes. Christina Lawson's span from 1881 to 1928 was not unusual. These women were numerically an increasingly significant component of New Zealand's convicted prostitute group and the most likely to be regarded as unreformable.

Offences by older prostitutes, seen as preferring immorality over respectability, caused considerable concern among social reformers.<sup>219</sup> The courts sent some to the rescue homes of churches and charities; the Salvation Army, the Samaritan Home, and the Catholic facility in Christchurch, Mount Magdala, operated by the Sisters of the Good Shepherd from 1886.<sup>220</sup> From the 1890s, these facilities filled a void noted by police and the courts by providing a place to house the small homeless population.<sup>221</sup> Most rescue homes preferred to deal with the reformable, younger fallen women and were always ready to pass the older incorrigible on to some other organisation. The first Christchurch refuge rapidly decided that its ideal inmate was not 'the lowest class of bad women'.<sup>222</sup> They refused admission to known prostitutes before the courts, as seen when they declined to take Ellen Parkson and Minnie Bench in 1883.<sup>223</sup> In 1909, Julia Crawley came before the court when she was found sleeping in the house of her friend Christina Lawson for a few nights after her release from prison.<sup>224</sup> Based on information received, police raided the house, finding Julia in a makeshift bed in one room, while Christina 'consorted' with John Kelly in the other room.<sup>225</sup> Christina had an established rental history there, but neighbours complained about rows, drinking, and unrespectable associates like Julia and Mary Blue visiting. Julia and Christina had spent repeated periods in all the various institutions supposed to reclaim the reformable. Few were able to become acceptable to society by being segregated from it.<sup>226</sup> With thirty-six previous convictions and experience in all the various

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<sup>218</sup> *Press*, 13 Aug 1935, 5.

<sup>219</sup> Margaret Tennant, "'Brazen-faced Beggars of the Female Sex': Women and the Charitable Aid System 1880-1920," in *Women in history: essays on European women in New Zealand*, ed. Barbara Brookes, Charlotte Macdonald, and Margaret Tennant (Wellington: Allen & Unwin, 1986), 46.

<sup>220</sup> For the history of Mount Magdala see Catherine Kovesi, *Pitch Your Tents on Distant Shores* (Caringbah, New South Wales: Playwright Publishing, 2010), [https://issuu.com/goodshep/docs/pitch\\_your\\_tents\\_on\\_distant\\_shores\\_chapter\\_3](https://issuu.com/goodshep/docs/pitch_your_tents_on_distant_shores_chapter_3).

<sup>221</sup> Macdonald, "Women and Crime," 21.

<sup>222</sup> *Press*, 8 Jun 1867, 3, <https://paperspast.natlib.govt.nz/newspapers/CHP18670608.2.13>.

<sup>223</sup> *Press*, 16 Jun 1883, 3, <https://paperspast.natlib.govt.nz/newspapers/CHP18830616.2.22>.

<sup>224</sup> *Star* (Christchurch), 7 Sep 1909, 3, <https://paperspast.natlib.govt.nz/newspapers/TS19090907.2.50>.

<sup>225</sup> *NZ Truth*, 11 Sep 1909, 6, <https://paperspast.natlib.govt.nz/newspapers/NZTR19090911.2.31.1>.

<sup>226</sup> Macdonald, "Women and Crime," 36.

facilities, Julia simply refused to go to the Samaritan Home for three months.<sup>227</sup> Her return to prison merely continued the cycle.

Already unrespectable, prostitutes further offended when they lacked a permanent home, as homelessness and sleeping rough were policed. Margaret Bowen objected in court. She described her struggles in 1880, two years after her husband Stephen died.<sup>228</sup> Watched by police, she found that she was liable to be turned out if she spent the night in a paddock, while on the other hand, police prevented her taking a room in a house. Her situation was partly caused by the theory that charity given too freely made people dependant and created a pauper mentality – this underlay New Zealand’s rejection of the workhouse of the English Poor Law.<sup>229</sup> The result was that older women without means lived on the street, as Margaret articulated in her frustration at enforced homelessness. She had no lawful means of support and had been described as a repeatedly prosecuted prostitute and drunkard, so was given a place to live by being sent to Addington gaol for twelve months. Police regarded her as a prostitute, as she continued to associate with others with similar lifestyles. Minnie O’Connor was in a similar situation when she was charged with importuning on Christchurch’s Moorhouse Avenue in 1935.<sup>230</sup> Drunk and homeless, she approached a man on the street, then broke a taxi window as she resisted being transported away by police. She then spent a month housed in the Addington Reformatory.

## **Drunkenness**

Alcohol consumption and provision was deemed an essential facet of a prostitute’s occupation.<sup>231</sup> Charles Booth quoted police opinion of the London prostitute, she 'drinks in the course of business and very seldom gets drunk'.<sup>232</sup> Prostitutes shared the pattern with their English counterparts of drinking both in public-houses and in groups, as this was how married and middle-aged working-class women socialised.<sup>233</sup> The middle-class expectation that respectable women did not drink in public places allowed such behaviour to be used as evidence of immorality.<sup>234</sup> Robinson has observed women charged with drunkenness, largely an offence to

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<sup>227</sup> The Samaritan Home had trouble keeping women like Julia. See “Difficulty of retaining female inebriate vagrants in the Home”, Letter from Chairman of Committee of the Samaritan Home, 1896, Archives NZ, File ref R24469001.

<sup>228</sup> *Press*, 18 Mar 1880, 3, <https://paperspast.natlib.govt.nz/newspapers/CHP18800318.2.22.1>.

<sup>229</sup> Tennant, *Fabric of Welfare*, 23.

<sup>230</sup> *Press*, 13 Aug 1935, 5, <https://paperspast.natlib.govt.nz/newspapers/CHP19350813.2.11>.

<sup>231</sup> Lucas, "'Square Girls'," 85.

<sup>232</sup> Fried and Elman, *Booth's London*, 191.

<sup>233</sup> Fried and Elman, *Booth's London*, 191.

<sup>234</sup> Lucas, "'Square Girls'," 34.

public decency and morality, had a ninety-nine percent rate of conviction.<sup>235</sup> However, such charges did not always equate to involvement in other criminal behaviours such as soliciting prostitution.<sup>236</sup> Older women, like Christina, were often picked up for drunkenness rather than soliciting, importuning, or even vagrancy, and most older common prostitutes had convictions for drunkenness. Christina had 152 drunkenness convictions with another twenty-four charges of habitual drunkenness, most without a disorderly component suggesting a well-established 'habit' or addiction.<sup>237</sup> Drunkenness was an easy charge to apply in an era when public drunkenness offended public opinion and could be used to clear an area of its most troublesome element.<sup>238</sup> Robinson observed that a prostitute could face a longer prison term for drunkenness than a 'respectable' woman might face for manslaughter.<sup>239</sup>

Habitual drunkenness lacked any kind of effective treatment, and in the early years, no facilities beyond the prison system were available to handle problem drinkers. Mary Blue took out a prohibition order against herself in 1905, and two weeks later was committed to the Salvation Army Home having been arrested for drunkenness.<sup>240</sup> Overall, she received twenty-five drunkenness convictions, along with fourteen for soliciting or importuning and nine for other charges that included disorderly behaviour. Addicted women earnestly promised to reform, to take 'the pledge', and were the subject of prohibition orders, which they would inevitably breach. The Habitual Drunkards Act 1906 enabled some provisions to be made, and from February 1911, Pakatoa Island was used for the treatment of women. It was operated by the Salvation Army under the Reformatory Institutions Act 1909, which recognised both habitual drunkards and drug addiction.<sup>241</sup> Most of the funding came from the Salvation Army, supplemented by a small amount from the government for each committed individual. However, its location on an island a four-hour boat-ride from Auckland meant women living further away could be denied the opportunity for this new treatment. Instead, they continued to be taken to the local State facilities. Minnie O'Connor was suggested as a candidate for Pakatoa by a senior Dunedin

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<sup>235</sup> Robinson, "Diverse Persons," 105.

<sup>236</sup> Macdonald, "Crime and Punishment," 12.

<sup>237</sup> Information compiled from police gazettes and newspaper reports.

<sup>238</sup> Greg Ryan, "Drink and the Historians: Sober Reflections on Alcohol in New Zealand 1840-1914," *New Zealand Journal of History* 44, no. 1 (April 2010): 44.

<sup>239</sup> Robinson, "Rowdy Women," 23.

<sup>240</sup> *Lyttelton Times*, 13 Mar 1905, 5, <https://paperspast.natlib.govt.nz/newspapers/LT19050313.2.11>; *Press*, 27 Mar 1905, 6, <https://paperspast.natlib.govt.nz/newspapers/CHP19050327.2.32>.

<sup>241</sup> Reformatory Institutions Act 1909 (9 EDW VII 1909 No 30), *New Zealand Acts as Enacted*, [http://nzlii.org/nz/legis/hist\\_act/ria19099ev1909n30434/](http://nzlii.org/nz/legis/hist_act/ria19099ev1909n30434/)

policeman, citing her long list of convictions. The magistrate denied her the opportunity for treatment on the basis of her immoral character.<sup>242</sup> The best intentions of both State and addicted individuals rarely produced the desired long-term results.

### **Continuation of involvement**

William Acton's observation that 'prostitution is a transitory state, through which an untold number of British women are ever on their passage' has often been repeated.<sup>243</sup> Women briefly in the trade, as Judith Walkowitz noted, strained the Victorian fixed sense of order and one's place in life.<sup>244</sup> What would have been regarded as more troubling was the tendency of women to oscillate between prostitution and a more respectable existence, with its implications that the boundaries were permeable not permanent. Walkowitz noted the importance of relationships in allowing women to leave the trade, adding these relationships were often cohabiting rather than formal marriages.<sup>245</sup> Women like Minnie O'Connor had significant breaks between convictions that coincided with relationships. She was first convicted with a 'Pines' alias in 1914.<sup>246</sup> This was four years after her previous conviction. During this time, she married Walter Pines but left him after a month.<sup>247</sup> He divorced her at the end of 1914 for continued misconduct with other men, with police providing evidence of her lifestyle. She marked another relationship in a more permanent way by having 'W Swanson & M O'Connor' tattooed on her right arm.<sup>248</sup> Between 1914 and 1935 she was only charged with offences related to drunkenness and language, yet continued to be described in the police records as a prostitute.

Mary Blue, the widow of a man briefly regarded as respectable and the mother of eight, had her children removed to the Industrial School, and her Dunedin home called a brothel.<sup>249</sup> By 1899, when she was charged with (but acquitted of) assault, Mary was described in police records as a prostitute.<sup>250</sup> She moved to Christchurch in 1901 and began to be known as Mary Gray, implying a relationship with a Mr Gray.<sup>251</sup> This association did little to prevent further criminal offending. In 1902 she denied being a vagrant, saying she received £1 a week from a son and had

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<sup>242</sup> *Otago Daily Times*, 15 May 1924, 13, <https://paperspast.natlib.govt.nz/newspapers/ODT19240515.2.144>.

<sup>243</sup> Acton, *Prostitution Considered*, 49.

<sup>244</sup> Walkowitz, *Victorian Society*, 192.

<sup>245</sup> Walkowitz, *Victorian Society*, 197.

<sup>246</sup> *NZPG*, 28 Oct 1914, 687, <https://paperspast.natlib.govt.nz/periodicals/NZPG19141028.2.13>.

<sup>247</sup> *Evening Post*, 19 Nov 1914, 8, <https://paperspast.natlib.govt.nz/newspapers/EP19141119.2.94>.

<sup>248</sup> *NZPG*, 23 Jun 1915, 431, <https://paperspast.natlib.govt.nz/periodicals/NZPG19150623.2.2>.

<sup>249</sup> *Otago Witness*, 30 Mar 1899, 22, <https://paperspast.natlib.govt.nz/newspapers/OW18990330.2.119>.

<sup>250</sup> *NZPG*, 12 Apr 1899, 83, <https://paperspast.natlib.govt.nz/periodicals/NZPG18990412.2.15>.

<sup>251</sup> *NZPG*, 1 Jan 1902, 7, <https://paperspast.natlib.govt.nz/periodicals/NZPG19020101.2.15>.

plenty of work to do.<sup>252</sup> However, the police regarded her as an extremely bad character, one frequently associating with persons of ill-repute and known to rob drunken men. By 1903, Mary had graduated from gross indecency to being charged with soliciting prostitution, and in 1905 with importuning, with the standard sentence of one month's imprisonment.<sup>253</sup> Her continued visibility led to a rogue and vagabond charge in 1910 and she was sent into the Samaritan Home for nine months.<sup>254</sup> This sentence was not long finished when Mary was charged with being an 'incorrigible rogue', which led to her declining a return visit to the Samaritan Home in favour of a jail sentence of the same duration.<sup>255</sup> The 'incorrigible rogue' charge was not used against her again, but she continued to move from life on the streets to reformatory facilities and back, although without soliciting charges until 1917.<sup>256</sup> She married David Craw, a habitual inebriate according to the courts, in 1919.<sup>257</sup> Marriage seems to have kept her in a home setting until July 1921, when seventy-year-old Mary was arrested for loitering and importuning while she was with her son Thomas's common-law wife in central Christchurch.<sup>258</sup> The six-month sentence at the Salvation Army Home that followed and her husband's desire for her to return to the home seem to have finally removed her from the streets.<sup>259</sup> She died in 1928 at the age of seventy-nine.<sup>260</sup> Like other women, her career as a prostitute only began after the death of her first husband and continued in a spasmodic fashion, suggesting points in which economic necessity, opportunity, and drunkenness coincided.

In another example of slippery definitions, the houses that Christina and other 'common prostitutes' visited and lived in were considered disorderly houses and brothels. Over time, their living arrangements were able to be policed under statutes in the Indictable Offences Summary Jurisdiction Act 1886, Criminal Code Act 1893, and Crimes Act 1908. Women prosecuted for keeping a brothel usually rented small premises that provided space for two or three women.<sup>261</sup> The police were pragmatic about their ability to close brothels, while limited by laws that allowed

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<sup>252</sup> *Press*, 28 Jun 1902, 3, <https://paperspast.natlib.govt.nz/newspapers/CHP19020628.2.6>.

<sup>253</sup> *Press*, 12 Nov 1901, 2, <https://paperspast.natlib.govt.nz/newspapers/CHP19011112.2.5>.

<sup>254</sup> *Press*, 23 Jul 1910, 12, <https://paperspast.natlib.govt.nz/newspapers/CHP19100723.2.81>.

<sup>255</sup> *Press*, 25 May 1911, 5, <https://paperspast.natlib.govt.nz/newspapers/CHP19110525.2.20>.

<sup>256</sup> *Lyttelton Times*, 12 Feb 1917, 5, <https://paperspast.natlib.govt.nz/newspapers/LT19170212.2.19>.

<sup>257</sup> *Press*, 11 Jan 1917, 2, <https://paperspast.natlib.govt.nz/newspapers/CHP19170111.2.9>; New Zealand Births, Deaths and Marriages Search. Marriage: 1919/5142 May Blue to David Craw.

<sup>258</sup> *Star* (Christchurch), 16 Jul 1921, 8, <https://paperspast.natlib.govt.nz/newspapers/TS19210716.2.41>.

<sup>259</sup> *Star* (Christchurch), 3 Aug 1921, 7, <https://paperspast.natlib.govt.nz/newspapers/TS19210803.2.71>.

<sup>260</sup> New Zealand Births, Deaths and Marriages Search. Death: 1928/5765 Mary Craw aged 77Y.

<sup>261</sup> Lucas, "'Square Girls'," 32-33, 73-74.

witnesses to avoid incriminating themselves.<sup>262</sup> However, police making enquiries routinely informed landlords and neighbours about a woman's reputation, thus reducing the likelihood she could maintain her tenancy. Such women were often without a permanent home as they were not desirable tenants or neighbours, at a time when transience seemed to threaten social order. Alternatives for the unattached were boarding houses and short-term rentals, or a room sublet from another prostitute. Their difficulties in renting accommodation probably forced them together rather than separating them as the law required. New Zealand's older prostitutes had often been married and many were mothers. A similar point was made by Rosen, an American historian, who found that roughly a third of New York reformatory inmates were or had been married and many had children.<sup>263</sup> In New Zealand, the loose definition of 'brothel' enabled practices that damaged relationships. Under the legislation to protect neglected children, police had the ability to remove children and the practice was reasonably commonplace. Margaret Bowen's two youngest children were among those taken. In court, she admitted that with her husband unable to work, she could not keep the children.<sup>264</sup> A police sergeant said that their house was one of ill-fame and the older daughters had gone bad. Margaret was then condemned by the magistrate who advised her 'never to see or speak to her children again.' He considered she had 'brought them up bad from their babyhood, and ruined them body and soul.' A subsequent court appearance bought accusations that she was living on the proceeds of her daughter's prostitution rather than actively involved in prostitution herself.<sup>265</sup> The language used in such cases argued that the children were being rescued from an unsuitable environment, but the Neglected Children legislation could also be regarded as punishing the persistent prostitute. In contrast to the situation found by Kerry Wimshurst studying Queensland's women's prison records, New Zealand women continued to be classified as in the trade of prostitute throughout their criminal career. Wimshurst noted the label was not continuously applied to some women and suggested it could be the result of poor record keeping or indicate some women were moving in and out of prostitution.<sup>266</sup>

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<sup>262</sup> "H-02 Report and Evidence of the Royal Commission on the Police Force of New Zealand," in *Appendix to the Journals of the House of Representatives, Session I* (1898), 1040.

<sup>263</sup> Rosen, *Lost Sisterhood*, 143.

<sup>264</sup> *Star* (Christchurch), 23 Mar 1878, 2, <https://paperspast.natlib.govt.nz/newspapers/TS18780323.2.10.1>.

<sup>265</sup> *Star* (Christchurch), 9 Sep 1878, 2, <https://paperspast.natlib.govt.nz/newspapers/TS18780909.2.9>.

<sup>266</sup> Wimshurst, "Age, Prostitution."

## Discussion

Compared to the perceptions of the prevalence of prostitution in Canterbury, the number of women prosecuted was small. The average number of women labelled prostitutes convicted in Christchurch between 1866 and 1926 was about twenty per year. Although Eldred-Grigg reported contemporary estimates uncritically, Ben Schrader has called the numbers given by moralists questionable.<sup>267</sup> Schrader noted that some equated prostitution with drinking and suggested that exaggerations were made to gather support for alcohol prohibition.<sup>268</sup> Over time, most Christchurch prostitutes averaged one conviction per year. This increased in times of heavy policing, the first of which was in the 1870s while the Contagious Disease Act was being enforced. A second period was when prostitution was prosecuted under the War Regulations. These laws were a response to pressure on the government to do more to protect soldiers from venereal diseases.<sup>269</sup> In these periods of more intense surveillance, the average increased up to two convictions per woman per year. Similar problems with prostitution were found in Britain, but New Zealand's smaller population produced a different outcome. The common prostitute label produced a higher average age for convicted prostitutes, and it was the persistence of the label that produced their long-term criminal careers.

Were older women being prosecuted because of the enduring identity of common prostitute or were they engaged in prostitution as older women? This appears to have been considered irrelevant while they continued to be a visible presence in the central city. Julia Crawley was never convicted of a prostitution-related offence and only described as of 'the prostitute class' for the first time in her sixties. She indignantly denied that she was of that class, with no effect.<sup>270</sup> In court she claimed to have sons, but records about her and her family are scarce. She seems to have arrived in Canterbury in 1864, a twenty-seven-year-old domestic servant from Middlesex.<sup>271</sup> She was violently assaulted by a taxi-cab driver in 1870.<sup>272</sup> Her first court appearance as defendant was in 1875, for fighting in the central city.<sup>273</sup> Twenty-five years

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<sup>267</sup> Eldred-Grigg, *Pleasures*, 39–40; Schrader, *Big Smoke*, 284.

<sup>268</sup> Schrader, *Big Smoke*, 284–85.

<sup>269</sup> Philippa Levine, *Prostitution, Race and Politics: Policing Venereal Disease in the British Empire* (New York: London: Routledge, 2003), 162–63.

<sup>270</sup> *Press*, 13 Aug 1903, 2, <https://paperspast.natlib.govt.nz/newspapers/CHP19030813.2.4>.

<sup>271</sup> Archive New Zealand, Passenger Lists 1839–1973, *FamilySearch* ([https://familysearch.org/ark:/61903/3:1:S3HT-DTZ6-4\]?cc=1609792&wc=MP7V-C6P%3A119046201%2C119334701%2C119330401](https://familysearch.org/ark:/61903/3:1:S3HT-DTZ6-4]?cc=1609792&wc=MP7V-C6P%3A119046201%2C119334701%2C119330401); 8 Jul 2019), Canterbury > 1864 > Mermaid > image 20 of 28.

<sup>272</sup> *Lyttelton Times*, 25 Nov 1870, 3, <https://paperspast.natlib.govt.nz/newspapers/LT18701125.2.18>.

<sup>273</sup> *Globe*, 21 Jan 1875, 2, <https://paperspast.natlib.govt.nz/newspapers/GLOBE18750121.2.10>.

later, she became homeless and started gathering convictions for drunkenness and failing to pay her rent.<sup>274</sup> Several times she stated that she had been turned out and her things sold.<sup>275</sup> Eventually the police feared the old woman's death would inconvenience a respectable resident, given her habit of bedding down in urban out-houses.<sup>276</sup> Fittingly, she died in prison aged eighty.<sup>277</sup> Similarly, Margaret Bowen was never charged with soliciting, but had charges related to keeping a disorderly house and one of ill-fame in addition to her twenty-two drunkenness convictions.<sup>278</sup> She was not labelled a prostitute until she was forty-seven.<sup>279</sup> She acknowledged drinking as the cause of her trouble, repeatedly promising abstinence.<sup>280</sup> These women illustrate the pattern among 'common prostitutes' of multiple convictions for drunkenness and disorderly behaviour. The label, given in court, was retained and relied upon by police regardless of subsequent behaviour. The crucial question of if they were still prostitutes proves difficult to answer because it was not a question ever considered by the police or the courts.

An additional issue is that if these older women were not active prostitutes, what can be said about the women who were? The conviction records suggest either there were very few women soliciting on the street, or that younger 'quiet' prostitutes were escaping attention. Charlotte Macdonald noted that prostitution had its own hierarchy, with the discrete brothel subject to different policing of regulations to the disorderly woman soliciting on the street.<sup>281</sup> The answer might be found in examining the periods of active policing against venereal disease in the 1870s and 1910s, which resulted in more convictions. This did not result in a decrease in the average age, which would be expected if police had targeted an otherwise hidden population of younger women. Additional information may be located in the records of rescue organisations and reformatories, as they concentrated their attention on the younger women.<sup>282</sup> However, their focus was usually those open to reform, not the persistent type.

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<sup>274</sup> *Press*, 15 Jun 1900, 3, <https://paperspast.natlib.govt.nz/newspapers/CHP19000615.2.8.1>.

<sup>275</sup> *Press*, 2 Apr 1901, 3, <https://paperspast.natlib.govt.nz/newspapers/CHP19010402.2.8>.

<sup>276</sup> *NZ Truth*, 23 Mar 1912, 7, <https://paperspast.natlib.govt.nz/newspapers/NZTR19120323.2.39.1>.

<sup>277</sup> *Sun* (Christchurch), 26 Feb 1917, 11, <https://paperspast.natlib.govt.nz/newspapers/SUNCH19170226.2.111.3>.

<sup>278</sup> Margaret had a 'woman of ill fame' living in the house. *Globe*, 23 Mar 1878, 2, <https://paperspast.natlib.govt.nz/newspapers/GLOBE18780323.2.12>.

<sup>279</sup> *NZPG*, 4 May 1881, 76, <https://paperspast.natlib.govt.nz/periodicals/NZPG18810504.2.14>.

<sup>280</sup> For example, see *Press*, 10 Jan 1873, 3, <https://paperspast.natlib.govt.nz/newspapers/CHP18730110.2.16>.

<sup>281</sup> Macdonald, "Crime and Punishment," 8.

<sup>282</sup> Margaret Tennant has written about women's homes in a general way, but a more detailed study of their residents was beyond the scope of this article. Margaret Tennant, "Maternity and Morality: Homes for Single Mothers 1890-1930," *Women's Studies Journal* 2, no. 1 (1985); Margaret Tennant, "'Magdalens and Moral Imbeciles': Women's Homes in Nineteenth-Century New Zealand," *Women's Studies International Forum* 9, no. 5 (1986).

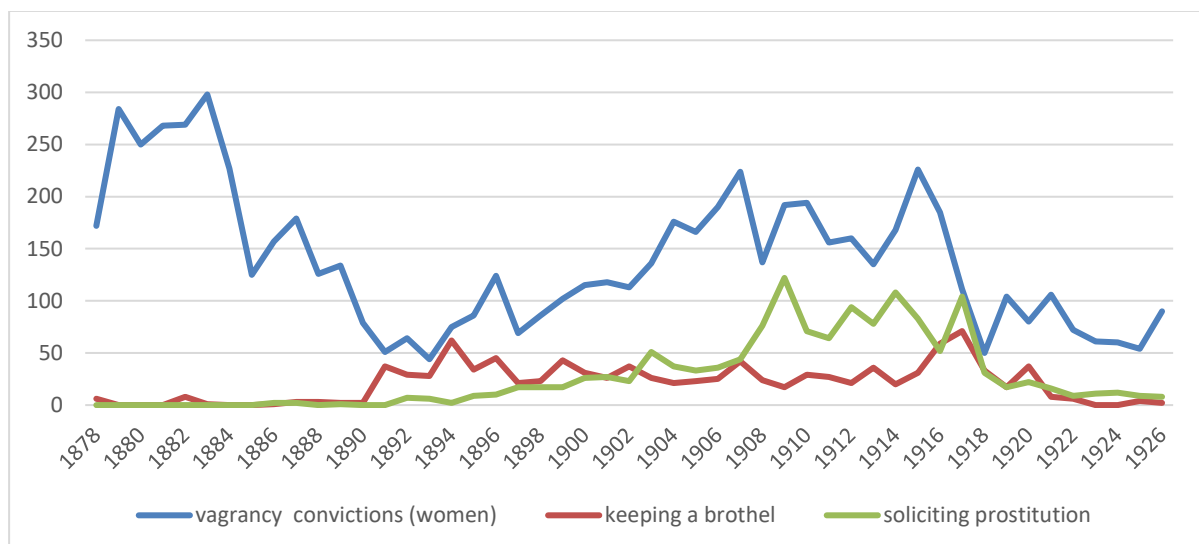


Figure 3: The number of prosecutions nationally for women convicted of vagrancy, soliciting prostitution, and of both genders for keeping a brothel, disorderly house, or house of ill-fame. Source: Statistics from Reports of the Constabulary (later Police Force), AJHR for 1878-1926.

During all periods, the enforcement of the various regulations concentrated on the disruptive element.<sup>283</sup> New Zealand historians have sought to explain public interest in regulating prostitutes rather than eliminating prostitution. Macdonald noted the influence of the influx of immigrants in the 1860s and the subsequent tightening of standards of respectability introduced in the CD and Vagrancy Amendment Acts 1869.<sup>284</sup> Eldred-Grigg described vagrancy and brothel keeping convictions for women dropping after the 1870s, while soliciting charges increased.<sup>285</sup> The national numbers of prosecutions as shown in Figure 3 for offences related to prostitution do not support his theory, as they show an overall decrease, and charges for brothel keeping and soliciting only began to be seen from 1890 with a significant decline in the 1920s. Schrader has suggested that the debate about prostitution in the 1890s, which led to the increasingly specific charges, coincided with the increasing presence of women in the public space.<sup>286</sup> They worked in offices, factories, and shops, and had disposable income to spend on public and private entertainments. As a result, they were in the public space, and this freedom might have appeared to threaten social order.

Declining numbers of prostitutes from the 1900s were due to wives and girlfriends becoming 'increasingly willing', according to Eldred-Grigg.<sup>287</sup> He also suggests that post World War One, there was less demand for professional prostitutes, with an increasing number of

<sup>283</sup> Macdonald, "Crime and Punishment," 14.

<sup>284</sup> Macdonald, "Crime and Punishment," 13-14.

<sup>285</sup> Eldred-Grigg, *Pleasures*, 163.

<sup>286</sup> Schrader, *Big Smoke*, 288.

<sup>287</sup> Eldred-Grigg, *Pleasures*, 164.

“amateurs”, and fewer male transients in the population. Instead, falling conviction rates might suggest a decline, but are not a conclusive proof of numbers in an area without quantitative data, as Schrader argues.<sup>288</sup> James Belich noted that premarital sex was prevalent in the 1910s but suggests this was not necessarily a new development.<sup>289</sup> While Eldred-Grigg’s lack of sources makes verification difficult, he suggested that aging prostitutes could indicate fewer women were moving into the trade and that it was in decline.<sup>290</sup> In contrast, this study has shown that the aging of Christchurch’s prostitutes began early, decades before the trade declined significantly.

Regardless of the reasons and the falling rates of prosecution, there were older women who had been identified as common prostitutes at some low point in their lives. While they continued to associate with others from the same social group, they repeatedly appeared in court. They demonstrated a strong network of friends and associates, similar to the ties Walkowitz noted for English prostitutes, which seem to have contributed to their continued interactions with the police and courts.<sup>291</sup> They were charged with drunkenness, with associating with prostitutes and thieves, and for not having a lawful income. It would seem that working class drinking habits, an established cultural norm, were at odds with the middle-class ethos.<sup>292</sup> They were supposed to be reformed by time spent in prison, a rescue home, or a reformatory. When they returned to their friends, or to dissolute husbands or partners, they were judged to be unreformed, the opposite of virtuous. Respectability required virtue, which, while easy to lose, was difficult to regain.

## Conclusion

Christina Lawson, Mary Blue, and Minnie O’Connor moved into and out of active prostitution. They, and others like them, returned to the streets, the public houses, and the theatres when relationships failed, and they needed to provide for themselves. Prostitution was usually a survival strategy, one of the few options, for some independently-minded women. Their ability to move in and out of active prostitution while still classified as prostitutes suggests a significant difference between Laite’s findings and this study, related either to the location or, perhaps, to the characteristics of the study group.<sup>293</sup> This study has concentrated on convicted women listed as

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<sup>288</sup> Schrader, *Big Smoke*, 284.

<sup>289</sup> Belich, *Paradise Reforged*, 187.

<sup>290</sup> Eldred-Grigg, *Pleasures*, 164.

<sup>291</sup> Walkowitz, "Politics of Prostitution" 192.

<sup>292</sup> Ryan, "Drink and the Historians," 47.

<sup>293</sup> Laite, "Legal Identity," 112.

prostitutes, and thereby excludes those not convicted and those who profitably fulfilled male desires quietly without offending neighbours or the police. Convicted women were those characterised by Robinson as a small rowdy group, whose alcohol dependence and homelessness offended.<sup>294</sup> Their convictions were related more to their ability to disrupt and upset than to their alleged profession.<sup>295</sup> They were thought to be, as Laite notes, 'permanently guilty of unrespectability.'<sup>296</sup> But it was the prostitute label, as a legal means of classifying and controlling a discrete group of women, that defined their interactions with police, the court and, ultimately, the community.<sup>297</sup>



Figure 4: Christina Lawson aged 79. She married Willian Proctor Howell in 1935, and told reporters she was 73. *Otago Daily Times*, 25 July 1935, 13.

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<sup>294</sup> Robinson, "Rowdy Women," 17.

<sup>295</sup> Robinson, "Diverse Persons," 213.

<sup>296</sup> Laite, "Legal Identity," 115.

<sup>297</sup> Laite, "Legal Identity," 99.

Christina Lawson, a young married woman from Scotland, moved to New Zealand with her husband Thomas in 1879. The couple was childless, and Christina fell into a life of drinking and prostitution. It is difficult to determine when they separated. Her repeated prison sentences were interrupted by a single period of sobriety of approximately eighteen months, which included a year-long stay at the Pakatoa Island Institute for the habitual inebriate.<sup>298</sup> By 1922, she was living under the alias Mary Dawson, and her final court appearance was in 1928. Her marriage in 1935 was widely reported in newspapers without any mention of her previous notoriety.<sup>299</sup> Instead, it was her ninety-one-year-old groom that attracted attention.<sup>300</sup> She told reporters her first husband drowned in a shipwreck. This romantic tale completed Christina's journey back to respectability.<sup>301</sup> Her husband died two years later, and she survived until 1943, a senile inmate of the Hokitika Mental Hospital. There was no easy return to virtue.

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<sup>298</sup> *New Zealand Times*, 14 Jun 1912, 3, <https://paperspast.natlib.govt.nz/newspapers/NZTIM19120614.2.20>.

<sup>299</sup> The marriage was reported in at least 40 newspapers, including *NZ Truth*.

<sup>300</sup> *Ashburton Guardian*, 23 Jul 1935, 6, <https://paperspast.natlib.govt.nz/newspapers/AG19350723.2.63>.

<sup>301</sup> Howell had a past that belied that portrayed in his obituary. Compare *Ashburton Guardian*, 31 May 1937, 4, <https://paperspast.natlib.govt.nz/newspapers/AG19370531.2.13> and "A Salvation Shepherd Gone Astray," *Lyttelton Times*, 9 May 1884, 4, <https://paperspast.natlib.govt.nz/newspapers/LT18840509.2.18>.

## Chapter Four: The Dilemma triggered by Divorce Denied

### A Sad Case

Mary Elizabeth (9), Louisa (6), Eliza Jane (3) and Joseph (6 months) Attwell [sic], were charged with being neglected children. Sergeant Anderson said that the mother was of very drunken habits, and the children sadly neglected. The eldest girl was frequently sent out for drink by the mother, who lives in a brothel off Walker Street. The father was away and the money the wife had was the proceeds of prostitution of the other women living in the house with her.

*Evening Star*, 29 Jan 1875, 2.

Elizabeth and Joseph Attiwell arrived in New Zealand in 1872 as part a group of labourers known as Brogdens' Navvies. Only three years later their marriage was over, leaving Elizabeth to provide for the family. Her choices led to the court sending the children into Caversham Industrial School and Elizabeth to prison.

This chapter investigates why informal marriages were relatively common amongst railway labourers who emigrated to New Zealand in 1872 and 1873. Research for my Master's thesis uncovered a significant number of informal marriages, including both cohabitation and bigamy. This thesis has allowed me to explore the subject in greater depth. I was able to build on my Master's thesis database of Brogden's Navvies, who arrived contracted as labourers and navvies to build New Zealand's railway network. Finding informal marriages was incidental to the more complete study of a large group and enabled statistical material to be generated. This type of marriage can only be found as part of a more general study of a population or family, as cohabiting generated no records of relationships. Some family historians note on their family trees that a couple never married, while others assume that the marriage took place, but they that have simply not yet located the official record. Likewise, bigamy does not produce a distinctive record of the event. The marriage is registered in the usual way, but there is, of course, no way of

knowing which registered marriages were bigamous. Their discovery is accidental as the larger group is studied.

This chapter engages with the extent to which the labelling of incorrigibility as an assessment of social behaviour changed. It suggests that not all 'incorrigible' or unrespectable behaviour was judged in the same way. Communities accommodated behaviour that had the appearance of following norms.

Marriage, the failure of relationships, and divorce affected all social groups, but some had easier access to legal provisions. These findings contribute towards answering the question about incorrigibility's relationship to class and gender. Women and the poor were disadvantaged, and this led to pragmatic solutions which, in cases like these, did not generally attract criticism or censure. From 1898 onward, law changes that legalised marriage breakdown and allowed remarriage seem to have reduced the need for alternatives.

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## Abstract

What happened to marriage patterns within the British Empire's colonies where more opportunity existed for breaks with past norms? This paper, based on the study of a group of labourers known as Brogdens' Navvies who emigrated to New Zealand in 1872 and 1873, argues that working people conformed with social expectations around marriage until legal and economic constraints forced them into alternative forms of relationships. Additionally, communities were sometimes more flexible and accepting of arrangements than legal strictures and prescriptions might suggest. From 1898 onward, law changes that legalised marriage breakdown and allowed remarriage seem to have reduced the need for alternatives.

## Till Death Do Us Part: Laborers' Marriage Practices in Late Victorian New Zealand

Dunedin's Maclaggan Street was one of those streets notorious for its nightlife, packed with drinking establishments, a theatre, and brothels. In the 1870s, it was a destination for railway workers coming into town at the end of a contract. They were 'on the spree', splashing cash, seeking entertainment, and settling scores. On 21 December 1875, Jessie Cheriton was there with her lover, Charles Davis, when they encountered Jessie's husband Henry.<sup>302</sup> Jessie and Henry were brought to New Zealand by John Brogden and Sons, as part of the Vogel Government scheme to build a national railway network. Fists and insults flew, police were called and all three were locked up to calm down until they could appear before a magistrate. The City Police Court heard from Jessie first, who declared Henry had blacked her eyes within weeks of their marriage, and thereafter continued to ill-treat and threaten her. She had taken up with Charles, who was able to keep her comfortable and happy, unlike her husband. Henry denied any mistreatment and said she created her own trouble with her temper and 'improper conduct'. Charles testified to witnessing Henry hitting Jessie with a flat iron in their home. He said he had taken pity on her, with the obvious result that she had moved in under his protection.

The Cheriton's brawl brought the private world of marriage to the public attention of town residents, police, and the courts. Their behaviour reinforced popular perceptions of lax morality, violence, and intemperance among the industrial working classes. Brogdens' Navvies were recruited as experienced railway navvies (labourers who specialised in the building of railways, roads, and canals) and associated trades, and together they had the essential skills in railway construction needed by the English railway contractors. Individuals from the group were often referred to as Brogdenites. But these navvies were not regarded as the right type of migrant by a government and colony intent on attracting a flood of agricultural labourers, farmers, skilled tradesmen, and single women 'of good character'.<sup>303</sup> Once in New Zealand, the group attracted media attention and was labelled 'the denizens of the back slums of the home cities' wont to

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<sup>302</sup> *Evening Star*, 22 Dec 1875, 3, <https://paperspast.natlib.govt.nz/newspapers/ESD18751222.2.13>.

<sup>303</sup> Macdonald, *A Woman of Good Character*.

'bully their employers, get drunk and fight'.<sup>304</sup> Few anticipated good moral conduct or strong familial ties between the navvies and their wives and families.<sup>305</sup> Despite some debate by historians over whether working people on the margins of society accepted marriage as a viable and important institution in their lives, this article demonstrates that for the most part, Brogdens' Navvies married, and married they stayed. In fact, after the first flurry of aberrant behaviour and as they worked their way – quite literally – into New Zealand society, the navvies seemed, to the disappointment of many, surprisingly normal. This article studies Brogdens' Navvies, a cross-section of British skilled, semiskilled, and unskilled labourers and their families, and explores the prevalence of different marriage behaviours among the group. It attempts to explain findings of marriage breakdown and informal marriages (including bigamous relationships). It will explore the extent to which it was evidence of an incorrigible navvy identity, or instead suggests a cultural practice of informal alternatives to end marriages and start new relationships indicating a wider practice and tolerance of informal marriage. In exploring informal marriage and its place in these communities, it would appear such arrangements were largely not based on rejections of social and religious norms. Perhaps somewhat surprisingly, this study shows that where couples were known to be in some form of informal marriage, there is evidence of social allowance for, and acceptance of, these relationships, suggesting such arrangements were based on a general tolerance recognizing the inaccessibility and high cost, socially and financially, of divorce.

In exploring these issues, several related matters emerge. The highly mobile nature of society, both in local and global terms, provided opportunities to escape what otherwise might have been tighter legal constraints and social conventions concerning marriage. At the same time, the surprisingly conventional attitudes to marriage among a group of men and women who were often treated as outsiders, portrayed as being subject to drunkenness and violence and as testing standard understandings of gendered roles, on the one hand, shows a willingness to conform, to be part of a larger society and to embrace some form of respectability, and on the other the porous nature of class identities in nineteenth-century New Zealand. In the end, these 'outsiders' appear to be, historically, much more like everyone else than might be expected, and they allow

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<sup>304</sup> *New Zealand Herald*, 22 Jan 1873, 2, <https://paperspast.natlib.govt.nz/newspapers/NZH18730122.2.3>; *Otago Daily Times*, 22 Mar 1873, 2 (*Supplement*), <https://paperspast.natlib.govt.nz/newspapers/ODT18730322.2.22.10>.

<sup>305</sup> *Taranaki Herald*, 22 Jun 1872, 1, (*Supplement*), <https://paperspast.natlib.govt.nz/newspapers/TH18720622.2.21>.

us a slightly different understanding of the nature of conventional behaviour, values, and morality when related to gender roles and family.

## Methodology

We know about the Cheritons because they attracted public attention, but the marriage behaviours of others remained hidden in the private world of family. Locating these practices, while still far from easy, has become increasingly possible through the academic exploitation of websites developed to cater to family historians, reflecting the increasingly common use of non-traditional digital research sources in scholarly practice. New Zealand, with its small populace and links to the British Empire which encouraged early adoption of centralised record-keeping, may be unusually suited to this type of study. For example, in many cases a person with a distinctive name was the only one in the colony, making their presence or absence in marriage and death records obvious. However, the colony's early destruction of census material has deprived researchers of a valuable evidence source for individuals and couple relationship trends. Digital genealogy sources now provide excellent tools to fill some of these gaps. The proliferation of commercial websites such as Ancestry and Findmypast enables online access to many digitised primary sources. In addition, online family trees can provide essential clues for those Brogdens' Navvies who settled, as well as those who moved on, particularly those transplanting to Australian states or returning home. Caution is needed, however, as some websites allow a superficial approach, with 'granny-hunters' quickly cobbling together records for individuals without verifying the facts or even applying basic logic.

In this article, these sources have been used to research the lives of those identified as traveling as part of the navy group. Brogdens' Navvies numbered 2,148 people, comprising 1202 men, 354 women, and 425 children. Although incomplete and missing passenger lists mean there is no full list of those migrating, at least 564 men, 235 women, and 285 children were traced as settling in New Zealand: 1084 from the 1754 immigrants identified.<sup>306</sup> Of the 364 couples who arrived, 276 could be confirmed as settling, while others moved on. Only a few passenger lists recorded the navvies' ages and from those, it was calculated that 80 percent of the men were under thirty, with the spread from fourteen to fifty, the average age being twenty-five.

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<sup>306</sup> Those that died on the voyages were counted among those who stayed. A further 62 men, 16 women and 27 children settled in Australia.

Recruiting targeted young men, and many, like Henry Cheriton who had married in 1871, had married between 1868 and 1872. Nevertheless, over nine hundred men travelled alone but tracing single men in any colonial environment is not easy. Some had similar or common names, passenger lists varied in recording identifying detail while some young single men moved on quickly and thus remain elusive to the historian. There were 188 indistinguishable single men and thirty indistinguishable family men in the group, with names like John Smith, William Harris, and one using a known alias of Harry Jones. On the other hand, some women left good evidence in official records and the newspapers, despite often being difficult to locate in the historical record. Children aided research into families when enrolled in State schools or placed in the Industrial School system. Furthermore, not all life events were officially registered. Deaths, for example, were sometimes registered under an incorrect name, and some are indexed erroneously or not at all. Likewise, births of children to couples in informal marriages can be difficult to locate, even if registered. The data, however, does allow some analysis of origins and life-paths to be undertaken, and offers a way to examine attitudes to marriage and marital breakdown in the wider community.

### **Brogdens' Navvies?**

When Brogdenites arrived in New Zealand they brought with them all the stigma of being navvies, industrial workers. They were expected to lack the civilizing determination to be upwardly mobile and the social stability attributed to agricultural labourers. Within the colony, people argued navvies were nomadic, thus unlikely to become farmers, with one commentator saying, 'They belong to the migrating rather than to the immigrating classes'.<sup>307</sup> By reputation, they were 'loud of voice and rude of speech' and fuelled by beef and beer.<sup>308</sup> Some sources called them 'Brogden's black sheep' 'whose greatest delight is drinking and rioting' and 'a coarse looking rowdy lot of men, ... as ignorant as savages'.<sup>309</sup> Historians writing about navvies often draw on the 1879 work of Daniel William Barrett, a missionary in England's railway camps. Barrett's book was the source of numerous myths about navvies, including their beef and beer consumption, and

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<sup>307</sup> *New Zealand Herald*, 31 Jan 1871, 2, <https://paperspast.natlib.govt.nz/newspapers/NZH18710131.2.9>; *New Zealand Mail*, 11 Nov 1871, 11, <https://paperspast.natlib.govt.nz/newspapers/NZMAIL18711111.2.18>.

<sup>308</sup> *Marlborough Press*, 17 Jul 1872, 2, <https://paperspast.natlib.govt.nz/newspapers/MPRESS18720717.2.9>; *Daily Southern Cross*, 14 Dec 1872, 2, <https://paperspast.natlib.govt.nz/newspapers/DSC18721214.2.10>.

<sup>309</sup> *Timaru Herald*, 21 Apr 1873, 3, <https://paperspast.natlib.govt.nz/newspapers/THD18730421.2.9>; *Wellington Independent*, 19 Mar 1873, 2, <https://paperspast.natlib.govt.nz/newspapers/WI18730319.2.7>; *Bruce Herald*, 28 Feb 1873, 6, <https://paperspast.natlib.govt.nz/newspapers/BH18730228.2.23>.

his subjective and unsupported claims have influenced perceptions since. Some historians have tended to agree with this rough and ready depiction of navy life. James Belich described navvies in New Zealand as part of a coherent 'crew' culture, 'mobile, male, and prone to binge and hit each other'.<sup>310</sup> Jock Phillip's itinerant male culture of drinking, 'swearing, gambling...and offending stable society' also fits the image of the 'typical' navy.<sup>311</sup>

However, Brogdens' Navvies were not the coherent social group assumed by popular prejudices of the time. The occupational label of navy, with its associations with beer-drinking, brawling, and rowdy behaviour, came with their recruitment as railway builders. The group was depicted as composed of typical navvies, a portrayal at odds with the report of the man who approved their selection. Government immigration agents influenced the Brogden firm's selections and insisted on bringing out couples and families versus only single men. They also favoured agricultural labourers over general labourers. Notably, experienced railway builders – navvies, platelayers, and gangers – numbered only 299 men (23 percent) of the total navy group according to the official report.<sup>312</sup> A further five percent were in railway building-related trades including bricklayers, carpenters, and masons. These experts were supplemented by unskilled labourers, such as agricultural workers used to heavy outdoor work, who were expected to learn on the job.<sup>313</sup> This mixed composition model was typical in British railway building. The group contained a cross-section of unskilled, semi-skilled, and skilled British working people who fit the 'working classes' label used in New Zealand at the time rather than the tighter British concept of 'working-class'. Working classes was the looser term used in the Victorian period and applied collectively to manual workers including farmers and settlers as well as labourers.<sup>314</sup> This article refers to these navvies as labourers, working people, and part of the working classes. Illustrating the complexities of class in the colonial context, people slipped into the role of navy to find work, and possibly to emigrate, but then slipped out as easily as they reverted to previous occupations or shifted to other roles in their new location.

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<sup>310</sup> Belich, *Paradise Reforged*, 18-19.

<sup>311</sup> Phillips, *A Man's Country?*, 40.

<sup>312</sup> "D-02D Immigration to New Zealand. Letters from the Agent General," in *Appendix to the Journals of the House of Representatives, 1 January 1873* (1873), 30.

<sup>313</sup> "I-01A Public Petitions Committee. Report on the Petition of Messrs. Brogden," in *Appendix to the Journals of the House of Representatives* (Wellington: Government Printer, 1881), 14.

<sup>314</sup> Christopher Campbell, "The 'Working Class' and the Liberal Party in 1890," *New Zealand Journal of History* 9, no. 1 (1975): 45.

The picture of a cohesive working classes group, however, is complicated by the finding that those recruited were drawn from a more diverse range of occupations than shown in the official figures. The 1871 English census shows recruits included brewers, butchers, sailors, mariners, shipwrights, and fishermen as well as boot and shoemakers, and the less desirable former soldiers and navy hands. Therefore, despite the navy label, group members can be seen as similar to assisted immigrants of the same period. Like other arrivals in the colony, they were a mixed bunch, although supposed to be drawn from agricultural areas.

Some of the Brogdenites chosen were amongst England's poorest, needing loans to make the journey, and it was only after these were offered that the immigration drive was a success. The selection process endeavoured to exclude the incorrigible element: those with undesirable social traits unwilling or unable to reform. This included former soldiers, sailors, and workhouse inhabitants, "reduced tradesmen" and any without evidence of good character.<sup>315</sup> Some slipped through, however, including a few in informal marriages like the Saundercocks. Joseph Saundercock was living with his housekeeper Ann Saunders in 1871, with three Saunders children. The youngest was probably fathered by Joseph.<sup>316</sup> They travelled as the Saundercock family and in 1895 Joseph finally married Ann in the tiny New Zealand township where they were long-time residents. Likewise, some bigamous marriages pre-dated arrival in New Zealand. For example, Henry Applegate undertook a bigamous marriage to Grace Wilson just before he signed on with Brogdens and left his first wife and daughter Charlotte behind.<sup>317</sup> Grace also left behind her mariner husband and two sons.<sup>318</sup> The Applegates participated as a married couple in their new community, living in Dunedin's Caversham suburb while Henry worked in railway construction. The Applegates had a daughter Eliza who knew of her half-sister in England, including her married name, but never met her.<sup>319</sup> These examples are significant as they suggest the practice of informal marriage was imported from their British homeland, an alternative cultural norm rather than a new solution specific to the New Zealand colonial setting.

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<sup>315</sup> "Brogden's Emigrants", *Otago Daily Times*, 27 Jan 1874, 3, <https://paperspast.natlib.govt.nz/newspapers/ODT18740127.2.17>.

<sup>316</sup> Ancestry.com.au. The National Archives; Kew, London, England, 1871 England Census: Probus, Cornwall – for Joseph Saundercock and Ann Saunders, Class: RG10; Piece: 2272; Folio: 34; Page: 17; GSU roll: 834884.

<sup>317</sup> Ancestry.com.au. The National Archives; Kew, London, England, 1871 England Census: West Ham, Essex – for Henry, Sarah and Charlotte Applegate, Class: RG10; Piece: 1628; Folio: 85; Page: 110; GSU roll: 829937; FreeBMD.org.uk. Marriage of Henry Applegate and Grace Wilson, Sep quarter 1872, Bethnal Green 1c 480.

<sup>318</sup> Ancestry.com.au. The National Archives; Kew, London, England, 1871 England Census: West Ham, Essex – Grace, Thomas and Fredrick Wilson, Class: RG10; Piece: 1628; Folio: 82; Page: 104; GSU roll: 829937

<sup>319</sup> Dunedin Probate File: Henry Applegate, Caversham, Platelayer, Archives NZ, File ref R22046027.

Nor did the other behaviours necessarily conform to the navy stereotype. On arrival, the navvies and their families lived in remote camps as work on the railways began. During this time, workers were sometimes criticised in the press for acting like navvies when at leisure, while other reports criticised them for not being typical navvies at work.<sup>320</sup> While newspapers pointed to hard living and hard drinking, there was discipline within the camps as construction took priority, fulfilling navvies' reputation for hard work. Perhaps noticeable misbehaviour was not an intrinsic navy trait but reflected the pattern of work in remote areas isolated from towns with recreation bringing them into towns as they relaxed and spent their money: it reflected the nature of the work rather than the social mores of the working community.

One of the more significant observations about class in New Zealand is that the small population made social mixing an everyday experience. In the 1870s, two-thirds of the population lived in tiny towns, townships, and farms and depended on each other as neighbours and friends, while even in cities many areas had mixed neighbourhoods where manual workers, both skilled and unskilled, lived near employers and the office-bound.<sup>321</sup> The inevitable social connections made in small workplaces, sports teams, schools, neighbourhoods, community, and church organizations allowed conservative middle-class values to permeate through these relationships. This had two effects: residential location did not adequately reflect social status in the way occupation did and workers generally held less radical views than in other societies.<sup>322</sup> Historians increasingly reject a sharply defined class framework in this period of New Zealand history and argue class relationships were important but largely operated without conflict.<sup>323</sup> These ideas are present in the value placed on work and the dignity of labour, reflected in the gradual adoption of the eight-hour day from 1840.<sup>324</sup> In 1974, and beginning his career, historian Erik Olssen favoured a class consciousness model acting towards a common political or economic end.<sup>325</sup> After thirty-five years working on the Caversham Project studying the earliest industrial suburb, he argued for the notion of a classless society in which class had been deliberately

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<sup>320</sup> *Otago Daily Times*, 17 Aug 1872, 2, <https://paperspast.natlib.govt.nz/newspapers/ODT18720817.2.6>; *Otago Daily Times*, 3 Dec 1872, 2, <https://paperspast.natlib.govt.nz/newspapers/ODT18721203.2.11>; *Otago Daily Times*, 5 Jul 1873, 5 (Supplement), <https://paperspast.natlib.govt.nz/newspapers/ODT18730705.2.28>.

<sup>321</sup> Miles Fairburn, "The Farmers Take Over 1912-30," in *The Oxford Illustrated History of New Zealand*, ed. Keith Sinclair (Auckland: Oxford University Press, 1990), 203; Olssen, Griffen, and Jones, *An Accidental Utopia?*, 38-39.

<sup>322</sup> Olssen, Griffen, and Jones, *An Accidental Utopia?*, 27.

<sup>323</sup> Oliver, "Correspondence: Class in New Zealand," 182-83.

<sup>324</sup> Belich, *Paradise Reforged*, 133-34.

<sup>325</sup> Olssen, "The 'Working Class' in New Zealand," 47-48.

decentralised from social structures. However, social mixing and egalitarianism do not preclude the existence of a working-class culture.<sup>326</sup>

At the end of their contract period or before, some Brogdenites returned to previous occupations or trades and lived in urban settings. Some tried a different line of work, becoming hotel proprietors, motor experts, or billiard markers. About ten percent settled as farmers on small farms.<sup>327</sup> More settled in the tiny railway communities they had founded.<sup>328</sup> Between thirty and fifty men, both married and single, took advantage of the continued railway building program and remained in that line of work. Another hundred were labourers, and some could have continued to build and maintain railways. William Carter arrived in New Zealand with a thirty-year employment history with the Brogdens, and a willingness to relocate wherever he was required.<sup>329</sup> Alfred Silvester, a surfaceman, was on the permanent staff by 1873, while ganger Edwin Tantrum spent his career moving regularly for his work.<sup>330</sup> From itinerant navy to stable railway worker was a lifestyle change, a form of settling down. Alfred Silvester arrived with his wife Mary, worked on the railways in the south, was father to sixteen children, and long-time member of the Foresters Lodge.<sup>331</sup> One son also served the New Zealand Railways, and another was a Gallipoli veteran. Despite their disreputable labelling, most Brogdens' Navvies who settled moved into communities close to where they had originally worked, found jobs that fitted their skills, married, had children, and played their part in church, school, and other social institutions.

### **The Prevalence of Marriage**

The young men recruited for the rough outdoor work meant the Brogden group had a higher unmarried proportion in comparison to the New Zealand resident adult population. New Zealand government statistics collected information on adults' marital status as shown in Table 1. A gender imbalance resulting from the previous decade's gold rushes was added to rather than amended by the arrival of the Brogden group's 364 married couples, 980 single people, and 425 children, given in official figures. With children excluded, the group was 55 percent single men, 2.3 percent single women, and 42.6 percent married people.

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<sup>326</sup> W. H. Oliver, *Towards a new history?*, Hocken lecture: 1969, (Dunedin: Hocken Library, University of Otago, 1971).

<sup>327</sup> Delwyn Blondell, "'A Bright Eye to the Main Chance': Brogdens' Navvies – British Labourers Building New Zealand's Railways" (MA (History) thesis, Massey University, 2020), 99.

<sup>328</sup> Blondell, "Brogdens' Navvies," 100.

<sup>329</sup> Blondell, "Brogdens' Navvies," 87.

<sup>330</sup> Blondell, "Brogdens' Navvies," 84-85.

<sup>331</sup> *Otago Daily Times*, 25 Nov 1930, 9, <https://paperspast.natlib.govt.nz/newspapers/ODT19301125.2.72>.

	1871	1874	1878	1881	1886	1896	1906	1916
unmarried	46.67	35.6	32.5	32.35	31.8	34.95	36.35	27.64
married	48.76	59.2	62.22	62.15	62.51	57.93	56.50	64.55
widowed	3.8	4.86	4.94	5.27	5.92	6.92	6.68	7.30
divorced						.04	.12	.22
not stated	1.63	.34	.34	.2	0.58	0.16	.23	.29

Table 1: Marital Status. Percentages of the New Zealand adult European population in the various marital status categories at the time of the government census, from the time just before Brogdens' Navvies arrival. Figures derived from 1916 and other census statistics found at [www3.stats.govt.nz/historical\\_publications/](http://www3.stats.govt.nz/historical_publications/)

Among the Brogden group who settled in New Zealand, 44.3 percent arrived as part of a married couple, and another 40 percent married in New Zealand. Of the single men who settled in New Zealand, 201 married locally while ninety-eight never married. For another eighteen men, it is unclear if they married with several possible marriages. Some married in New Zealand before migrating onwards. A few took their time finding a partner to settle down with and first-time marriages for adult Brogden men continued until the century's close. The official figures for the group sent include forty single women, found as daughters aged over twelve, and sisters of the men. Only one sister is known to have remained single, housekeeping for her bachelor brother, and almost all the 'adult' women married, including Alice Frost, daughter of a Brogdens' Navy, who married navy William Angell.<sup>332</sup> Those arriving as children usually also married and often produced large families, adhering to norms of family behaviour.

This inclination contrasts with some historians arguing the English lower classes had little interest in marriage and were thus more likely to practice marriage alternatives.<sup>333</sup> Another view was advanced at the turn of the twentieth century by Charles Booth. In observing Londoners, he noted legal marriage, which underpinned social organization, predominated even at the lowest level of society and particularly among the young.<sup>334</sup> In line with Booth's claim, the Brogden group mostly complied with legal requirements around marriage. In the colony they came under the regulations of the New Zealand Marriages Act first passed in 1847. Changes in 1854 meant that by the time Brogdens' Navvies arrived, when the labourers' wage averaged 7s per day, it cost a labourer a full day's pay for the official marriage documentation before paying the clergyman or

<sup>332</sup> New Zealand Births, Deaths and Marriages Search. Marriages: 1874/5878 Alice Frost to William Henry Angell.

<sup>333</sup> Frost, *Living in Sin*, 124.

<sup>334</sup> Fried and Elman, *Booth's London*, 175-6.

registrar. These financial obstacles did not deter most Brogdenites from choosing to marry respectably.

Not only did the group mostly marry, but the widowed also tended to remarry, particularly when their spouse died young. Among the adults, thirty-four widowers and thirteen widows remarried in New Zealand. Again, this suggests an acceptance of marriage as important although for some a marriage-like relationship was an economic necessity. James Hodges was left with six children when his wife Lucy died in 1879.<sup>335</sup> He married Harriet in 1883 and they added three to the household.<sup>336</sup> Both men and women struggled to provide a home and child-care in the absence of their spouse, so the majority chose to marry again. The majority of the Brogdens' Navvies married, including those arriving as single men and children, demonstrating an acceptance of the value of marriage.

### **The Difficulties of Marriage Breakdown**

Despite the centrality of marriage, not all marriages thrived, leading to a considerable number of marriage breakdowns. Historian of late-Victorian England, Ginger Frost vividly summarised, 'Unhappy husbands and wives ... divorced with their feet', as part of a strong debate during the last twenty years over the prevalence of Victorian-era marriage breakdown and cohabitation.<sup>337</sup> Rachel Pimm-Smith and Rebecca Probert believe the incidence of marriage breakdown can be overemphasised by historians fixated on finding examples.<sup>338</sup> They also observed that the poor were more prone to marital breakdown.<sup>339</sup> Financial strains often featured in breakdowns, which Frost describes as pervasive in marriages of the working classes.<sup>340</sup> In contrast to the English debate, the subject receives limited attention in New Zealand historiography. The emphasis on ongoing marriage traditions and the resulting families means failed relationships have largely escaped attention, especially for the settler era. Historians have considered changes in legislation that gave married women separate property rights and enabled women to run their own businesses, and their works have included valuable material on marriage.<sup>341</sup> Other contributions

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<sup>335</sup> New Zealand Births, Deaths and Marriages Search. Death: 1879/5064 Lucy Hodges aged 35 years.

<sup>336</sup> New Zealand Births, Deaths and Marriages Search. Marriage: 1883/1724 Harriet Woodward and James Hodges

<sup>337</sup> Ginger Frost, "Bigamy and Cohabitation in Victorian England," *Journal of Family History* 22, no. 3 (1 Jul 1997): 290-91.

<sup>338</sup> Pimm-Smith and Probert, "Marital Stability," 39.

<sup>339</sup> Pimm-Smith and Probert, "Marital Stability," 39.

<sup>340</sup> Frost, "Bigamy and Cohabitation," 289, 304.

<sup>341</sup> See Bettina Bradbury, "From Civil Death to Separate Property: Changes in the Legal Rights of Married Women in Nineteenth-Century New Zealand," *New Zealand Journal of History* 29, no. 1 (1995); Catherine Bishop,

include Jacky Lloyd who, in the late 1970s, recognised that marriage breakdowns, defined as including those ended by desertion, separation, and divorce, have been present throughout New Zealand's history.<sup>342</sup> Roderick Phillips' well-regarded 1981 work on divorce remains the most significant published history on the subject.<sup>343</sup> Reflecting on the settler period, Phillips noted the increasing importance of marriage and the family unit.<sup>344</sup>

The value of marriage to working people is suggested by historians' analysis of eighteenth-century English commoners' practices used to overcome the legal obstacles to ending a marriage and starting a new relationship. Anne Summers's feminist history of Australia reported convict women desperate to marry resorted to having letters posted back from England informing of their husband's death so they could be registered as widows.<sup>345</sup> E. P. Thompson's study into the ritual of marketplace wife sales used evidence of eighteenth and nineteenth-century sales to examine the extent of the practice and reasons for its acceptance to signal the end of a marriage. Thompson called it a form of divorce reflecting a traditional popular culture that valued ritual and proper forms.<sup>346</sup> He argued common culture, one that upheld social norms and defended marriage as part of their way of life, needed a ritual to indicate the end of a marriage.<sup>347</sup> John Gillis studied the range of marriage forms and found that while legal marriage prevailed by the late Victorian era, less formal variants survived in the poorest areas.<sup>348</sup> Even then, those couples lived in conventional families.<sup>349</sup> At the turn of the twentieth century, Charles Booth found sexually active young couples did not usually live together before marriage, with cohabitation most common between older people.<sup>350</sup> Furthermore, Joanne Klein suggests informal marriages were part of respectable working-class culture.<sup>351</sup> This suggests that British working people were more likely to be exposed to different marriage behaviours, but most followed wider norms for family life.

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*Women Mean Business: Colonial Businesswomen in New Zealand* (Dunedin: Otago University Press Te Whare Tā o Te Wānanga o Ōtākou, 2019).

<sup>342</sup> Jacky Lloyd, "Marital Breakdown," in *Families in New Zealand Society*, ed. Peggy G. Koopman-Boyden (Wellington: Methuen, 1978), 153, 38.

<sup>343</sup> Roderick Phillips, *Divorce in New Zealand: A Social History* (Auckland: Oxford University Press, 1981).

<sup>344</sup> Phillips, *Divorce*, 59.

<sup>345</sup> Summers, *Damned Whores and God's Police*, 321-22.

<sup>346</sup> E. P. Thompson, *Customs in Common* (New York: New Press, 1993), 415, 44.

<sup>347</sup> Thompson, *Customs*, 445-46.

<sup>348</sup> John R. Gillis, *For Better, For Worse: British Marriage, 1600 to the Present* (New York: Oxford University Press, 1985), 231-32.

<sup>349</sup> Gillis, *For Better, For Worse*, 236.

<sup>350</sup> Fried and Elman, *Booth's London*, 175-76.

<sup>351</sup> Klein, "Irregular Marriages," 213, 20.

New Zealand's laws often reflected those at 'Home', but the colony's values were different. An important recognition of this difference was the first legislation to provide protection following marital breakdown, the 1846 Ordinance for the support of destitute families and illegitimate children. In an inversion of British Poor Law practice which migrants wanted to leave behind, nuclear families were financially responsible for close family members.<sup>352</sup> Amendments made in 1877 to the Destitute Persons Act extended the measures, making it a misdemeanour for someone to evade an order under the Act by going to the Australian states, and widened the definition of relatives liable to support a destitute person. Changed provisions of the Destitute Persons Act 1894 held a husband financially responsible for children that his wife had borne before their marriage, providing widows with a potential obstacle to remarriage. Changes in the 1910 Destitute Persons Act redefined 'near relatives', offered maintenance orders for inadequate financial support, persistent cruelty, habitual drunkenness, and the domestic assault of a wife or children, even when the husband was willing to support his wife if she returned to him, but she had reasonable grounds not to do so. The terms of the Destitute Persons Acts, therefore, were designed to reduce any State or public responsibility for the penniless and the deserted by attempting to hold those nearest to the needy liable for their maintenance.<sup>353</sup> The major benefit for the poorest families was the provision allowing women to control their own income and protect it from a husband who might undermine rather than enhance the family's financial position.<sup>354</sup>

Most of the 275 Brogdenite couples who settled in New Zealand stayed married, but some ended with an informal separation. Marital breakdown had several contributing factors that can be identified in records about the Brogden group. Inability to provide financially, desertion of spouse or family, and domestic violence were all in evidence. Horatio Nelson Pine's persistent drinking caused his wife Diana to leave. His difficulties raising a houseful of children without a housekeeper meant the children, described as underfed and neglected, were given into Diana's custody.<sup>355</sup> As an underemployed labourer, Horatio repeatedly failed to pay the court-ordered maintenance, resulting in short terms in jail.<sup>356</sup> The separation became permanent as Horatio

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<sup>352</sup> Thomson, *World without Welfare*, 22,23.

<sup>353</sup> Thomson, *World without Welfare*, 24.

<sup>354</sup> Bradbury, "From Civil Death," 65.

<sup>355</sup> *Evening Star*, 9 Apr 1896, 2, <https://paperspast.natlib.govt.nz/newspapers/ESD18960409.2.15>.

<sup>356</sup> *Evening Star*, 25 Feb 1897, 2, <https://paperspast.natlib.govt.nz/newspapers/ESD18970225.2.14>; *Evening Star*, 21 Jul 1898, 2, <https://paperspast.natlib.govt.nz/newspapers/ESD18980721.2.15>.

eventually moved away, first within the colony but then to Australia where he effectively vanished.<sup>357</sup>

In other cases, couples seem to have negotiated amicable splits. George and Olivia Beare only had one daughter and appear to have lived apart for many years, he worked as a rural labourer while she stayed in a big town supporting herself as a nurse.<sup>358</sup> Such arrangements were usually made by older couples, past the economically difficult child-rearing years. Another example was a husband who lived away from his wife but acted as administrator of her estate.<sup>359</sup>

For the battered and bruised, the need to flee domestic violence could be a precipitating factor. Condemned when it came before the court, then, as now, most cases remained hidden behind closed doors. This was the only real 'private' marriage behaviour routinely denounced, although violence was sometimes judged to be provoked. Florence Banks was assaulted by her husband. The judge said Samuel Banks's motivating jealousy was not as bad as a brutal nature and fined him instead of giving jail time.<sup>360</sup> Charles Davis testified he had taken pity on abused wife Jessie Cheriton.<sup>361</sup> While the court doubted his motives, friends, and neighbours did not condemn women leaving violent marriages, instead offering help and sympathy.<sup>362</sup> Some even tried to stop confrontations.

Friends and neighbours recognised the difficulties and individual marriage breakdowns did not attract any adverse comment at the local level.<sup>363</sup> Judges who regularly handled cases of marital conflict and breakdown offered pragmatic advice rather than moral judgments. The judge in the Pines' case recommended reconciliation for financial reasons and chose to ignore their accusations that the other was cohabiting.<sup>364</sup> They accepted marriages fell apart and offered practical solutions to avoid taxing community support. That they did not recommend that reuniting would be best for the children or family suggests that these concerns were a lower

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<sup>357</sup> *Evening Star*, 16 May 1901, 4, <https://paperspast.natlib.govt.nz/newspapers/ESD19010516.2.32>.

<sup>358</sup> George Beare lived apart from wife Olivia, appearing in electoral rolls from 1893 to 1919 as a labourer at Mossburn, while Olivia did not appear in the 1893 or 1896 electoral roll, but lived and died at Alma Cottage, Leet Street in Invercargill. *Southland Times*, 23 Mar 1896, 2, <https://paperspast.natlib.govt.nz/newspapers/ST18960323.2.7>. Olivia's work as nurse mentioned *Southland Times*, 23 Apr 1891, 2, <https://paperspast.natlib.govt.nz/newspapers/ST18910423.2.10>.

<sup>359</sup> Edwin Tollison seems to have lived at Foxton with the family while Mary Jane lived at Hastings. He acted in Mary Jane's will: See Wellington Probate file: Mary Jane Tollison, Hastings, Married Woman, Archives NZ, File ref R23089871.

<sup>360</sup> *Evening Post*, 7 Oct 1876, 2, <https://paperspast.natlib.govt.nz/newspapers/EP18761007.2.17>.

<sup>361</sup> *Evening Star*, 22 Dec 1875, 3, <https://paperspast.natlib.govt.nz/newspapers/ESD18751222.2.13>.

<sup>362</sup> Frost, "Bigamy and Cohabitation," 290.

<sup>363</sup> Frost, "Bigamy and Cohabitation," 291.

<sup>364</sup> *Evening Star*, 9 Apr 1896, 2, <https://paperspast.natlib.govt.nz/newspapers/ESD18960409.2.15>.

priority than ensuring parents met their familial financial obligations. In addition to this pragmatic approach, those cohabiting were ignored in official statistics. Quantifiable data on marital breakdown was not collected as stable family life remained a central ideal and cohabitation implied immorality.<sup>365</sup> Further, government statistics show the category at the time of collection, so the previously divorced or widowed who remarried were counted as 'married', a class which probably also included those cohabiting.<sup>366</sup> Alternatively, unconventional relationships could be hidden in the percentage which did not reveal their marital status.<sup>367</sup>

Families often received little official sympathy when deserted by the breadwinner they relied on. Laborers did not usually earn enough to support two households, but this did not prevent break-ups. The abandoned family seemed a particularly colonial problem; mobility was blamed when men avoided their financial obligations.<sup>368</sup> Some noted the danger that deserted wives might be forced into prostitution.<sup>369</sup> Deserted women could request a maintenance order, with men legally able to be pursued to pay what they owed. As in Diana Pine's case, a court order counted for little if the man was out of work, thus unable to pay. Those deserted wives who were prepared to present themselves, pleasingly penitent, to the middle-class guardians of charitable aid could get some financial support.<sup>370</sup> The unapologetic wife who had thrown her husband out for drinking the weekly wage, the defiant drunk, the adulterous 'home-wrecker', and the criminally desperate were largely denied sympathy or help and were labelled undeserving.<sup>371</sup>

The Married Women's Property Act 1860 enabled a deserted wife to request a court order protecting money earned in the prolonged absence of her husband. While this had obvious benefits for the wife, the aim was to prevent deserted wives able to earn a living from becoming a financial burden on the State.<sup>372</sup> In 1870 protections were extended but still meant women left marriages with nothing.<sup>373</sup> Changes in 1884 negated the need for a protection order if deserted. However, women without property, savings, or income (hence most women in this situation) still

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<sup>365</sup> Statistics on cohabitation in New Zealand finally began to be collected in 1981. E. A. Quin and C. J. O'Neill, *Cohabitation in New Zealand: Legal and Social Aspects* (Hamilton: Department of Sociology, University of Waikato, 1984), 15.

<sup>366</sup> Before 1896 those identified as divorced were included in the unmarried group.

<sup>367</sup> The data also shows that male non-responders always outnumbered the female.

<sup>368</sup> Henry Finlay, "Lawmaking in the Shadow of the Empire: Divorce in Colonial Australia," *Journal of Family History* 24, no. 1 (Jan 1999): 96.

<sup>369</sup> Finlay, "Divorce in Colonial Australia," 96.

<sup>370</sup> See Tennant, *Paupers & Providers*, 103-26..

<sup>371</sup> Tennant, "'Brazen-faced Beggars of the Female Sex': Women and the Charitable Aid System 1880-1920," 40, 41.

<sup>372</sup> Barbara Brookes, *A History of New Zealand Women* (Wellington: Bridget William Books, 2016), 80.

<sup>373</sup> Bradbury, "From Civil Death," 52.

had no legal protections.<sup>374</sup> In 1876 Florence Banks applied for protection and maintenance orders against her husband Samuel. The judge decided on Florence's protection order, and the custody arrangements for their two children.<sup>375</sup> The boy went with his father and the infant daughter remained with her mother. Protection orders such as Florence's are good evidence of marital breakdown, as wives utilised legal provisions to protect any income they had generated to provide for themselves. Others relied on less official means to protect themselves after a marriage breakdown. In a common move, legally dubious because they were still married, some spouses ran newspaper advertisements declaring they were not responsible for any debts their partner might incur after they separated. Samuel Banks's advertisement ran for a week, denying liability for Florence's future debts as they appeared in court.<sup>376</sup>

Eight Brogden husbands were charged with deserting their wives. They illustrate that family breakdown often had long-lasting consequences. Joseph Attiwell was one of the first charged with deserting his family.<sup>377</sup> In 1875 he left them, resulting in his wife Elizabeth being charged with soliciting in a public street.<sup>378</sup> This led to their home being called a brothel, the four children were sent to an Industrial School for their safety, where the youngest, their only son, died within weeks aged seven months. The Attiwell sisters were finally released in their late teens. Joseph Attiwell died in 1877 and Elizabeth settled down with another Brogden man, John Barnes. It was more unusual for women to desert their husbands and, even more so, for them to leave their children, however, it did happen among this group.<sup>379</sup> That only eight prosecutions resulted from numerous marriage breakdowns suggests wives and families left behind continued to live in their communities. Some caused interest or outrage when they needed public or State support like the Attiwells, others slipped inconspicuously into new relationships to meet their needs.

### **Informal Alternatives and Inaccessible Divorce**

Brogdens' Navvies use of informal relationships appears to continue British working classes' cultural practices. The Brogdens' Navvies group turned up thirty examples of cohabiting

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<sup>374</sup> Bradbury, "From Civil Death," 57.

<sup>375</sup> *New Zealand Times*, 9 Oct 1876, 3, <https://paperspast.natlib.govt.nz/newspapers/NZTIM18761009.2.22>.

<sup>376</sup> *New Zealand Times*, 11 Oct 1876, 1, <https://paperspast.natlib.govt.nz/newspapers/NZTIM18761011.2.2.5>.

<sup>377</sup> *Evening Star*, 23 Feb 1875, 2, <https://paperspast.natlib.govt.nz/newspapers/ESD18750223.2.15>.

<sup>378</sup> *Otago Daily Times*, 10 Feb 1875, 2, <https://paperspast.natlib.govt.nz/newspapers/ODT18750210.2.14>.

<sup>379</sup> See Mary Eliza Scarlett in *Otago Police Gazette*, <https://paperspast.natlib.govt.nz/periodicals/OPG18730430.2.2>, and Catherine Rickards in *Marlborough Express*, 4 Dec 1872, 2, <https://paperspast.natlib.govt.nz/newspapers/MEX18721204.2.7>.

relationships. It is likely the group included others that were not found, especially short-term relationships. A few older men like John Barnes cohabited and, while they themselves were usually unmarried, their partner had typically previously been married. Brogden married women also started new relationships, like Florence Banks who moved in with Joseph Taylor. She had a daughter in 1878 registered as Ettie Ellen Banks.<sup>380</sup> The girl was later called Etty Helen Taylor as her mother remained living with Taylor as his wife.<sup>381</sup> Taylor and Florence registered four children as their own, but never registered a marriage.<sup>382</sup> They remained together until Florence's 1926 death.<sup>383</sup> Long-term relationships with no marriage registered, like Elizabeth Attiwell and Florence Banks, accounted for most of those found.

While most Brogden migrants married, nevertheless, a few young couples cohabited in England before they married - in contrast to Booth's London findings. In 1871 George Beare was living with Olivia Morris, and their daughter Lavinia, born in 1865.<sup>384</sup> The couple married on 3 October 1872 at Farnham and two days later they were on their way to New Zealand with George contracted to the Brogden firm.<sup>385</sup> Peter Hutson and Mary Stapleton travelled as a 'married couple' in 1872, despite not having undertaken the formalities, suggesting immigration agents did not conduct a rigorous check on marriage status. Then aged 21 and 17, neither Peter nor Mary had been married before and it is probable they effectively eloped given Mary's age. They had several children before they married in 1882, respected and established residents of New Zealand's capital city.<sup>386</sup> Peter was a prominent member of the Working Men's Club, a Justice of the Peace, and a member of the Brickmakers' Association.<sup>387</sup> Mary was active in public and social affairs, and at the time of her death in 1902, aged 47, held the offices of Treasurer to

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<sup>380</sup> New Zealand Births, Deaths and Marriages Search. Births: 1878/4423 Ettie Ellen Banks to Florence and Samuel Banks.

<sup>381</sup> New Zealand Births, Deaths and Marriages Search. Marriages: 1912/8071 Etty Helen Taylor to David Longshaw.

<sup>382</sup> New Zealand Births, Deaths and Marriages Search. Births: 1882/12378 Charles Arthur Taylor, 1885/16349 Florence Maude Taylor, 1888/3726 Annie Mary Taylor, 1890/17336 William Henry Taylor all born to Florence and Joseph Taylor.

<sup>383</sup> New Zealand Births, Deaths and Marriages Search. Deaths: 1926/6752 Florence Eva Taylor 56 years.

<sup>384</sup> Ancestry.com.au. The National Archives, Kew, London, England, 1871 Census for Aldershot, Hampshire – for George, Olivia and Lavinia W. Beare.

<sup>385</sup> Ancestry.com.au. Surrey, Church of England marriages 1754-1937: Aldershot, 1872-1877, 10 - George Beare and Olivia Francis Morris.

<sup>386</sup> New Zealand Births, Deaths and Marriages Search. Marriages: 1882/2698 Mary Stapleton and Peter Hutson; Births: 1875/10168 Alfred Hutson, 1877/5037 Isaac Hutson, 1882/15049 Benjamin Hutson all born to Mary and Peter Hutson.

<sup>387</sup> *New Zealand Times*, 3 Sep 1885, 2, <https://paperspast.natlib.govt.nz/newspapers/NZTIM18850903.2.8>; *Evening Post*, 15 Jul 1886, Page 2, <https://paperspast.natlib.govt.nz/newspapers/EP18860715.2.12>; *Evening Post*, 29 Jan 1901, 6, <https://paperspast.natlib.govt.nz/newspapers/EP19010129.2.57>.

the Women's Social and Political League, and Trustee in a friendly society.<sup>388</sup> Peter and Mary's less than conventional start to married life may have been well-hidden, hence no bar to rising socially to participate in the highest levels of a politically dominated social life. Cohabitations were evident even when navies moved on. For example, Brogdenite Levi Clarkson returned to England where, in an informal marriage, he fathered twelve children.<sup>389</sup> At least two former navies went on to cohabit with 'wives' in Australian states, one in Queensland, and another in Tasmania, examples of stable marriage-like relationships following other family norms.

British patterns of cohabitation reflected class according to F. M. L. (Michael) Thompson, who alleged only 'the dregs of society', the 'incorrigibly disreputable', engaged in such practices.<sup>390</sup> Cohabitation was motivated by indifference to social norms, he argues, rather than a principled rejection of marriage.<sup>391</sup> Conversely, Frost suggests contemporaries blamed extra-legal marriages on the rejection of social principles, finding they were evidence of a disregard for marriage.<sup>392</sup> In New Zealand, the Hutsons from the Brogden group do not appear to fit either of these positions. Peter Hutson was the son and grandson of Sussex agricultural labourers. His brother became a minister. Mary Stapleton was the daughter of a village carpenter, yet this pair passed themselves off as a married couple for ten years before finalizing formalities. They were never disreputable as they rose in social prominence, nor indifferent to social norms as they posed as a married couple. They perhaps faced some less obvious barrier to marriage. Some known impediments included cost, religious adherence or views, and legal obstacles such as an existing marriage.<sup>393</sup> Thompson acknowledged the bigamous marriage and cohabitation served a practical purpose for the poor but claims only small numbers were involved.<sup>394</sup>

Regarding the prevalence of English cohabitation, Rebecca Probert argues accepted late-Victorian cohabitation rates lacked reliable evidence despite these problematic statistics being perpetuated in later literature.<sup>395</sup> While Probert's investigation found up to 15 percent of those

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<sup>388</sup> *Evening Post*, 10 Jul 1902, 5, <https://paperspast.natlib.govt.nz/newspapers/EP19020710.2.27.2>; *New Zealand Times*, 14 Jul 1902, 4.

<sup>389</sup> Ancestry.com family trees show no marriage found for Levi Clarkson and Martha Walledge with her death recorded under her birth name.

<sup>390</sup> F.M.L. Thompson, *The Rise of Respectable Society: A Social History of Victorian Britain, 1830-1900* (London: Fontana Press, 1988), 91.

<sup>391</sup> Thompson, *Rise of Respectable Society*, 91.

<sup>392</sup> Frost, "Bigamy and Cohabitation," 286.

<sup>393</sup> Eleanor Gordon, "Irregular Marriage: Myth and Reality," *Journal of Social History* 47, no. 2 (2013): 514.

<sup>394</sup> Thompson, *Rise of Respectable Society*, 91.

<sup>395</sup> Probert, *Fornicators to Family*, 61-62.

identifying as married had no parish marriage record, she suggests these were mostly due to ambiguities caused by common names, mis-spellings, lost records, and for those who moved locations.<sup>396</sup> Instead, she blames high rates of cohabitation on other historians' flawed methodology.<sup>397</sup> Instead of couples without a marriage record being evidence of cohabitation, Probert asserts these couples were 'almost certainly' married.<sup>398</sup> Couples could not simply present as married, she argues, without some proof of legal marriage being known or supplied.<sup>399</sup> While this may have applied in her area of expertise in the settled English countryside, migration to another area, or another colony, could allow a couple to pass as married without raising suspicions as the Hutson's example demonstrates.

Although historians have researched bigamy and divorce, there is still relatively little known about cohabitation in colonial societies. Attitudes may have been different with more acceptance of variation by relabelling the practice as an eccentricity. This seems to apply to gold miner Bridget Goodwin, also known as 'Little Bidy' and 'Bidy of the Buller'. A legend in her lifetime, Bidy initially shocked townspeople by living and working with two men, her 'two mates'.<sup>400</sup> After their deaths she retired into town where she welcomed visits from the Anglican parishioners, entertaining them with stories of her adventures. Bidy was respected for the ways she reflected middle-class values of hard work, hospitality, loyalty, and for her cleanliness, despite her dubious morality.<sup>401</sup>

Less conventional arrangements probably explain why twenty Brogden immigrant wives vanished from the records. If they remained in New Zealand, they lived with another man as his wife. Jessie, the wife of Henry Cheriton, is one who was likely 'married' to another. After an 1875 court appearance with husband Henry Cheriton and lover Charles Davis, Jessie seems to vanish.<sup>402</sup> Her death was never registered under her married or maiden name, nor did she marry again although she was known to be living in Dunedin in 1881. Some others had short-term relationships, leaving evidence of alleged fathers ordered by courts to pay maintenance for

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<sup>396</sup>Probert, *Fornicators to Family*, 69.

<sup>397</sup> Probert, *Fornicators to Family*, 69-70.

<sup>398</sup> Probert, *Fornicators to Family*, 76.

<sup>399</sup> Probert, *Fornicators to Family*, 78.

<sup>400</sup> *Grey River Argus*, 6 Jan 1905, 4, <https://paperspast.natlib.govt.nz/newspapers/GRA19050106.2.40>.

<sup>401</sup> Katherine W. Orr. 'Goodwin, Bridget', *Dictionary of New Zealand Biography*, first published in 1990. Te Ara - the Encyclopedia of New Zealand, <https://teara.govt.nz/en/biographies/1g14/goodwin-bridget> (accessed 17 Sep 2021).

<sup>402</sup> *Evening Star*, 22 Dec 1875, 3, <https://paperspast.natlib.govt.nz/newspapers/ESD18751222.2.13>.

illegitimate children.<sup>403</sup> Taken together this suggests the actual numbers involved in informal marriages were higher than can be easily found.

Cohabitation usually involved at least one previously married person but did not only follow marriage breakups. Some widows and widowers also lived with long-term partners. While it is possible some married, and the marriage has not been found due to mis-indexing, mis-recording, or loss of record, examples found offered clues at their deaths that not all was as it appeared. Emma Paul, for example, arrived with her husband but was widowed in 1873. She became a respected and respectable part of a small community where she was a long-time resident with her 'husband' George Stewart. Her death notice as 'Emma Paul, the beloved wife of George Stewart' references her legally correct name.<sup>404</sup> Proof of her solid place in society is seen in the large group who followed her funeral cortege.<sup>405</sup> There was no legal obstacle to marriage for the widowed, so the relationships were an unexpected finding and the reasons for them are unclear, but suggest a community level tolerance.

The bigamous marriage also appeared to be tolerated to an unexpected degree. In Victorian England bigamy was accepted, Frost reports, particularly among the working classes.<sup>406</sup> Neighbours tolerated the illegal union as long as the bigamist conformed in other ways, which Frost identified as: having a good reason for leaving their first spouse, financial provision for participants in both relationships, and a lack of deceit about the bigamous nature of the marriage.<sup>407</sup> Likewise in New Zealand, Raewyn Dalziel noted a similar attitude while investigating attitudes of courts and society to bigamy, with a preference for a stable relationship that appeared to fulfil norms. She suggests histories of many colonial families contain undiscovered 'quiet bigamies'.<sup>408</sup>

Despite this, it was surprising to find that the Brogden group contained equal numbers of male and female bigamists. This contrasts with Dalziel's study uncovering New Zealand's ratio of one woman bigamist being charged for just over two men, which in itself is quite high compared with English studies.<sup>409</sup> The difference perhaps reflects those previous studies drew on cases

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<sup>403</sup> Press, 16 Oct 1891, 2, <https://paperspast.natlib.govt.nz/newspapers/CHP18911016.2.4.1>.

<sup>404</sup> In addition, her death was registered as Emma Paul, not Emma Stewart. *Oamaru Mail*, 24 Jul 1893, 2, <https://paperspast.natlib.govt.nz/newspapers/OAM18930724.2.12>.

<sup>405</sup> *Oamaru Mail*, 27 Jul 1893, 2, <https://paperspast.natlib.govt.nz/newspapers/OAM18930727.2.13>.

<sup>406</sup> Frost, "Bigamy and Cohabitation," 287, 88.

<sup>407</sup> Frost, "Bigamy and Cohabitation," 288, 91, 92.

<sup>408</sup> Dalziel, "The privileged crime," 7.

<sup>409</sup> Dalziel, "The privileged crime," 6.

revealed to officials, whereas the close study of specific families has value in detecting 'quiet bigamies' which never went to court. Hence, the Brogden group's 50/50 figure is consistent with the theory of bigamy as a well-hidden crime. Henry and Jessie Cheriton had separated by 1875 at which time she was in a relationship with Charles Davis.<sup>410</sup> Henry moved to another town and married in 1879 but his work took him away from home and in 1881 he was charged with and arrested for bigamy.<sup>411</sup> Apparently his 'second wife' doubted he would return. That he was acquitted is consistent with Dalziel's findings when she examined bigamy prosecutions. Her 2017 article identified seventy-one charges for bigamy between 1849 and 1900.<sup>412</sup> In a population that had swelled to 815,862 by 1901, this low figure demonstrates how infrequently bigamy was prosecuted with historians agreeing that many bigamous marriages remained undetected.<sup>413</sup> As frequently happened, Henry Cheriton had married despite knowing his first wife was still alive, admitting in court Jessie was living in Dunedin. After his acquittal, Henry returned to the stability of his marriage with his 'second wife', Florence. They moved to the city, where Henry worked as an umbrella maker and joined the working men's club. Their integration into the community saw neighbours rally around following a fire in 1897 that destroyed their two-story shop and house. Tolerance is evident as people rarely informed on those in bigamous relationships, police often chose to ignore bigamy, juries favoured leniency and judges might dismiss on a technicality. As Dalziel concluded, bigamous marriages did not appear to harm social order or morality.<sup>414</sup> This concern for social order might be the reason women were less likely to be charged than men, with the stability of a relationship preferred over a legal intervention with the potential to deprive children of their mothers.

Tolerance could also have been affected by the persistent widespread belief held that marriage was either dissolved or invalidated by seven years apart.<sup>415</sup> Richard Seddon, New Zealand's Premier at the time, described it as an unwritten law that bigamy would not be prosecuted if the pair had been separated for seven years.<sup>416</sup> Therefore, some of the Brogden group probably believed their long-term separation left them free to remarry. Samuel Banks

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<sup>410</sup> *Otago Daily Times*, 23 Dec 1875, 3, <https://paperspast.natlib.govt.nz/newspapers/ODT18751223.2.15>.

<sup>411</sup> *New Zealand Police Gazette*, 20 Apr 1881, 60, <https://paperspast.natlib.govt.nz/periodicals/NZPG18810420.2.4>.

<sup>412</sup> Dalziel, "The privileged crime," 1.

<sup>413</sup> Dalziel, "The privileged crime," 4.

<sup>414</sup> Dalziel, "The privileged crime," 2.

<sup>415</sup> There is evidence that a belief in 'automatic divorce', related to prolonged separation, continues. See Bishop, *Women Mean Business*. Chap 4, 57-70.

<sup>416</sup> *New Zealand Parliamentary Debates*, vol. 102 (Wellington: Government Printer, 1898), 162.

married the daughter of another Brogden family in 1887, thirty-nine years before his first wife Florence died but eleven years after they separated. Edward and Susan Hopgood are another example. She was his second wife and they arrived in New Zealand with a son from Edward's first marriage, with a further five children born in the colony.<sup>417</sup> In May 1885 Edward left Susan and the six children.<sup>418</sup> Edward was charged with deserting his family and a maintenance order was made and Susan was advised to apply for charitable aid. Birth registrations show Susan had another child in 1887 named Richard Newton Hopgood.<sup>419</sup> Then she married Richard Newton in 1890, only five years after she was abandoned.<sup>420</sup> This bigamous marriage cannot have been hidden from the community as they lived in a tiny town where Susan had returned to the hotel business that Edward had given up months before he left.<sup>421</sup> She took possession of a store and opened it as a grocer.<sup>422</sup> She also ran the Post Office.<sup>423</sup> As a married woman acting alone Mrs Hopgood was denied an accommodation license for the hotel business.<sup>424</sup> She then married Richard Newton and got her license. The Newtons had another son and daughter. Susan died amongst her family in Christchurch in 1908 with her death registered as Susan Hopgood.<sup>425</sup> All children from both marriages were included in her will.<sup>426</sup> First husband Edward Hopgood lived on the West Coast and appears to have died alone in 1930.<sup>427</sup> Although she could not divorce, Susan opted to marry the man she, and her town, regarded as her husband.

A few couples left evidence that their informal marriage was perhaps an open secret. Susan Hopgood's enterprising spirit and need to provide for her children saw her undertake a range of activities from taking in washing when Edward first left, to moving into the liquor trade, providing accommodation in the hotel, and purchasing commercial property. Susan's relationship with Richard Newton which produced children and businesses did not inhibit her active social

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<sup>417</sup> New Zealand Births, Deaths and Marriages Search. Births: 1874/23496 Annie Beatrice Hopgood, 1875/13153 NR Hopgood, 1876/4638 Caroline Eliza Hopgood, 1881/1949 William Arthur Hopgood, 1883/9597 Alice May Hopgood, 1885/16216 Frederick John Hopgood all born to Susan and Edward Hopgood.

<sup>418</sup> *Southland Times*, 8 Aug 1885, 3, <https://paperspast.natlib.govt.nz/newspapers/ST18850808.2.18>.

<sup>419</sup> New Zealand Births, Deaths and Marriages Search. Birth: 1887/14613 Richard Newton Hopgood, born to Susan Hopgood with no registered father.

<sup>420</sup> New Zealand Births, Deaths and Marriages Search. Marriage: 1890-619 Susan Hopgood and Richard Newton.

<sup>421</sup> *Western Star*, 10 Jun 1885, 2, <https://paperspast.natlib.govt.nz/newspapers/WSTAR18850610.2.9>; *Western Star*, 8 May 1889, 3, <https://paperspast.natlib.govt.nz/newspapers/WSTAR18890508.2.18.6>.

<sup>422</sup> *Western Star*, 6 Mar 1886, 2, <https://paperspast.natlib.govt.nz/newspapers/WSTAR18860306.2.7>.

<sup>423</sup> *Western Star*, 7 Jul 1886, 3, <https://paperspast.natlib.govt.nz/newspapers/WSTAR18860707.2.15>.

<sup>424</sup> *Western Star*, 12 Jun 1889, 1, <https://paperspast.natlib.govt.nz/newspapers/WSTAR18890612.2.2>.

<sup>425</sup> New Zealand Births, Deaths and Marriages Search. Deaths: 1908/1727 Susan Hopgood aged 58 years.

<sup>426</sup> Christchurch Probate file: Susan Hopgood, Westport, wife of Edward, Archives NZ, File ref R22390853.

<sup>427</sup> New Zealand Births, Deaths and Marriages Search. Deaths: 1930/2040 Edward Hopgood, aged 88 years.

role.<sup>428</sup> Likewise, Emma Paul and George Stewart's relationship in another small town suggests an open secret that was tolerated. While respected community members, these women both followed social conventions and subverted them. They could have taken advantage of the anonymity of mobility and shifted to another community, but they stayed, successfully challenging our views of middle-class social conventions.

Wider New Zealand society appears to have understood that lack of choice often drove people into extra-legal arrangements. Florence Banks knew Samuel was still alive so could not legally marry Joseph Taylor, however, they maintained a legitimate front. The practice saw the 'wife' take the 'husband's' name and present themselves as a couple or family. By employing this practice, the cohabiting showed a willingness to conform to the norms of larger society even as they subverted them.<sup>429</sup> They attempted to appear respectable. Elizabeth Attiwell spent most of 1878-79 in and out of jail as she battled a drinking problem. As a widow, she could have married again but she moved in with John Barnes and stayed out of court until her daughter Louisa had an illegitimate child in 1886. Louisa alleged John, who she described as her mother's husband, was the father. Elizabeth and John did eventually marry in 1896. While moral guardians would have labelled the cohabiting immoral, these stable relationships, which at face value appeared to be marriages and were regarded as such by the family, were tolerated and ignored.

At first divorce laws in England and the British colonies were based on the biblical principle that the only valid reason for divorce was adultery. New Zealand legislation recognised marriage breakdown with the Divorce and Matrimonial Causes Act 1867 and offered divorce on very limited grounds. The New Zealand Divorce Act 1898 expanded grounds and removed the double-standard where men could divorce their wives for her adultery, while wives had to prove the husband's adultery and another factor - bigamy, sodomy, incest, rape, cruelty, or desertion of five years.<sup>430</sup> This liberalizing allowed New Zealand's divorce rate to rise from negligible to one per thousand existing marriages before the turn of the century.<sup>431</sup> Roderick Phillips identified three causes increasing the prevalence of divorce: changes in the laws, an increasing social acceptance of divorce, and positive financial conditions.<sup>432</sup> His case study figures suggest a

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<sup>428</sup> New Zealand Births, Deaths and Marriages Search. Births: 1887/14613 Richard Newton Hopgood, born to Susan Hopgood with no registered father.

<sup>429</sup> Frost, "Bigamy and Cohabitation," 294.

<sup>430</sup> Finlay, "Divorce in Colonial Australia," 88.

<sup>431</sup> Phillips, *Divorce*, 61.

<sup>432</sup> Phillips, *Divorce*, 63.

prevalence of manual workers in divorce petitions, but manual workers ranged from labourers to settlers so only small numbers were labourers and their ilk.<sup>433</sup> While from 1867 divorce cases were only heard in the Capital, requiring significant expenses for both parties, over time the legal grounds became more equitable allowing those without significant resources to legally end their marriages.<sup>434</sup> A change in 1881 meant cases could be heard by one judge wherever a Supreme Court sat, making divorce slightly less expensive.<sup>435</sup> Gail Savage noted in England more working men divorced their wives than vice-versa (70 percent to 30 percent), and women had a particularly difficult time getting their cases to court.<sup>436</sup> Recently, Hayley Brown sought to explain the prevalence of working-class divorce cases as found in the Wellington courts. The high rate of working-class divorces contrasts strongly with the English experience, which Brown has stated reflected different class-based perceptions and suggests there was an English acceptance of 'irregular' unions.<sup>437</sup> She has argued that divorce demonstrated pragmatic acceptance of the importance of marriage.<sup>438</sup> Of relevance is her conclusion that extra-marital births and adultery were evidence of a working-class culture that subverted middle-class moral rules and complicated the tropes of family stability in the early twentieth century.<sup>439</sup> While initially only available to a few, divorce was the only way to pursue a new legally recognised couple relationship.<sup>440</sup> By denying lawful divorce to most, those wanting to remarry were marginalised, being excluded from a principal social institution.

That only two Brogden men divorced their wives reflects the difficulty of divorce. The first was in 1901 for desertion by the wife; William Henry Angell was the other. He first married another navy's daughter, Alice Frost. The two families, Frost and Angell, moved to New South Wales in the late 1870s. After the death of William and Alice's infant daughter, Alice reputedly married again, but no marriage was registered. Back in New Zealand, William's second marriage

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<sup>433</sup> Phillips, *Divorce*, 107.

<sup>434</sup> Phillips, *Divorce*, 18.

<sup>435</sup> David Greasley and Les Oxley, "Globalization and real wages in New Zealand 1873-1913," *Explorations in Economic History* 41 (2004): 34; Hayley Marina Brown, "Loosening the Marriage Bond: Divorce in New Zealand 1890s-c.1950s" (PhD (History) thesis, Victoria University of Wellington, 2011), 22, <http://hdl.handle.net/10063/1768>.

<sup>436</sup> Gail Savage, "They Would if They Could: Class, Gender, and Popular Representation of English Divorce Litigation, 1858-1908," *Journal of Family History* 36, no. 2 (2011): 184.

<sup>437</sup> Brown, "Loosening the Marriage Bond," 229.

<sup>438</sup> Brown, "Loosening the Marriage Bond," 9.

<sup>439</sup> Brown, "Loosening the Marriage Bond," 230.

<sup>440</sup> Savage argues this exclusion was deliberate, and cheap, readily available divorce was not the desired result of law changes. Savage, "They Would if They Could," 181.

was a bigamous one, as in 1908 he married a widow with two children.<sup>441</sup> William purchased a business and, a few years later, sold it and gave his wife Mary the £800 he received. Mary then left William and refused to return to live with him.<sup>442</sup> He divorced her in 1921 for desertion and married Jemima McCamish the following year. William managed to get a divorce for a bigamous marriage without disclosing the fact, suggesting his second wife was unaware of the continued existence of the first. As divorce became easier in the twentieth century, the children who arrived with navy fathers were more likely to divorce than their parents' cohort. Nine cases of divorce occurred among the 298 children settled in New Zealand, a mere three percent. Desertion was the primary cited cause, and the subsequent remarriage was speedy. They used the law to fulfil the need bigamy had not quite filled for their parents, the legal end to one relationship allowing the legal beginning of another. The small number of cases prevent any strong conclusions about divorce in New Zealand, except that it was rarely used in this group.

## Discussion

It can be argued that migration to a distant place could encourage escape from marital conventions, yet people retained conventions they valued. This included the central role of family and marriage. A few of the Brogdens group indeed used migration to begin a cohabiting relationship, but others were prompted to formalise an existing arrangement. The group bought with them cultural alternatives that allowed the working classes to seek out happier relationships and did not tie them into failed ones. Mobility's role in marriage breakdown is ambiguous, with evidence suggesting it was sometimes the result and at others the cause. To understand their surprisingly conventional behaviour in preferring to marry, it is evident that continuity can be observed with English marriage practices among the working classes. For example, Probert asserted, 'The lack of any clear and unambiguous name reflects the rarity of cohabitation in this period'.<sup>443</sup> Indeed, cohabiting, concubinage, de facto, reputed, and pretended were all terms used in the New Zealand press to describe a marriage-like relationship that, while not illegal, was regarded as immoral by the respectable. Frost, in challenging Probert's ideas, notes Probert's very narrow definition of cohabitation excluded those who never intended marriage as well as those

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<sup>441</sup> *New Zealand Herald*, 2 Dec 1921, 5, <https://paperspast.natlib.govt.nz/newspapers/NZH19211202.2.32>.

<sup>442</sup> *Auckland Star*, 2 Dec 1921, 4, <https://paperspast.natlib.govt.nz/newspapers/AS19211202.2.42>.

<sup>443</sup> Probert, *Fornicators to Family*, 53.

who married illegally.<sup>444</sup> Preferring to use informal marriage in a broader sense, this study has found that relationships were more in line with some of Frost's broader arguments. Couples preferred to marry but Frost argues, in England, those who cohabited faced legal and religious obstacles to marriage, a situation which might also apply in New Zealand.<sup>445</sup> On the other hand, Probert's observation that 'one might ponder why couples would claim to be married if cohabitation was as common and as widely accepted as has been claimed' correlates frequency with acceptability.<sup>446</sup> Could it not be that cohabitation occurred as needed but was hidden due to a lack of acceptability: that it fulfilled a need for those unable to legally marry? As Frost suggests Brogdenite working-class cohabiters 'saw themselves as married', as they acted as married people and referred to themselves as married.<sup>447</sup> Further evidence of couples acting as if married was found in a Tasmanian study where two-thirds of births to unmarried couples were registered as if to a married couple, the mother using the father's surname.<sup>448</sup> This suggests a wide-spread but well-hidden practice in the colonies hidden behind conventional behaviour, irrespective of whether the same occurred in immigrants' place of origin.

The New Zealand discourse about marriage and divorce reflected expectations of marriage with separate spheres of influence for men and women, and defined masculine and feminine roles, but the moral majority's ideals of marriage in a perfect world bore little resemblance to the colonial experience of labouring people. Laborers and their families lived near one another and unlike those with larger houses, there was no respite in a working-man's cottage or hut from continual interaction. Going out to work would provide some reprieve and following work around the district and beyond was a legitimate excuse for living apart. It also provided an opportunity for some men to escape wives and families and might lead to charges of desertion if maintained over time, without money being sent home. In the case of marriage, some behaviours were considered unacceptable. The men who did not provide were considered a double failure.

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<sup>444</sup> Ginger Frost, "The Changing Legal Regulation of Cohabitation: From Fornicators to Family, 1600–2010. Law in Context Series Rebecca Probert," *Journal of British Studies* 53, no. 2 (22 April 2014), <https://doi.org/https://doi-org.ezproxy.massey.ac.nz/10.1017/jbr.2014.47>. 4.

<sup>445</sup> Frost, *Living in Sin*, 116.

<sup>446</sup> Probert, *Fornicators to Family*, 63.

<sup>447</sup> Frost, *Living in Sin*, 117.

<sup>448</sup> Rebecca Kippen and Peter A. Gunn, "Convict Bastards, Common-Law Unions, and Shotgun Weddings: Premarital Conceptions and Ex-nuptial Births in Nineteenth Century Tasmania," *Journal of Family History* 36, no. 4 (Oct 2011): 390.

They had failed their families and they had failed as men.<sup>449</sup> Society labelled men unable to earn as either lacking character or the desire for work or both.<sup>450</sup> Any failures to provide for their dependents was evidence they avoided their responsibilities.<sup>451</sup> Horatio Nelson Pine's difficulties paying maintenance after he left the family saw Diana blame his drinking, while he blamed lack of work. Issues that precluded earning, like underemployment in seasonal and rural work, or injury or illness, were scarcely recognised. Yet other couples arranged separations without involving the court, complying with convention about respectability even as they moved out of the accepted family structure.

Broken families were seen as a potentially deplorable financial burden for society, and the shameful behaviours of failure to provide, desertion, domestic violence, and cohabitation were mostly regarded as the territory of poorer people. These attitudes seem to represent a class-based approach to marriage breakdown by attributing it to those on the bottom rungs of the social ladder. The abandoned colonial wife found herself in an exceedingly difficult position, left without money, and probably with children. Her choices were to struggle to provide for herself in a system that did not provide women with a living wage and to plead for grudgingly given charity or to risk social censure while cohabiting with an understanding man. He had to not only provide for this woman and her children but accept that any children from their own union were legally illegitimate. She could not remarry as her absent husband could return at any stage. New Zealand legislation, with its English origins, reflected the needs of the English propertied classes rather than those of colonial migrants, most of whom arrived with little.<sup>452</sup> When marriages ended the family unit was in financial danger, more so when far from extended family. In the case of a death, both widows and widowers found quick remarriage essential. Those marriages that ended without the death of a spouse, however, were in no less economic peril. Changes over time accommodated issues that were encountered, but not before marital failures forced people to choose between legality and morality when establishing new relationships.

This New Zealand example contrasts with the argument that working people expected little more than companionship from their marriages, as they continued to find ways to search for

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<sup>449</sup> Annabel Cooper, "Poor Men in the Land of Promises: Settler Masculinity and the Male Breadwinner Economy in Later Nineteenth-Century New Zealand," *Australian Historical Studies* 39, no. 2 (2008): 246.

<sup>450</sup> Cooper, "Poor Men," 258.

<sup>451</sup> Cooper, "Poor Men," 260.

<sup>452</sup> Savage, "They Would if They Could," 174.

a happy home both within the law and without.<sup>453</sup> This research found seventeen cohabiting examples with another twenty navy wives unaccounted for and likely in an informal marriage. Of five instances of bigamy, only one was prosecuted, with another three probable bigamous marriages in the group. Both cohabitation and bigamy generally followed marital breakdown or the death of a spouse, so were often undertaken in the absence of other acceptable choices. While Dalziel observed tolerance towards bigamy in New Zealand, this study suggests lenience also extended to cohabiting relationships.<sup>454</sup> Social tolerance in this colonial society likely derived from the lack of alternatives when marriages broke down and the central roles couples played in their communities. Despite the relatively limited size of the group, the study also suggests a declining rate of informal marriage as the laws changed, with both cohabitation and bigamy reducing in the next generation as divorce allowed the informal options to be replaced. This suggests colonial society, composed mostly of British settlers old and new, was more accepting of the practical solutions found in an otherwise impossible situation than legal and social discourse would suggest. The smaller population enabled a greater degree of social homogeneity in colonial New Zealand, transcending questions of class, and even employment.

Once part of the local populace, members of the Brogden group appeared much like everyone else. There is little evidence that the negative connotations of the navy label persisted, and they continued to resort to common cultural practices to overcome difficult situations, prompted by a desire to appear respectable and follow the conventions. Once part of the community, they continued to apply cultural practices that should have attracted negative attention but there is no evidence it did, nor that individuals were vilified for their relationships. Therefore, it seems friends and neighbours were more accepting than rhetoric would imply in tolerating different cultural practices that followed the spirit rather than the letter of the law. While about 3.5 percent of the adults in the group were found to have lived in informal arrangements, the prevalence of the practice diminished for their children. With the new capacity for divorce, they ended their marriages legally more frequently than their parents' generation. Only 1.8 percent of those who were under the age of fourteen when they arrived could be found in an extra-legal marriage, suggesting that given the opportunity to divorce they preferred the legal option. The divorce rate increased appreciably, from 0.2 percent for the Brogden parents to

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<sup>453</sup> Frost, "Bigamy and Cohabitation," 290.

<sup>454</sup> Dalziel, "The privileged crime," 19.

3 percent for the children. However, divorce and its stigma were public, while informal arrangements remained private. The children were also slightly less likely to marry bigamously, at 0.3 percent down from their parents' 0.9 percent. However, they still separated from their spouses without divorcing or entering new relationships, suggesting being married had not become any easier.

The wealth of scholarship around marriage has not generated the same interest in New Zealand, particularly in the more difficult areas of marital breakdown and cohabitation. This type of contentious subject, Tanya Evans argues, could draw on family history material as a source when informal life events left few official markers. Projects using family-centred historical research are described as 'pushing forward the boundaries of what can be revealed'.<sup>455</sup> This study uses these boundary-pushing methods to get close to the subjects when information about marriage breakdowns and informal marriages cannot be found in the statistics of the period. What is required is an examination of individual lives, with evidence found in electoral rolls, postal directories, probate records, and newspaper accounts of court proceedings. Websites catering to family historians enable access to the wealth of material made available through arrangements with archives and libraries and family history societies - far larger than the digitised collections of universities, public libraries, and archives themselves.<sup>456</sup> The sheer volume of digital sources is searchable and able to be assessed by a single person in ways hard copy primary sources cannot. However, the limitations of indexing quality are frequently noted by family historians who promote consulting the original record while historians often struggle with the websites' search engine parameters. Using this family-history-centred method found that the group members were more like the typical assisted immigrant to New Zealand than would have been found otherwise, upsetting the notions they were a homogenous group of navvies or mostly rural labourers. Instead, it found they were from the working classes, unskilled and skilled, but, like others from that group, not all their marriages survived till death did them part.

## **Conclusion**

This article's examination of marriage and informal marriage complicates the current understanding of the spread of British marriage traditions in colonial societies. A significant discovery was the surprisingly conventional embracing of marriage and respectability by those

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<sup>455</sup> McCliskie, "Using Digital Genealogy," 111.

<sup>456</sup> McCliskie, "Using Digital Genealogy," 115.

portrayed as on the margins of society. Alternative practices associated with marriage seem to be widespread among these working classes, transcending the more specific condemnation attached to groups identified as undesirable, such as navvies. Henry Cheriton married Jessie because if young people could, they generally did. Brogdenites arrived married or expecting to marry and recognised the value of marriage and family for themselves and their communities. However, this conventional picture is unsettled by examples of widows and widowers in later cohabiting partnerships. Unusually, a few young people of this group cohabited in England, and others moved into informal relationships after they left New Zealand. In addition, this study found numbers of women involved in bigamous marriages equalled men, including one bigamously married couple imported from England, which challenges the understanding of bigamy based on prosecuted cases.

A known limitation of this study were problems in locating members of the group, from missing and inadequate passenger lists to births and deaths that were either not registered or misrecorded. Thus, the data analysed is not complete for the whole group, implying this research underrepresents informal marriage within the group rather than overrepresents it. The close study of family histories method could be applied to communities elsewhere in the world to uncover well-hidden skeletons in the family closet and reveal the extent of female bigamy.

One area this article did not explore was the recurring motif of the importance of women's financial independence, as evident in the business life of Susan Hopgood. Further research into the lives of deserted and separated wives has the potential to reveal more about the work undertaken by working women and mothers.

The Cheritons failed to live together amicably. Had they not brawled publicly they would likely have avoided the notice of the law. Even then, the magistrates did not pose a moral judgment on the married couple and the lover, rather he declined to enquire further. Henry skulked off; his marriage broken. He married again four years later and was subsequently prosecuted and acquitted as a bigamist. But marriages that fell outside the norms were not a phenomenon created in the colonies, they continued an established practice.

## Chapter Five: Controlling Crucial Child-care

### Customs

In the R.M. Court on Tuesday judgment in the case of Minnie Dean v. Charles Olsen and Mary M. Olsen, a claim for £28 14s for the maintenance of a child, at the rate of 7s per week, was given against Mary Olsen for £22 14s, with costs £3 13s. In the case of Charles Olsen, judgment for defendant, with costs £3 3s was given.

*Southern Cross*, 1 July 1893, 8.

Before Minnie Dean became New Zealand's most infamous baby-farmer, she was merely one of many who provided paid child-care. Other prosecutions of 'baby-farming' uncovered a range of child-care arrangements. The focus on infanticide has largely hidden a common practice which fulfilled a working class need.

For this study, those called baby-farmers were first identified from Papers Past searches. Once names and locations were identified, I conducted research into the lives and families of those called baby-farmers as well as their fostered children and their birth parents, as far as possible. The most challenging person in this group was Myra Smith, as this was not her correct given name. Considerable work went into finding Mrs Smith in Dunedin's North East Valley, and I eventually located her through her children's school records. Correctly identifying Mrs Smith enabled her life-story to be compared to the evidence given in court. Previous historians have not known her real identity and thus have been unable to refute the police allegations about her being a deserted wife.

This chapter uses newspaper reports and archive files to investigate foster-care prosecutions, uncovering the extent to which dynamics of class and gender are reflected in the debate surrounding the incorrigible. Parents, particularly mothers, were regarded as responsible for the care for their children, and outsourcing of child-care was thought to enable unmarried women to abdicate their responsibility for the child. There appeared to be little concern that the father of the illegitimate child should also be held responsible. Strong prevailing views about

family meant that foster parents were still subjected to ordinary morality judgements if not married.

Analysing the lives of those accused of baby-farming helps answer the question about the impact of being labelled incorrigible. It shows many were deserted wives or widows. They were more likely to be desperately poor rather than incorrigible or lowlifes. Newspapers fuelled moral panic by using baby-farming as a pejorative catchall for a range of paid care, while the police and the courts negotiated legislation introduced to monitor foster and adoptive parents.

This chapter is comprised of an article submitted to the *Law & History* journal in September 2023 as:

Blondell, Delwyn. "Beyond Baby-farming: Prosecuting Paid Child-care in Liberal-era New Zealand."

## Abstract

Minnie Dean was the most notorious of those accused of baby-farming in Liberal-era New Zealand. Minnie was found guilty of murder and executed, whereas other 'baby-farming' cases before the courts revealed a range of child-care arrangements. The connection of baby-farming with infanticide has received some attention from historians. However, the attitudes of those enforcing the law in cases that encompassed the full range of paid child-care have not. Using newspaper accounts of court cases and archival sources, this article explores the interactions of the police, the courts, and carers in what proved to be a pragmatic solution to the problem of illegitimate babies. The differing treatment of those providing paid care underscores societal attitudes toward such arrangements. Newspapers fuelled moral panic by using baby-farming as a pejorative catchall for a range of paid care, while the police and the courts negotiated legislation introduced to monitor foster and adoptive parents.

## Beyond Baby-farming: Prosecuting Paid Child-care in Liberal-era New Zealand

Minnie Dean is New Zealand's most notorious baby-farmer and the only woman to be executed for her crimes.<sup>457</sup> Her infamy dominates our understanding of what baby-farming was, and has served to reinforce the link between infanticide and the moral panic that led the Liberal Government to enact legislation to prevent the death of infants in paid care.<sup>458</sup> Other people were caught up in the furore that was generated by cases like hers. In 1894, Charlotte Redmond, a caregiver for infants in Dunedin's North East Valley, faced an inquest after the death of a three-month-old boy in her care.<sup>459</sup> She had been looking after the child, Thomas Beath, on behalf of his father, and had taken him in at the age of five weeks. Charlotte considered herself an experienced nurse, having raised five children of her own, as well as fostering at least twenty others. She had fed Thomas a mixture of water and milk with occasional Maizena supplements.<sup>460</sup> However, the doctor's testimony revealed that many infant deaths were attributed to inadequate feeding, hinting at possible negligence. Charlotte was not condemned in court and the derogatory term 'baby-farmer' was not used to describe her. In contrast, Mary Ann Guy from Wellington faced harsh criticism from the populist newspaper *New Zealand Truth* in 1906. The stacked headline shouted 'Grievous Graveyard Guy. Foul Baby-Farmer Fixed. Found Guilty of Manslaughter. Infant Illegitimate's Awful Fate'.<sup>461</sup> The newspaper branded her a professional baby-farmer, as she fostered five children. Mary Ann had registered her house under the Infant Life Protection Act 1896, an official recognition of her occupation, but forfeited her registration in 1904. When charged with manslaughter related to the death of Nellie Smith due to starvation and opium-based medication, Mary Ann claimed ignorance of the legal restrictions on paid care for children. The resident magistrate referred the case to the Supreme Court and Mary Ann was tried and convicted of manslaughter. Consequently, the newspaper painted her as both a guilty and a morally reprehensible figure. Although these cases involved paid care of infants and potential negligence, the disparate treatment of these women by the courts and newspapers reflect

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<sup>457</sup> Lynley Hood, *Minnie Dean: Her Life and Crimes* (Auckland: Penguin, 1994), 23-24.

<sup>458</sup> Belich, *Paradise Reforged*, 184.

<sup>459</sup> *Otago Daily Times (ODT)*, 17 May 1894, 4, <https://paperspast.natlib.govt.nz/newspapers/ODT18940517.2.57>.

<sup>460</sup> Maizena was a type of corn flour.

<sup>461</sup> *NZ Truth*, 8 Dec 1906, 4, <https://paperspast.natlib.govt.nz/newspapers/NZTR19061208.2.27>.

that New Zealanders had accepted the term baby-farming as a descriptor for paid infant care. The pejorative label was used to interpret infant deaths in situations where carers lacked familial bonds to the child. Newspapers fed moral panic while the State remained concerned about the deaths of children even when 'unwanted' and in paid care. Legislation provided oversight of essential child-care alternatives, bringing a range of cases before the courts.

There were thought to be differences between what was labelled baby-farming and the more respectable practise of boarding-out. In the 1870s, the English medical community reinterpreted and sensationalised the traditional practises of wet nursing and foster care as baby-farming, a previously benign term.<sup>462</sup> This link between paid child-care, neglect, and infanticide endured in public consciousness. The resulting moral panic eventually spread to the British colonies as cases of infanticide by foster parents were uncovered. The Liberal Government in New Zealand was one that was quick to implement laws to control and compel as they sought solutions to emerging social problems.<sup>463</sup> Australian infanticide cases prompted it to act to monitor paid child-care. As in other places, the paid child-care market was largely driven by supply and demand within the working classes. Assimilating the international outcry, New Zealand newspapers applied the baby-farming label to working-class women and men in cases which included both infant-nursing and paid adoptions. When the cases came to court, newspaper reports show how police prosecuted and the judiciary judged paid child-care, as legislative changes were made in response to concerns about infanticide and neglect.

This article uses court cases about private arrangements for the care of illegitimate children to explore how practices labelled 'baby-farming' reveal the dynamics of New Zealand's legal situation from the 1880s to the 1920s. As Shurlee Swain has argued, such child-care was commonplace, an economic exchange fuelled by the needs of single mothers, a surfeit of unplanned children, and the desperate hopefulness of poor women trying to eke out an income.<sup>464</sup> It was a functional working-classes solution to a perpetual problem. The care provided varied, from careful and loving, to neglectful. Twelve court cases that included a reference to baby-farming were found in the press but are indicative of the larger practise of paid child-care.

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<sup>462</sup> Linda Gordon was the first to argue that baby-farming started as babies being wet-nursed or boarded out, with the traditional practises transformed by the *British Medical Journal* crusade decrying them as a commercial form of infanticide. Linda Gordon, *Heroes in their own lives: The Politics and History of Family Violence, Boston 1880-1960* (New York: Viking, 1988), 43.

<sup>463</sup> Gibbons, "Tramps into Taxpayers," iii, 9.

<sup>464</sup> Shurlee Swain, "Towards a Social Geography of Baby Farming," *The History of Family* 10 (2005): 151.

Many other individuals and couples provided care, evident from the archival records of those who applied for licencing in the wake of the Infant Life Protection Act 1894, and from trials and inquests under the Act. Attitudes towards those providing care varied over the period as publicity about baby-farming fluctuated. Social reformers generated moral panic about a social problem, but generally achieved little which addressed the underlying causes. Legislation by the Liberal Government against the specific crime of infanticide was used to establish a wide-ranging means of monitoring the working-class child-care practise rather than preventing it.

Arrangements for the care of some illegitimate children were formalised in the New Zealand Adoption of Children Act 1881, setting a precedent within the British Empire. There had been informal adoption arrangements before the Act, but any contracts made between the natural and adoptive parents had not been legally binding. Introduced as a Private Member's Bill by George Waterhouse, one-time New Zealand Premier, its aim was legal protection for the adoptive parents from 'annoyance and blackmailing' by the natural parents, as well as to give adopted children the same legal status as a parent's natural child. The low number of adoptions has been explained by Margaret Tennant as reflecting the belief that illegitimate children were tainted by their parentage and the reality that infants were a financial burden.<sup>465</sup> This might explain the common practise of a premium being paid to the adoptive parents to defray expenses. For example, in 1882 Mr Evenden requested £3 from Wellington's Benevolent Institute, to be spent on clothes for the little girl he wanted to adopt from them. After some debate among the committee, the adoption was allowed, and the money was supplied. This demonstrates that the practise of premiums was originally not questioned, but was one that became less acceptable until the transfer of large sums was outlawed by legislation in 1907.

Improving child welfare was not initially the focus of legislation to prevent infant death. Britain passed its Infant Life Protection Act in 1872, but the colonies were slow to follow suit until a need arose. Victoria in 1890 and New South Wales in 1892 preceded New Zealand's Infant Life Protection Act 1893 as antipodean infanticide cases were discovered. Despite at least one case prosecuted under the Child Protection Act 1890, further regulations were demanded. Baby-farming legislation was proposed in late August 1893, following a warning from the Commissioner of Police, Colonel Arthur Hume, about its undoubted presence in the colony.<sup>466</sup>

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<sup>465</sup> Tennant, "Maternity and Morality," 39.

<sup>466</sup> *Otago Witness*, 31 Aug 1893, 27, <https://paperspast.natlib.govt.nz/newspapers/OW18930831.2.73>.

His report suggested that 'premiums of £6 to £20 being paid for the placing of children in homes, where the sooner they died the better everyone was pleased'.<sup>467</sup> He urged legislation to register infants and inspect foster homes. Meanwhile, interest groups such as the St Saviour's Guild brought government attention to their perception of an increase in infanticides. The Infant Life Protection bill was passed with a minimum of discussion.<sup>468</sup> At the second reading, one politician linked the legislation with the desire of department heads to 'magnify their office', implying that they sought to expand their authority.<sup>469</sup> The Bill passed into law with Colonel Hume's declaration that it had 'pretty well stamped out' a threatening social evil widely reprinted.<sup>470</sup> The provisions were described by one newspaper as easy to comply with and protective of infant life. New Zealand's provisions focused on registering those who nursed or informally adopted children under two years of age for payment and specifically excluded infants who had been legally adopted or those under Industrial School care.<sup>471</sup> Registration allowed police officers to inspect the house and children, and a detailed roll had to be kept. The licence had to be renewed annually. A timely inquest was required for infant deaths in care. Significant amendments were made in 1896, extending the age of infants from two to four years and making exemptions for public institutions.<sup>472</sup> Various practises used from 1894 were included, such as detailed forms to be filled in and the Inspector of Police overseeing enquiries into applicant suitability. While these tasks were carried out, other police duties had a far higher priority than regularly inspecting the increasingly numerous foster homes.<sup>473</sup> Significant numbers of foster parents complied with the regulations, with 553 houses registered for the care of 829 infants in 1898.<sup>474</sup> Alongside some relatively minor changes in the Infant Life Protection Act of 1907, such as extending the age to under six years and defining 'foster parent' and 'foster home', a larger change transferred the administration of infants to the Education Department. A welcome

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<sup>467</sup> *Evening Star*, 26 Aug 1893, 4, <https://paperspast.natlib.govt.nz/newspapers/ESD18930826.2.42>.

<sup>468</sup> *New Zealand Herald (NZH)*, 15 Sep 1893, 6, <https://paperspast.natlib.govt.nz/newspapers/NZH18930915.2.57>.

<sup>469</sup> *NZH*, 29 Sep 1893, 6, <https://paperspast.natlib.govt.nz/newspapers/NZH18930929.2.58>.

<sup>470</sup> *Evening Post*, 17 Aug 1894, 3, <https://paperspast.natlib.govt.nz/newspapers/EP18940817.2.50>.

<sup>471</sup> Infant Life Protection Act 1893 (57 Vict, No. 35), *New Zealand Acts as Enacted*, [https://www.austlii.edu.au/nz/legis/hist\\_act/ilpa189357v1893n35309/](https://www.austlii.edu.au/nz/legis/hist_act/ilpa189357v1893n35309/).

<sup>472</sup> Infant Life Protection Act 1896 (60 Vict, No. 23) *New Zealand Acts As Enacted*, [https://www.austlii.edu.au/nz/legis/hist\\_act/ilpa189660v1896n23352/](https://www.austlii.edu.au/nz/legis/hist_act/ilpa189660v1896n23352/).

<sup>473</sup> Bronwyn Dalley, *Family Matters: Child Welfare in Twentieth-Century New Zealand* (Auckland: Auckland University Press, 1998), 52; Linda Bryder, *A Voice for Mothers: The Plunket Society and Infant Welfare 1907-2000* (Auckland: Auckland University Press, 2003), 7.

<sup>474</sup> "H-16 Annual Report on the Police Force of the Colony," in *Appendix to the Journals of the House of Representatives* (Wellington: Government Printer, 1899 Session I), 4.

change was that the Education Department would use trained nurses to inspect homes.<sup>475</sup> In Parliament, Dr William Collins argued that an inspector should examine the room where the infant slept, its clothes and bedding, observe the infant's food, and its bottles. An inspector should be able to examine the physical condition of the child, perhaps even weigh it. He thought homekeepers would welcome the instruction and advice of these nurses, regarding them as a kindly helper. Such patriarchal opinions show that social rules around correct care for infants were being legislated to ensure that anyone violating them could be corrected.

The rhetoric about baby-farming originated in England, and thus the historiography of baby-farming has predominately focused on British experiences. Academic interest in the topic began in the 1980s with a focus on the moral panics that grew around inquests into infant deaths in private, paid care. However, historians are gradually reframing the connection with infanticide as an aspect of the history of paid child-care. Margaret Arnot has proven particularly influential and argued that publicity about baby-farming deliberately fanned a moral panic that allowed a case to be made for State intervention in homes and businesses. Ruth Homrighaus has suggested the *British Medical Journal* was responsible for conflating the various services available to mothers of unwanted infants, a situation which helped to obscure paid foster care as a legitimate industry.<sup>476</sup> David Bentley has maintained that legislation did little to curb abuses with little sustained interest by cause-seekers in what was a necessary service industry.<sup>477</sup> Similarly, Daniel Grey has argued that the focus on the criminal element of baby-farming was disproportionate to its prevalence, and the practise had largely ceased by 1920.<sup>478</sup> Jim Hinks connected the limited scholarship on paid foster care to baby-farming's infanticide focus, which fitted into criminology rather than child welfare.<sup>479</sup> Joanne Pearman reinforced the argument that combating criminal baby-farming allowed the State into the domestic sphere. She described an industry composed of three parts, beginning in midwives' facilities, moving to procurement, then foster care.<sup>480</sup> Stuart-Bennett viewed 'conventional and mundane' paid foster care as primarily about managing a

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<sup>475</sup> Bryder, *Plunket Society*, 7.

<sup>476</sup> Ruth Ellen Homrighaus, "Wolves in Women's clothing: Baby Farming and the British Medical Journal, 1860-1872," *Journal of Family History* 26, no. 3 (Jul 2001): 357.

<sup>477</sup> David Bentley, "She-butchers: Baby-droppers, Baby-sweaters, and Baby-farmers," in *Criminal Conversations: Victorian Crimes, Social Panic, and Moral Outrage*, ed. Judith Rowbotham and Kim Stevenson (Ohio State University Press, 2005), 212.

<sup>478</sup> Grey, "Infanticide," 327.

<sup>479</sup> Hinks, "Other People's Children," 12.

<sup>480</sup> Pearman, "Bastards, Baby Farmers, and Social Control in Victorian Britain," 88, 94-95.

woman's respectability, an attempt to avoid stigma and social exclusion.<sup>481</sup> He downplayed any economic imperative.<sup>482</sup> Although the literature has concentrated on baby-farming in Britain, the practise was evident to a lesser extent in America and in Britain's colonies, mainly in Australia in the 1890s and then New Zealand.

The rising rate of illegitimate births in Victorian New Zealand created an increasing demand for infant services. Both the number and the rate of these births increased as the general population stabilised.<sup>483</sup> Favourable comparisons to Australian and English figures led to perceptions of higher moral standards which needed to be maintained by legislation if necessary. However, it also represented an increasing number of children who needed care. Working-class girls and women needed to work to support themselves, including when a single woman became responsible for providing for a child. However, paid work rarely allowed for a baby to stay with its mother. The traditional practise was to place the child with its grandparents or an obliging neighbour or friend who was then compensated for their services. However, businesslike foster carers were condemned by the respectable and often attracted the label of 'baby-farming'.<sup>484</sup>

To date, little attention has been paid to the history of New Zealand's private foster care arrangements. It seems the received view is based on contemporary reports of substandard care by the likes of Frederick Truby King, rather than on detailed research. In 1907, King lectured that even licenced homes were run by 'unsympathetic, ignorant women bent on making a profit'.<sup>485</sup> This type of allegation has led to generalisations such as those made in Joyce Powell's history of the Karitane nurses. Powell states: 'Conditions in these homes were squalid and uncaring'.<sup>486</sup> Minnie Dean was the subject of Lynley Hood's often cited 1994 publication.<sup>487</sup> Hood described some of the circumstances surrounding paid foster care, but a larger investigation was outside her purview.<sup>488</sup> Similarly, Debra Powell, when writing about child homicide, included a chapter on criminal baby-farmers and concluded that those thought to be involved were young, single

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<sup>481</sup> Joseph G. Stuart-Bennett, *Motherhood, Respectability and Baby-farming in Victorian and Edwardian London* (Milton Park, Abingdon, Oxon and New York: Routledge, 2023), 7.

<sup>482</sup> Stuart-Bennett, *Respectability and Baby-farming*, 5.

<sup>483</sup> From below 2.5 per cent in the 1880s the rate had reached 3.5 per cent in 1891.

<sup>484</sup> *Wanganui Herald*, 10 Aug 1897, 2, <https://paperspast.natlib.govt.nz/newspapers/WH18970810.2.6>.

<sup>485</sup> *Evening Star*, 24 May 1907, 4, <https://paperspast.natlib.govt.nz/newspapers/ESD19070524.2.31>.

<sup>486</sup> Joyce Powell, *A Suitable Job for Young Ladies: The Karitane Story 1907 to 2007* (Palmerston North: Heritage Press Ltd, 2007), 10.

<sup>487</sup> Hood, *Minnie Dean*.

<sup>488</sup> Hood, *Minnie Dean*, 20-21.

mothers, and older foster mothers.<sup>489</sup> New Zealand lacks research like that undertaken in Australia by Shurlee Swain, who, in 2005, argued that the focus on the discourse surrounding baby-farming obscured its social context.<sup>490</sup> Writing about Melbourne baby-farming, her methodology exploited a hospital database, matching data with inquests and other records to unearth details of those involved in paid foster care. She demonstrated the relevance of location and the presence of referral networks dealing with infants. Her approach is consistent with the shift away from studies of criminal baby-farmers and towards child-care practices. Building on this growing work allows paid child-care to be placed in the context of New Zealand's legal and judicial environment.

Court cases provide valuable evidence on early child-care arrangements due to a lack of official records and other sources. Hinks, writing about England, noted that they provide some of the only evidence about such arrangements in this period.<sup>491</sup> New Zealand has a similar shortage of official records on foster care, with few archival sources. There are few police court records preserved in archives, when most cases commonly appeared in this type of court. In addition, records were never created of these arrangements, which were driven by working-class women running informal businesses. Another limiting factor is a side effect of generating a moral panic, the commentary by official figures tended to be disapproving and focused on negative aspects. As a result, newspapers have been the main source for this research. Word-searches on Papers Past found instances of baby-farming and baby-farmers in court reports. Additionally, after the enacting of the Infant Life Protection Act 1893, newspaper accounts of inquests of boarded-out and adopted infants shed light on the practises of paid care. Archives New Zealand holds applications made for licencing under the Infant Life Protection Act, as well as files on associated breaches, cancellations, and exemptions. My database of those involved in undertaking paid child-care shows that most carers were married women. However, a small but significant number of men also participated. These individuals were traced in newspapers, electoral rolls, and registers of births, marriages, and deaths, and supplemented with the records available on genealogical websites. I created family trees on *Ancestry* to better understand their circumstances, backgrounds, and families. This is perhaps the greatest advantage of this method, since the use of

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<sup>489</sup> Debra Powell, "The Ogress, the Innocent, and the Madman: Narrative and Gender in Child Homicide Trials in New Zealand, 1870-1925" (PhD (History) thesis, University of Waikato, 2013), 344.

<sup>490</sup> Swain, "Social Geography," 151.

<sup>491</sup> Hinks, "Other People's Children," 7.

court cases found in newspapers supplemented by genealogical research gives a more comprehensive and nuanced understanding of the circumstances of those involved in paid foster care in the nineteenth century.

Few New Zealand cases were explicitly labelled baby-farming in the newspapers. There is some potential for selection bias, as reported cases may not be representative of the full range of attitudes and practises surrounding paid foster care. Additionally, court cases often focused on the sensational, which may not accurately reflect the experiences of the majority of those involved in paid foster care. Exploring those labelled baby-farmers revealed that most were not actually undertaking large-scale care, and many were attempting to adopt. Additionally, there was a prevalence in infant inquests of death from natural causes. Another challenge is interpreting the attitudes and motivations of the individuals involved, as newspaper accounts of court cases do not provide a complete or unbiased account. However, this type of study attempts to consider the broader social and cultural context in which these cases occurred, seeking to uncover attitudes influenced by factors such as class, gender, and moral values. Given these findings, the selection criteria for the court cases to be examined focused on those that best illustrated attitudes toward paid care and those providing it, particularly as moral panic met legislative change.

### **The Court Cases**

Early cases seem to have been treated with some tolerance. In 1880, a single woman, Johanna O'Neil, nursed her illegitimate son for three weeks before handing him to Sarah Ellen Kitto. Sarah was to be 'kind and good' to the baby and feed him 'by hand'.<sup>492</sup> Both parents were involved in making the arrangement and paying the fee. Three weeks later, six-week-old Joseph O'Neill died. At the inquest on 23 March 1880, the autopsy described a lack of any body fat due to starvation.<sup>493</sup> The inquest jury added a rider to their verdict, blaming the mother rather than both parents or the nurse for not getting urgent medical attention for the child. The police charged Sarah with manslaughter before the Resident Magistrate in April. The United Press Association report was printed by a newspaper under the headline 'Baby Farming at Kumara'.<sup>494</sup> The case was referred to the Supreme Court, and the trial occurred in Hokitika on 7 September. Sarah was treated with leniency and the jury was quick to find her not guilty, despite evidence of her drinking and signs that the infant had starved. She continued to work as a nurse in the area.

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<sup>492</sup> *West Coast Times*, 8 Sep 1880, 2, <https://paperspast.natlib.govt.nz/newspapers/WCT18800908.2.9>.

<sup>493</sup> *Kumara Times*, 24 Mar 1880, 2, <https://paperspast.natlib.govt.nz/newspapers/KUMAT18800324.2.7>.

<sup>494</sup> *Evening Post*, 2 Apr 1880, 2, <https://paperspast.natlib.govt.nz/newspapers/EP18800402.2.14>.

The newspaper reporting was entirely factual. A degree of tolerance was evident through the lack of editorialising, and, perhaps consequently, the case remained one of only local interest.

Similar circumstances in the Wellington case of Christina Jansen led to nationwide publicity of her arrest on a manslaughter charge only two years later. In 1882, sixteen-year-old Christine Jansen, masquerading as Mrs Walpole, adopted Henrietta May McCarthy, daughter of twenty-three-year-old Catharine McCarthy, and attempted to pass the child off as her 'beau's'.<sup>495</sup> He was not taken in. The arrangement was made by the matron of the Home for Friendless Women in Wellington, who failed to carry out a proper reference check. No money changed hands in what was supposed to be an adoption. When the baby died, the judge decided that Christina's neglect was due to lack of knowledge rather than deliberate. The inquest's findings were published in one newspaper under the 'Baby Farming' banner.<sup>496</sup> Despite testimony condemning her lifestyle and an allegedly callous attitude toward the baby, Christina was treated leniently by a court that made allowances for her youth. The *Otago Daily Times* published an editorial recapping the main features of the evidence against the girl, but its main condemnation was of the actions of the matron of the Home for Friendless Women.

Some cases reveal a considerable distance between the birth parents and those providing care. In May 1881, an inquest at Kaiapoi into a six-month-old girl found the foster mother, Mrs Rachel Pilcher, had been paid by a Christchurch solicitor, Alfred Thompson. Rachel got the child from Mrs Hayman via an arrangement with Mrs Brough, and Mrs Hayman had been recommended to Mrs Brough by the Kaiapoi doctor. The child's name and her parents were kept secret, which delayed the inquest verdict because the coroner would not issue a death certificate without a name.<sup>497</sup> The use of a solicitor, an agent and the hidden identity suggest this child most likely had middle-class origins. Rachel was reasonably respectable and had a history of taking on boarders. At the inquest, she emphasised her proactive approach, prompt medical care, and that she provided the best standards of care. This was reinforced by the doctor, who noted the baby had been well cared for. There was no official comment on the arrangement, despite the payment of fifteen shillings per week for nursing care. The expansion of town and cities allowed this

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<sup>495</sup> *New Zealand Mail*, 7 Oct 1882, 7, <https://paperspast.natlib.govt.nz/newspapers/NZMAIL18821007.2.23>; *New Zealand Times*, 6 Oct 1882, 2, <https://paperspast.natlib.govt.nz/newspapers/NZTIM18821006.2.7>; *New Zealand Mail*, 7 Oct 1882, 7, <https://paperspast.natlib.govt.nz/newspapers/NZMAIL18821007.2.23>.

<sup>496</sup> *Auckland Star*, 25 Sep 1882, 2, <https://paperspast.natlib.govt.nz/newspapers/AS18820925.2.26>.

<sup>497</sup> *Star* (Christchurch), 13 May 1881, 3, <https://paperspast.natlib.govt.nz/newspapers/TS18810513.2.25>; *Press*, 20 May 1881, 3, <https://paperspast.natlib.govt.nz/newspapers/CHP18810520.2.19>.

distance to be used by those seeking anonymity, an increasingly common feature of child-care arrangements prior to baby-farming legislation. Once again, only one newspaper can be found using the 'Baby Farming' label in relation to an inquest.<sup>498</sup>

Unsurprisingly, there was a notable increase in the number of cases described as baby-farming in the New Zealand press in the 1890s. Myra Smith came before the Dunedin City Police Court in November 1890 for allegedly ill-treating and neglecting children. Newspapers around the country were quick to report on the 'Dunedin baby-farm'. The same text about the 'baby-farming case' was printed in sixteen titles.<sup>499</sup> Charging her under the Children's Protection Act, Police prosecutor Sergeant-major Bevin provided the background facts. Mrs Smith's husband had left her about ten years earlier.<sup>500</sup> She had been taking in children and adopting them for some time. He stated the small house contained five children under the age of five, as well as Smith's five children. Constable Walker gave evidence that he had gone to the Smith house in Sunnydale, North East Valley and insisted on inspecting it. Walker made contradictory statements about the number of children, once saying there were four infants in the care of her twelve-year-old son, and later testifying there were five babies in the house in addition to Smith's own children. Walker had known that Mrs Smith had been nursing babies for eight years, and that she acted as an intermediary in placing children. He (wrongly) believed that if he had been allowed to search the whole house, he would have found more children. Walker suspected at least one of the children was drugged. It is significant that Walker's knowledge had not previously led to any investigation of Mrs Smith and her situation.

The police evidence contained allegations dressed as facts that Mrs Smith did not challenge, except to say the witnesses 'were making as much of things as possible' and were prejudiced against her. She admitted the house was not clean and tidy when visited as she had been unwell, but denied having more than four babies under her paid care. She could have corrected the statement that she was a deserted wife rather than a widow, as her husband had died in the 1879 Kaitangata Mine explosion. This had left Mrs Smith with five children. In the absence of her husband, she continued to register the births of later children: Matilda Lloyd

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<sup>498</sup> *Evening Star*, 13 May 1881, 2, <https://paperspast.natlib.govt.nz/newspapers/ESD18810513.2.14>.

<sup>499</sup> For example, *Auckland Star*, 7 Nov 1890, 3, <https://paperspast.natlib.govt.nz/newspapers/AS18901107.2.14>; *Wairarapa Daily Times*, 7 Nov 1890, 2, <https://paperspast.natlib.govt.nz/newspapers/WDT18901107.2.6>; *Poverty Bay Herald*, 7 Nov 1890, 2, <https://paperspast.natlib.govt.nz/newspapers/PBH18901107.2.9>.

<sup>500</sup> *Evening Star*, 6 Nov 1890, 2, <https://paperspast.natlib.govt.nz/newspapers/ESD18901106.2.20>; *Otago Witness*, 13 Nov 1890, 24, <https://paperspast.natlib.govt.nz/newspapers/OW18901113.2.59>.

Smith in 1881, Minetta Lloyd Smith in 1883 and Lily Butler Smith in 1885. This naming pattern is highly suggestive of adoption, where the child retained its birth surname and the adoptive surname was added. It corresponds to the police evidence that she had been taking in children and adopting them. She might also have informed them that her first name was not actually Myra; she had been born Jane Tindall Marshall. While the foster children were taken and placed in the Industrial School, her adopted children remained in her care. Tracing the foster children shows that the oldest was Alice, the illegitimate daughter of Clara Rogers. She went into Caversham Industrial School aged four or five. A few years later, she was placed with a foster family in Mosgiel. She married in 1908 and had a family of three daughters. Robert White was admitted as a nameless infant aged one year, three months. Roderick McAlpine was evidently adopted, as his birth was later registered by his adoptive parents, Hugh and Mary Knox. The child at the centre of the case, Arthur Chesterfield Hayes, seems to have been Arthur Tarrant Hayes, son of Mary Hayes, born in 1889 Dunedin. While Mary Hayes was still engaged in domestic duties in central Dunedin in 1893, Arthur did not leave any obvious records. He might have been adopted into another family or used his mother's married surname. Although Mrs Smith seems to have run a business-like operation, she was never prosecuted for the death of a child she adopted or fostered.

Writing in 1890, the editor of the *Otago Witness* recalled that in 1880 he had noted that a Mrs Smith was advertising in the Saturday paper for the adoption of children for a moderate premium and wondered at her motives and if Smith was a pseudonym.<sup>501</sup> The Smith case in 1890 demonstrates that there were considerable differences in how fostered children were viewed when compared to adopted children. Mrs Smith retained custody of her three adopted daughters, and after a brief period in jail returned to her family. In sentencing, the resident magistrate lamented that the police had presented the case as one for summary judgment.<sup>502</sup> This minimised the penalty that could be inflicted at a time when there were calls for harsher punishments to curb baby-farming. Framed as a way to prevent the ill-treatment of children, most of the rhetoric focused on the financial aspect, evidently suspicious of women profiting from caring for children. Was this because it was considered unnatural for women to be paid to fulfil their natural function, or because it confused the public sphere of business with the private sphere of home?

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<sup>501</sup> *Otago Witness*, 13 Nov 1890, 24, <https://paperspast.natlib.govt.nz/newspapers/OW18901113.2.58>.

<sup>502</sup> *ODT*, 7 Nov 1890, 2, <https://paperspast.natlib.govt.nz/newspapers/ODT18901107.2.19>.

There was no notion that women might deserve to be compensated for child-care. Instead, as Hinks has noted, references to baby-farms as businesses and as a trade allowed it to appear an unnatural activity for women to be engaged in, and as a commercial activity to be regulated.<sup>503</sup>

There are few examples of larger establishments. The evidence of the application of licencing in the wake of the Infant Life Protection Act 1893 suggests most providers were just taking in one child, rather than setting up for multiple babies. This is confirmed in reports on the workings of the Infant Life Protection Act. This contrasts to the conditions found at Fanny and John Stickley's private children's home in Auckland's Mount Eden. They took in children, directly from parents and from the Charitable Aid Board, with Fanny being able to nurse and rear up to twelve.<sup>504</sup> In July 1891, the death of Bella Watson, the illegitimate daughter of a domestic servant, led to an investigation of their facility. The building was described as dilapidated but clean. The couple were experienced, having run the destitute children's refuge at Fort Britomart as Master and Matron from 1870. This later became the Howe-street Industrial School, with the Stickleys in charge until 1881. In their private facility, the Stickleys had six children die out of 30 in seven years. In the Stickleys' case, the deaths and lack of official and medical inspections caused concern in court. The couple had operated as a business caring for multiple children for seven years, only connected to a charitable organisation by taking in some of their infants. They were probably saved from greater censure by their previous reputation, although that had been tarnished by an enquiry into the running of the school.<sup>505</sup> Generally, larger homes run by respectable people avoided official disapproval.

The new regulations of the Infant Life Protection Act 1893, gazetted in April 1894 and widely published, were immediately enforced by police officers as owners of houses boarding infants were urged to register promptly.<sup>506</sup> Many did so, with married women dominating the applications. One hundred and twenty people in Christchurch were reported to have been certified under the Act by September 1896.<sup>507</sup> The first case tried in Auckland in May 1894 under the new statutes saw Mary Cassidy denying that she knew about the law, as her lawyer argued that she was not a baby-farmer and did not have any kind of farm. She had taken in only one child, Vera, and received seven shillings a week for care. Vera was the daughter of Martha

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<sup>503</sup> Hinks, "Other People's Children," 71.

<sup>504</sup> *NZH*, 10 Jul 1891, 6, <https://paperspast.natlib.govt.nz/newspapers/NZH18910710.2.43>.

<sup>505</sup> *Thames Star*, 1 Oct 1880, 2, <https://paperspast.natlib.govt.nz/newspapers/THS18801001.2.5>.

<sup>506</sup> *Star* (Christchurch), 18 Apr 1894, 3, <https://paperspast.natlib.govt.nz/newspapers/TS18940418.2.53>.

<sup>507</sup> *Marlborough Express*, 7 Sep 1896, 2, <https://paperspast.natlib.govt.nz/newspapers/MEX18960907.2.22>.

Thompson, a Napier widow with at least seven other children. The prosecution bought attention to the new laws, so Mary Cassidy was merely cautioned. In Oamaru, an inquest led to Annie White being charged for not being registered under the Act.<sup>508</sup> She pleaded ignorance of the requirement and the police sergeant explained that he considered her very incompetent to care for a child, given that she relied on charitable aid with her husband being very ill. Rebecca Halford of Dunedin was another charged with failure to register. Rebecca and her stone-breaker husband had four children. The child involved was that of a fireman on a steamer whose wife had left him. She agreed to take the child so the father could go to work on the boat and received six shillings a week. The father was to make other long-term arrangements.<sup>509</sup> Her subsequent attempt to register was rejected, seemingly because she was not legally married to the father of her children.<sup>510</sup> Rebecca's difficulties with respectability show that only the 'right type' of people were considered suitable as foster parents.

Men were usually not the ones instigating these arrangements, but sometimes circumstances were such that men, like the deserted father, sought care for their child. Another case resulted in a man being labelled a baby-farmer.<sup>511</sup> Timothy and Ann Colbridge, an older childless couple, took in an infant, Harold. The father, Percy Friend, paid Timothy for fostering the child.<sup>512</sup> This supplemented the income Timothy, a dock worker in his sixties, was able to earn. The arrangement had been in place for more than seven months when Timothy was brought to court and charged with not having his house properly registered. This was described as baby-farming on a small scale, and, as a warning to others, Timothy was fined five shillings and costs and told to register the house. The lack of comment about men as baby-farmers suggests Timothy's case was not as unusual as it might now seem. Other men applied for licences under the Act, including Gideon Brunton, a Dunedin tramcar driver.<sup>513</sup> He and wife Ellen had one son, but their daughter Mona Dunne Brunton was adopted. Children awaiting adoption fell under this legislation, so the Brunton house and family were investigated, and the baby's mother was recorded as a governess at an upcountry station. Gideon's good character enabled the adoption to

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<sup>508</sup> *Oamaru Mail*, 3 Dec 1894, 4, <https://paperspast.natlib.govt.nz/newspapers/OAM18941203.2.31>; *North Otago Times*, 4 Dec 1894, 2, <https://paperspast.natlib.govt.nz/newspapers/NOT18941204.2.10>.

<sup>509</sup> *Evening Star*, 7 Feb 1895, 2, <https://paperspast.natlib.govt.nz/newspapers/ESD18950207.2.15>.

<sup>510</sup> "Form of application for Registration under 'The Infant Life Protection Act, 1893' for Rebecca Halford", Archives NZ, File ref R24467719.

<sup>511</sup> *Bay of Plenty Times*, 24 Sep 1894, 2, <https://paperspast.natlib.govt.nz/newspapers/BOPT18940924.2.20>.

<sup>512</sup> *New Zealand Herald*, 24 Sep 1894, 3, <https://paperspast.natlib.govt.nz/newspapers/NZH18940924.2.8>

<sup>513</sup> "Application of Gideon Brunton for registration under 'The Infant Life Protection Act, 1893' recommended", Archives NZ, File ref R24467316.

go ahead. The way the legislation was framed meant that situations like this attracted official scrutiny.

The 1893 legislation allowed attention to move towards the perceived problems of the payment of lump sums to adopting parents. By January 1895, police in Auckland were inspecting houses occupants wanted to be registered for boarding infants. Of about a dozen places, only one case was found in which a child had been exchanged with a lump sum payment.<sup>514</sup> However, the practise continued in other places. Lizzie Ebbett took Albert Elgar to court for an affiliation order for her daughter, born in mid-1894.<sup>515</sup> During the same sitting of the court, Mrs Hannah Clarkson applied to adopt Caroline Ebbett, described as the child of Albert Elgar.<sup>516</sup> The father, liable for child maintenance of five shillings a week for 14 years, agreed to pay a lump sum of £50. Despite the growing public debate, in this case the magistrate allowed the payment, and the order was granted. However, the payment was not forthcoming, so Hannah Clarkson took Albert back to court.<sup>517</sup> These kinds of case continued and attracted negative public comment, but the legislative gap prevented a cohesive rejection of the practise.

In May 1895, Minnie Dean was charged with murdering one-month-old Eva Hornsby. Her undoing was the combination of the death of Dorothy Edith Carter in April 1895 followed quickly by Eva's death. Dorothy's was likely due to laudanum, used to quiet infants. Minnie reacted to the death, which occurred on the Invercargill-Kingston train, by concealing the corpse and continuing to collect her next child, Eva.<sup>518</sup> She returned home with two small bodies, which she buried in her own garden. She then lied to the police about the children and her actions. The police were familiar with Minnie's business, which included adoptions, fostering and acting as an agent in the network of child-carers. There had been a death in October 1889 of the Deans' six-month-old, adopted daughter May Irene. Minnie Dean's first court appearance was before the 1893 legislation and in relation to the death of an illegitimate child, Bertha Currie.<sup>519</sup> The inquest found Bertha was well-nourished, thus a verdict of death from natural causes. Minnie had been caring for ten children, aged six weeks to eleven years, and reported that some were paid for weekly, others in a lump sum, while a few she received no money for. They were found to be

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<sup>514</sup> NZH, 24 Jan 1895, 5, <https://paperspast.natlib.govt.nz/newspapers/NZH18950124.2.18>.

<sup>515</sup> *Opunake Times*, 26 Feb 1895, 2, <https://paperspast.natlib.govt.nz/newspapers/OPUNT18950226.2.9>.

<sup>516</sup> *Opunake Times*, 26 Feb 1895, 2, <https://paperspast.natlib.govt.nz/newspapers/OPUNT18950226.2.9>.

<sup>517</sup> *Opunake Times*, 26 Nov 1895, 2, <https://paperspast.natlib.govt.nz/newspapers/OPUNT18951126.2.6>.

<sup>518</sup> A.C. Hanlon, *Random Recollections: Notes on a Lifetime at the Bar* (Dunedin: Otago Daily Times and Witness Newspapers 1939), 175.

<sup>519</sup> *Southland Times*, 27 Mar 1891, 2, <https://paperspast.natlib.govt.nz/newspapers/ST18910327.2.14>.

happy and contented, strong, healthy and well-fed. The good condition of the children may have prevented the pejorative classification as a baby-farmer despite obvious overcrowding.

Crowding ten children plus carers into a small house was the type of situation discouraged by the Infant Life Protection Act of 1893. Minnie never applied for registration, probably reasoning the legal restrictions meant that she would be rejected. She continued to collect children, but not at an economically viable level. The press was to speculate, 'The miserable sums she received for the upbringing of children she "adopted" were terribly suspicious of a sinister object in regard to the future of her charges'.<sup>520</sup> The small sums involved perhaps contributed towards the number of transactions, as Minnie stated that twenty-seven or twenty-eight children passed through her care. Minnie's explanation that seven had been taken by families that wanted to conceal the adoptions was not accepted by the police or public.<sup>521</sup> The prevailing theory favoured further murders. However, Minnie was part of a business that valued secrecy and anonymity. Minnie had attempted to work around legislative requirements and police surveillance by acting as an agent, finding children and passing them on to adoptive parents or other fostering mothers. She was engaged in this practise when the deaths occurred. As previously noted, her charges were healthy and well-fed. Minnie's love of children and an unreasonable desire to acquire more seem to outweigh a purely financial motivation. Deaths and disappearances had occurred, and Minnie became an object lesson. Widespread condemnation of paid child-care, suspicion about her motivation, and an official determination to use the full force of the law enabled the Dean case to act as a deterrent to others.

The frequency of baby-farming as a label declined after the Dean case, but not everyone complied with the legislation. When thirty-year-old Elizabeth Emily Candy appeared in court in 1904, she had taken in four children for money, and the judge called this baby-farming on a considerable scale, despite the lack of deaths or ill-treatment.<sup>522</sup> The local newspaper chose to emphasise the 'Astounding Revelations' and 'Wholesale Traffic in Infants'.<sup>523</sup> She admitted to having taken four children for money, receiving between £10 and £25 per child. Elizabeth had then handed three of the other children over to her family members. The child at the centre of the case, Leslie Francis Claffey, had been taken to Wellington and at the time was in the care of

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<sup>520</sup> *Ashburton Guardian*, 14 Aug 1895, 2, <https://paperspast.natlib.govt.nz/newspapers/AG18950814.2.4>.

<sup>521</sup> Lynley Hood, "Dean, Williamina," *Dictionary of New Zealand Biography* (first published 1993, updated July 2021). <https://teara.govt.nz/en/biographies/2d7/dean-williamina>.

<sup>522</sup> *Patea Mail*, 11 Jan 1904, 2, <https://paperspast.natlib.govt.nz/newspapers/PATM19040111.2.9>.

<sup>523</sup> *Taranaki Daily News*, 9 Jan 1904, 4, <https://paperspast.natlib.govt.nz/newspapers/TDN19040109.2.20>.

Elizabeth's sister, Ellen Sarah. Leslie had been born in 1901 to Mary Ann Claffey at Kaponga. Her father, John Claffey, paid Elizabeth Candy's father William Atkinson £25 for the adoption. Claffey had taken out a mortgage on his property in order that the child be legally adopted under the protection of the Child Protection Act. The judge's assessment was that this was a serious breach of the Act. He was perhaps influenced by the larger amount of money involved and her unregistered status, as there was no convincing evidence of ill-treatment of the children. There was an implication that Elizabeth's actions had been influenced by other family members. She was fined the maximum amount rather than jailed due to her recent marriage. Leslie was returned to his family, and it is likely the other children were as well. This local example of the use of the baby-farming label paled in comparison to the interest generated by headlines about a German baby-farmer in October 1904, described as the 'fiendish' murderer of five infants.<sup>524</sup>

The cumulative effect of widespread publicity of international cases combined with local cases like Minnie Dean and Elizabeth Candy had editors rallying against paying lump sums to adopting parents, saying the practise was an incentive to murder the child. Their campaign was effective, and the practise was legislated against in the Adoption of Children Amendment Act 1906, which specified the adopting parent was not to receive a premium. The Mary Ann Guy case in 1906 was followed by two cases in early 1907, when separate charges were laid against Eliza Davies and Charlotte Evans. In both cases, the infants in their care died after insufficient nourishment. Eliza had adopted her child while Charlotte was fostering her charge. Both Eliza and Charlotte's cases were labelled 'Baby-Farming' by a Nelson newspaper.<sup>525</sup> The jury who heard both cases thought they indicated the Infant Life Protection Act was being worked around. These concerns were reflected in the headlines of the many newspapers reporting the cases, and may have influenced the changes made to the legislation in 1907.

The 1907 decision to shift the responsibility to the Education Department brought supervision of all children under one authority. Licenced homes had been liable to inspection by medical doctors, policemen, or justices of the peace, with periodic inspection by police officers, or by police matrons in the largest cities.<sup>526</sup> There were only four police matrons appointed, the first in 1895 in Wellington and the fourth three years later in Christchurch.<sup>527</sup> There was a long

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<sup>524</sup> NZH, 14 Oct 1904, 5, <https://paperspast.natlib.govt.nz/newspapers/NZH19041014.2.38>.

<sup>525</sup> *Nelson Evening Mail*, 21 Feb 1907, 2, <https://paperspast.natlib.govt.nz/newspapers/NEM19070221.2.18.1>; *Nelson Evening Mail*, 22 Feb 1907, 4, <https://paperspast.natlib.govt.nz/newspapers/NEM19070222.2.54.5>.

<sup>526</sup> ODT, 9 Sep 1899, 4, <https://paperspast.natlib.govt.nz/newspapers/ODT18990909.2.24>.

<sup>527</sup> Hill, *Modernisation of Policing*, 139-40.

history of agitation for female inspectors, with one editor in 1892 claiming 'Nothing is more certain from the history of baby farming than that male inspectors are constantly deceived by women who board the children'.<sup>528</sup> Cases in Dunedin had prompted lobbying from that city.<sup>529</sup> The Commissioner of Police welcomed the change in 1907 but defended the department's handling of licencing and inspections. He noted that most home-keepers took in one infant, and the infants were treated with kindness and affection. He further stated that thorough investigations had disproved allegations against several Dunedin homes. In his opinion, excessive supervision would deter people from applying for licences. The move to the Education Department was supposed to provide trained nurses as inspectors. The Wanganui appointee combined her duties with work as a part-time police matron, suggesting the regulations were not always carried out in the manner imagined.<sup>530</sup>

### **Co-operation, Conflict, and Negotiation**

The legislation attempted to counter some of the areas of conflict between care providers and authorities that were emphasised in court cases. Mrs Smith's denial of access to all areas of her house was countered with legislated inspections. Restrictions on numbers were in response to reports of overcrowding. A roll to allow children to be traced back to their natural parents or located with adoptive parents followed Minnie Dean's refusal to provide information. As caregivers tried to work around regulations by using anonymity or pseudonyms, or by moving children frequently so that they did not fall under the provisions of the Act, legislative changes were urged. These were presented as ways to improve child welfare, but were largely calls for more regulation and State involvement in monitoring what was a necessary service. Coroners, who were often also local magistrates, had been instrumental in providing the evidence needed that children were being neglected or ill-treated while in the care of paid foster parents. They encouraged juries to cooperate with their concerns by adding riders to their verdicts calling for legislation that would make it harder for illegitimate children to be disposed of. For example, the 1891 death of one of Minnie Dean's charges saw the coroner draw the jury's attention to the small house and large number of children. He offered to forward any recommendations they had, particularly about policing such establishments, to the government. This led to a rider which recommended legislation regarding the number of children taken in and their inspection. Supervision and

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<sup>528</sup> *Auckland Star*, 17 May 1892, 4, <https://paperspast.natlib.govt.nz/newspapers/AS18920517.2.19>.

<sup>529</sup> *NZH*, 17 Sep 1907, 6, <https://paperspast.natlib.govt.nz/newspapers/NZH19070917.2.81>.

<sup>530</sup> Hill, *Modernisation of Policing*, 400.

inspection of foster homes was the official policy of State-run institutions, and this aspect had been missing in private arrangements. These officials also had the power to grant or refuse to grant adoptions. The impressions they formed of the people who appeared before them affected the decisions made, as seen in the comment made about Mrs Smith being an unsuitable adoptive parent.<sup>531</sup> Yet despite this magistrate's unfavourable opinion, Mrs Smith had already managed to enlist the cooperation of the courts and adopt three children. This suggests other legislative changes were needed if magistrates were to consistently apply the law in adoption cases.

The right to enter private homes by government officials was usually restricted to those believed to be engaged in criminal activity. A man's house was, after all, considered his castle. Pearman has argued that the change in Britain's legal focus from mothers of illegitimate infants to baby-farmers allowed policing of the private sphere.<sup>532</sup> This was justified by the perception that paid child-care had taken the private and domestic into the public world.<sup>533</sup> Police were initially the main enforcers and, as Margaret Tennant has written, this was considered 'a sideline to their crime-fighting duties'.<sup>534</sup> They were urged into the conflict caused by inspections by interested observers, such as the civil-minded community stalwarts of Dunedin's Social Reform Association.<sup>535</sup> Although not a primary task, they were sometimes rigorous in executing their duty in the early days of the Infant Life Protection Act. A Christchurch woman, Charlotte Hodson, passed an inspection while caring for three infants.<sup>536</sup> Only two days later, another visit revealed that she had taken in another child, thus breaching her licence. There was a perception that there was a larger problem, one whose true extent could not be determined due to inadequate police resources.

However, some police forces cooperated with public sentiment by monitoring suspected 'baby-farmers' before the legislation was in place. Minnie Dean was placed under surveillance after the Invercargill magistrate fined her for breaches of the Act, despite child deaths.<sup>537</sup> On the other hand, Mrs Smith was not actively watched despite police knowledge of her 'baby-farm'. When Arthur Darkey or D'Arcy was brought before the Resident Magistrate in November 1893, it was as a destitute child, as his carer, Elizabeth Hiscock, said that the illegitimate one-year-old

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<sup>531</sup> *Evening Star*, 6 Nov 1890, 2, <https://paperspast.natlib.govt.nz/newspapers/ESD18901106.2.20>.

<sup>532</sup> Pearman, "Bastards, Baby Farmers, and Social Control in Victorian Britain," 5.

<sup>533</sup> Arnot, "Infant Death," 275.

<sup>534</sup> Tennant, *Fabric of Welfare*, 64.

<sup>535</sup> *ODT*, 7 Mar 1894, 3, <https://paperspast.natlib.govt.nz/newspapers/ODT18940307.2.36>.

<sup>536</sup> *Lyttelton Times*, 27 Oct 1894, 3, <https://paperspast.natlib.govt.nz/newspapers/LT18941027.2.8>.

<sup>537</sup> Hill, *Modernisation of Policing*, 23.

had been deserted by his parents. The case was reported under the heading 'Baby-Farming' in a Dunedin newspaper. Police requested an adjournment to make enquiries. On returning to court, police painted a picture of adoption gone wrong, as Elizabeth tried to terminate her responsibilities to the boy by having him committed to the Industrial School. Her first attempt had led to police enquiries, and she then claimed the boy had been adopted and taken to Melbourne, but refused to give any names. She moved house and tried to get the boy into the Industrial School again, saying he had a weak spine and would never walk. Police investigations concluded that she had received £11 as a lump sum to adopt the boy. In court, Police Inspector Pardy said he 'hoped the case would have the effect of putting a stop to baby farming'. The magistrate stated, 'She and her husband had taken money for the support of the child, and they ought to keep it'. He asked the police to check on the child's welfare and was assured the police would have the child practically under surveillance.

The first prosecutions under new or amended legislation tended to be treated leniently, resulting in the offender being cautioned and the courts working with the police to publicise the new statutes. One newspaper noted it was easy for the unwary to violate the Infant Life Protection Act.<sup>538</sup> Early cases in the main centres saw George Wilson in Dunedin let off with a caution, Margaret Ryder in Christchurch fined, Timothy Colbridge in Auckland also fined, and warned to register his house.<sup>539</sup> Those being prosecuted were among those who were least able to pay a fine. The Oamaru magistrate in Annie White's case noted this was a particular difficulty in dealing with this type of situation.<sup>540</sup> Other accommodations might also be reached by authorities, seen when there was a biological connection to the child in question. Police, with superior knowledge of the legislation, acted to request exemptions from the Minister which allowed charges to be withdrawn.<sup>541</sup>

In 1891 New Zealand, the need for paid child-care was still being negotiated and was seen as reflecting badly on 'modern manners and modern morals'.<sup>542</sup> The editor of the *New Zealand Herald* seems to have been against legislating as a quick fix when what was needed was an improvement in morals. Swain and Howe have suggested that the provisions of the Australian

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<sup>538</sup> *Feilding Star*, 16 Sep 1893, 2, <https://paperspast.natlib.govt.nz/newspapers/FS18930916.2.4>.

<sup>539</sup> *Evening Star*, 14 Jun 1894, 2, <https://paperspast.natlib.govt.nz/newspapers/ESD18940614.2.10>; *Lyttelton Times*, 1 Sep 1894, 2, <https://paperspast.natlib.govt.nz/newspapers/LT18940901.2.4>; *New Zealand Herald*, 24 Sep 1894, 3, <https://paperspast.natlib.govt.nz/newspapers/NZH18940924.2.8>.

<sup>540</sup> *North Otago Times*, 4 Dec 1894, 2, <https://paperspast.natlib.govt.nz/newspapers/NOT18941204.2.10>.

<sup>541</sup> *Thames Star*, 14 Dec 1894, 2, <https://paperspast.natlib.govt.nz/newspapers/THS18941214.2.9>.

<sup>542</sup> *NZH*, 19 Jan 1894, 4, <https://paperspast.natlib.govt.nz/newspapers/NZH18940119.2.21>.

Infant Life Protection Act were driven by attitudinal changes that redefined the challenging illegitimate child as a prospective citizen. Writing about England, Hinks also noted changes in attitudes to child welfare and proposed that baby-farming was only part of a more complex story, one that evolved to accept, but not encourage, paid child-care. Although infanticide cases underpinned the baby-farming rhetoric, most women offering paid child-care or private adoption and fostering did not kill children in their care. Even in England, the origin of the baby-farming panic, most foster parents who participated in the fostering market were 'honest and caring'.<sup>543</sup>

The high death rate of illegitimate children in New Zealand, which was used as evidence of a problem, as was found in other countries, was mainly due to digestive issues.<sup>544</sup> Feeding practises benefitted from Frederick Truby-King's interest. His experiments using modified cow's milk required test subjects. Having acquired several boarded-out infants, he placed them with a trained nurse at Karitane. When the babies became ill, the nurse resigned, and he took them back to Seacliff. A retrospective stated: 'In later years, he said that on the drive back with the sick babies he felt a rope round his neck. He realised that, if the babies died, he would be condemned as a baby farmer'.<sup>545</sup> One can only imagine that the working-class woman felt more dread than the respected doctor when an infant sickened in her care. However, the agitation for better treatment of infants was not without some foundation. Some deaths indicate a few women neglected children in their care and seem to have watched them starve to death. There are examples of inquest evidence by doctors that described the wasted bodies and empty digestive systems of dead babies. However, underlying medical conditions and poor-quality feeding could explain some deaths. What is known is that the traditional foster care practises and established feeding methods continued despite the legislation and the best efforts of King and his trained nurses.

The regulation of private child-care arrangements is an indication of the value the State placed on children's lives.<sup>546</sup> It sharply contrasts with the vocal opposition to spending public funds institutionalising illegitimate children, which was seen as rewarding vice by absolving parents of their financial responsibilities. By the 1910s and 1920s, the baby-farming label was less commonly used. The care of the illegitimate child was still an issue and private religious

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<sup>543</sup> Ruth Ellen Homrighaus, "Baby-Farming: The Care of Illegitimate Children in England 1860-1943" (PhD (History) thesis, University of North Carolina, 2003), 15.

<sup>544</sup> Bryder, *Plunket Society*, xi.

<sup>545</sup> *Press*, 17 May 1948, 2, <https://paperspast.natlib.govt.nz/newspapers/CHP19480517.2.4.1>.

<sup>546</sup> Tennant, *Fabric of Welfare*, 52.

institutions often continued to discriminate against such children.<sup>547</sup> Fostering was beginning to be regarded in a more positive light, perhaps reflecting the language used in the 1907 Amendment, which talked of foster parents and foster homes. Changes were solidified in the aftermath of the Great War, with human life increasingly valued.<sup>548</sup> The closure of State institutions like the Industrial Schools encouraged the boarding out of as many State wards as possible, contributing to the demand for fostering families.

## Conclusion

In court, Charlotte Redmond was characterised as ignorant rather than malicious. Ten years later, Mary Ann Guy was considered a professional baby-farmer and a baby-trafficker when the child in her care died, undernourished, and dosed with opium. The new laws did not stop harmful practises. This article has investigated the connections between those enforcing New Zealand's child welfare regulations and those providing paid foster care. The term 'baby-farmer' was important, used in court and reported in newspapers, to regulate people into following social dictates, and, ultimately, in allowing close supervision and official inspections of the business of infant care. It was never an accurate description of the child-care business. In the context of New Zealand, it was part of the tightening of the 'code of Public Morality' demanded by an influential section of society.<sup>549</sup> Throughout the period, those charged with enforcing the legislation and those providing care continued to find ways to work within the law. The courts appeared sympathetic but concerned over the plight of nurses in charge of often sickly infants in the 1880s. Attitudes became less understanding when newspapers amplified the 1890s public indignation that such women might profit from caring for babies and, even worse, endanger the lives of those in their care. As the State continued to regulate in order to change behaviour, the courts mediated between legislation and moral panic. Initially, infringements of new statutes were treated with tolerance. As the regulations became more comprehensive in response to public clamour over continuing breaches, magistrates attempted to remain both sensible and sensitive as they sought pragmatic solutions to minimise harm and foster improved child-care.

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<sup>547</sup> Tennant, *Fabric of Welfare*, 106.

<sup>548</sup> Tennant, *Fabric of Welfare*, 70-71.

<sup>549</sup> Hill, *Modernisation of Policing*, 152.

## Chapter Six: Te Oranga Reformatory's Incorrigible Inmates

Mr H. W. Bishop, S.M., held a Juvenile Court yesterday afternoon, when a girl, aged twelve years and a half, was charged with the theft of a bicycle belonging to Ethel Parry, and valued at £15. The mother stated that she desired that the girl should be sent to a home, as she was a victim of kleptomania. The Magistrate entered up a conviction and committed the girl to the Te Oranga Home.

*Lyttleton Times*, 8 Apr 1905, 5

The 1908 inquiry into the running of Te Oranga Home was often reported under the headline 'Incorrigible Girls'. This thesis is the first study to follow the lives of Te Oranga inmates to test their negative portrayal in contemporary reporting.

This topic required a database created in the first instance from a single surviving source: a typed transcript of the roll for 1900-1911. This contained minimal information on 201 inmates: their names, age at admission, religion, and date committed to State care. Additional names were added from inspection reports, including education records. A rich source of additional information were newspapers reports of girls being sent to the reformatory in the early years before privacy considerations prevented the publication of their names. However, the date and location of a committal often led to a report detailing the circumstances of the event. The *Police Gazette* described girls who had absconded. This combination of sources resulted in sixty-eight percent of all 395 inmates being identified and searched for, with varying degrees of success. Using family history sources, I created mini-biographies for most girls. Young women are usually described as particularly challenging to trace. Their ability to change names as they moved into and out of relationships means that some cannot be found. They could also move location with relative ease, and some might have gone to an Australian state only to disappear into the larger population.

Young women were described as incorrigible as an explanation of their behaviour, contributing towards answering the question about changing interpretations of social behaviour.

Their sexual activity outside of marriage was policed and prevented by placing young women into care, as well as by increasing the length of time they were able to be held, with reformist groups pressuring the government to hold some young women for extended periods of time. However, research suggests that the moral panic about youthful sexual activity exaggerated the social dangers.

Questions about the influence of class and gender dynamics are relevant to this topic, as examining the committed girls shows they were mostly from poor or broken families. Others were accused of immorality and some of those transferred from the industrial schools had been taken from parents under the charge that they were living in a brothel.

This study also contributes towards assessing the extent to which incorrigibility played out in their lives. Inmates were little different to their sisters and peers, before and after time in care. Youthful rebellions were largely outgrown and social norms followed.

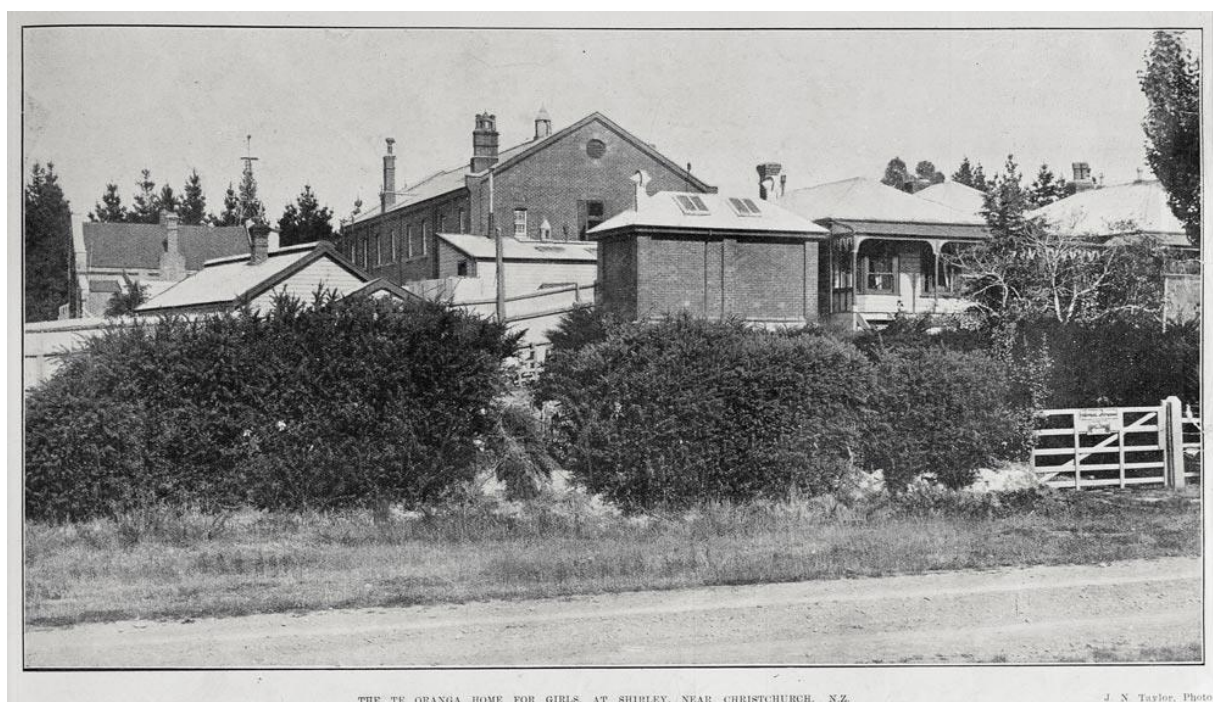


Figure 5: Te Oranga Home for Girls in 1908, showing an assortment of buildings that housed the facility with its function scarcely discernible from the road. Source: Auckland City Libraries. Sir George Grey Special Collections, Auckland Libraries, AWNS-19080326-1-1.



Figure 6: In 1927 Te Oranga was refitted for operation as the Burwood Girls' Home, shown here during a garden party fancy dress competition. *Press*, 24 Oct 1932, 11, <https://paperspast.natlib.govt.nz/newspapers/CHP19321024.2.113.7>

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Blondell, Delwyn. "‘Depraved and Vicious’: The Incurable Inmates of New Zealand's Girls' Reformatory 1900-1918."

## Abstract

Between 1900 and 1918 New Zealand sent its least co-operative girls and young women into a single State run reformatory. Te Oranga's inmates included girls raised in industrial schools, thieving domestic servants and sexually active adolescents. Using a collective biography approach this study examines these 'incorrigible girls' to test their negative portrayal in contemporary reporting. Comparing girls' life-courses shows little difference in either precipitating factors or life outcomes. This research suggest that the moral panic about youthful sexual activity exaggerated the social dangers and that girls grew out of their troublesome tendencies during lengthy preventative detention rather than being reformed.

## 'Depraved and Vicious': The Incurrable Inmates of New Zealand's Girls' Reformatory 1900-1918

Mabel Bond, aged thirteen, testified against a man on an improper intimacy charge, but her forthright statements also incriminated her. When Magistrate Heyler Wedderburn Bishop tried Mabel on a theft charge in the closed Juvenile Court minutes later he concluded she was 'absolutely depraved and vicious.'<sup>550</sup> Bishop believed State control was her only hope, so committed her to Te Oranga Reformatory Home. In New Zealand at the turn of the twentieth-century, as in other countries, young people were institutionalised to prevent them being drawn into a life of crime or vice. Te Oranga was New Zealand's sole reformatory facility for young women. The State-run Home operated between 1901 and 1918, and was responsible for discharging almost four hundred 'reformed' inmates back into the community. The original intention was to house and reform those girls and young women thought to be 'incurrable,' those with criminal or vicious tendencies.<sup>551</sup> An incurrable girl was one with 'a decided inclination to rebel,' and was unable or unwilling to change.<sup>552</sup> She was thought to lack moral sense and/or self-control.<sup>553</sup> The reformatory's purpose expanded, as moral panics about young people's activities encouraged attempts to rescue and reclaim a greater range of the troubled or troublesome judged as immoral.

In light of recent investigations into abuse of children in care, historians of child welfare have investigated children's experiences in the past.<sup>554</sup> Antipodean research of juvenile crime has largely concentrated on institutional history, ranging from Bronwyn Dalley's 1987 thesis on Te Oranga Home to Clarissa Carden's 2020 work on an Australian boys' reformatory.<sup>555</sup> In contrast,

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<sup>550</sup> Vicious in this context means immoral, the opposite of virtuous. As seen in the literary work of P.B. Shelley "every soul on this ungrateful earth, Virtuous or vicious, weak or strong,--even all Shall perish..." *Lyttelton Times*, 29 Aug 1916, 4, <https://paperspast.natlib.govt.nz/newspapers/LT19160829.2.13>.

<sup>551</sup> "E-01 Education: Twenty-Fourth Annual Report of the Minister of Education," in *Appendix to the Journals of the House of Representatives* (Wellington, New Zealand: 1901 Session I).

<sup>552</sup> *Auckland Star*, 20 Mar 1908, 3, <https://paperspast.natlib.govt.nz/newspapers/AS19080320.2.31>.

<sup>553</sup> *Lyttelton Times*, 20 Mar 1908, 4, <https://paperspast.natlib.govt.nz/newspapers/LT19080320.2.12>.

<sup>554</sup> For example Nell Musgrove, *The Scars Remain: A Long History of Forgotten Australians and Children's Institutions* (Australian Scholarly Publishing, 2013).

<sup>555</sup> Bronwyn Dalley, "From Demi-mondes to Slaveys : a Study of the Te Oranga Reformatory for Delinquent Women, 1900-1918 " (MA (History) thesis, Massey University, 1987); Clarissa Carden, "Managing moral

Barry Godfrey, Heather Shore, Pamela Cox, and Zoe Alker, the authors of *Young Criminal Lives*, studied children in British reformatories using a life-course criminology approach influenced by European studies with roots in both criminology and sociology.<sup>556</sup> This article contributes to this evolving literature by investigating the role labelling inmates incorrigible played in their incarceration and the outcomes for ex-inmates beyond the contemporary reporting, enabling a critique of the ways troublesome girls were identified and handled.<sup>557</sup> Incorrigible inmates ranged from neglected or abandoned girls raised in institutions to thieving junior domestic servants and sexually active adolescents challenging parental authority. Despite the Home's reforming aspirations, some inmates were thought more incorrigible than others. The concept served a purpose, but the young women show it was far from a fixed proposition, as they defied easy definition and eventually rejoined society. However, comparing 'improved' and 'incorrigible' inmates' life-courses shows little difference in either precipitating factors or life outcomes, suggesting the complexity of factors that shaped their lives including time spent in the reformatory. This paper argues, therefore, that former reformatory inmates were rarely the incorrigible creatures the press and authorities described and that many went on to conform to commonly held social conventions after their return to the community.

## Methodology

Collective biography has become the preferred method for uncovering the lives of the less well-documented. Once criticised as potentially an 'uncritical compilation of defective sources, bureaucratized team research, and slovenly sliding into the uncouth prose of social science,' at its best collective biography or prosopography reveals the similarities and differences of under-documented groups.<sup>558</sup> This approach is necessary for studies in an area perhaps best described as adjacent to life course criminology. Collective biography allows Mabel Bond and her cohort to be included in the story of a reformatory in which history has regarded them as merely entities being acted upon. Although this study searched for all inmates drawn from a considerably smaller national population, its approach is comparable with that found in *Young Criminal Lives* with their sample of 400 children from English reformatories, and complements their findings by

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reformation: the case of Queensland's reformatory for boys, 1871-1919," *History of Education Review* 50, no. 2 (2020), <https://doi.org/doi.org/10.1108/HER-05-2020-0034>.

<sup>556</sup> Godfrey et al., *Young Criminal Lives*.

<sup>557</sup> Dalley, "Demi-mondes to Slaveys."

<sup>558</sup> Stephan Thernstrom cited in Tilly, "The Old New Social History and the New Old Social History," 374.

extending them into a female cohort.<sup>559</sup> *Young Criminal Lives* noted the English state's minimal documentation of individuals, a practice transferred into the New Zealand system. This deficiency was identified in earlier studies of Te Oranga which were limited by either the inability to identify the girls or to reveal their subsequent lives.<sup>560</sup> In this research official records (roll, inspection reports, correspondence, and government statistics) have provided information fragments supplemented by material in newspapers and police gazettes. Restrictions on archival material preclude full names being used in order to protect privacy, while others linked to Te Oranga in the public domain are given their full name.

New Zealand is unusually suited to the collective biography approach. The small populace and place in the British Empire which encouraged early adoption of centralised record-keeping means Mabel Bond and many other inmates are easily identified. A single typed transcript of the roll for 1900-1911 has survived, preserving only the girls' names, age at admission, religion, and date committed into State care. For a more complete list other inmates were found in Police Gazettes, newspaper reports, and other reformatory records. Sixty-eight percent of all 395 inmates were identified and searched for, with varying degrees of success. Drawing on family history resources enriched the official records' minimal information. Biographical material was collated, with parents located for 258 and deaths for 230 individuals. Marriages or like relationships were found for 228, while twenty-three never married. Difficulties commonly found in tracing females, like those noted by Godfrey et al, included name changes.<sup>561</sup> Some returned to a birth or family name, and others took the surname of their common-law husband. As an example of the process, Mabel was identified in newspapers as destined for the reformatory, and her committal was confirmed by the archival records. Newspaper reports, digitally searchable, can supply reasons girls entered the system, or links to family. Mabel's court appearances were widely reported, and her father was ordered to pay towards her maintenance in the reformatory.<sup>562</sup> Primary resources now readily available through genealogical websites are increasingly used by academics, as are family trees hosted by such sites. Some caution is required; not all genealogies prove reliable.

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<sup>559</sup> Godfrey et al., *Young Criminal Lives*, Chapter One.

<sup>560</sup> Beryl Hughes, "The Enquiry into the Te Oranga Girls Home, 1908," *Women's Studies Journal* 4, no. 1 (1988). Dalley, "Demi-mondes to Slaveys."

<sup>561</sup> Godfrey et al., *Young Criminal Lives*.

<sup>562</sup> *Star* (Christchurch), 17 Sep 1901, 3, <https://paperspast.natlib.govt.nz/newspapers/TS19010917.2.46>.

This approach, of individual biographies revealing the inmates' backgrounds, their families, and their lives beyond the institution, allows for conclusions about them as a collective. Women have fewer social markers to identify social re-integration, with long-term marriage being the most obvious. Historians of girls' institutions have noted the correlation of marriage with success.<sup>563</sup> A 1920 Te Oranga report categorised those discharged as good, bad, indifferent or doing well while some are merely noted as married.<sup>564</sup> In the absence of other means of judging former inmates' ability to reintegrate into society and their overall well-being, marriage continues to be our best indication of normative behaviour. Such conclusions, made about the total population of one small institution, indicate the possibilities that close examination of the residents of reformatories and industrial schools hold for historical researchers.

## **Te Oranga**

In late 1890s New Zealand, observations about the lack of facilities for the young 'criminally disposed' were combined with fears expressed in print and meetings about vagrant adolescent girls, 'nobody's daughters,' who stayed out all night, prowling the streets, a menace to the community and themselves with their lack of common-sense, and their moral foolishness.<sup>565</sup> Women's groups insisted something must be done to take control of these girls before they fell into evil company, some means to hold them until they reached adulthood. In response to this moral panic, the original intention was that New Zealand reformatories would redirect children into the right life-path. The theory was that, unlike adults, children could be retrained before behaviours were ingrained, which meant removal from a family that allowed or encouraged quasi-criminal behaviour was deemed desirable. Te Oranga was for girls 'between the ages of ten and eighteen convicted of an indictable offence' to educate them and provide 'industrial' training, and imbue a taste for manual labour.<sup>566</sup> These goals were never fully realised as it increasingly became the destination for the most difficult of the industrial school girls, particularly those deemed to lack the moral sensibilities that concerned a vocal section of society. This focus is evident as girls

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<sup>563</sup> Beagle, "Children of the State," 200; Barbara Brenzel, *Daughters of the State: A Social Portrait of the First Reform School for Girls in North America, 1856-1905* (Cambridge, Mass: The MIT Press, 1983), 164; Dalley, "Demi-mondes to Slaveys," 130.

<sup>564</sup> "List of Past Inmates Discharged" (CW15), Archives NZ, File ref R19684776. Viewed 12 Apr 2022.

<sup>565</sup> "E-01 Education: Twenty-Third Annual Report of the Minister of Education," in *Appendix to the Journals of the House of Representatives*, (Wellington, New Zealand: 1900 Session I), xx. *Star (Christchurch)*, 26 Nov 1896, 3, <https://paperspast.natlib.govt.nz/newspapers/TS18961126.2.21>; *Press*, 26 Mar 1897, 5, <https://paperspast.natlib.govt.nz/newspapers/CHP18970326.2.37>.

<sup>566</sup> "E-03 Education: Industrial Schools," in *Appendix to the Journals of the House of Representatives* (Wellington, New Zealand: 1900 Session I), 4.

with 'dangerously sensual and criminal tendencies' were admitted under various sections of the Industrial Schools Act, 1882 and the revised 1908 version.<sup>567</sup> Magistrates could send girls under sixteen directly to the reformatory, while those aged 16 to 19 were under the penal system and redirected to Te Oranga.<sup>568</sup> Fears voiced by an early social worker included that some would otherwise go on to be habitual criminals, and produce 'most undesirable children', before they were once more a burden on the State.<sup>569</sup> Changes in 1909 and 1910, promoted as being in the public interest, extended preventative detention from twenty-one years into adulthood for those deemed 'morally degenerate.'<sup>570</sup>

Despite its mission, Te Oranga was a reformatory without a clear program for reform. In 1980, Barbara Brenzel identified the objectives of reform as 'to save the child and preserve social order', while Linda Mahood suggests rescued delinquents were to be imbued with values in line with their class and gender.<sup>571</sup> These objectives are reflected in the reformatory's aim to turn out respectable young women, trained for domestic service.<sup>572</sup> To do so, the method employed was to progressively reward good behaviour by moving girls up the two, and later three, tiered classification system. The first class was reserved for those who obeyed the rules and met expectations. Lower classes contained the rebellious and the disobedient. The Acts which enabled the institution did not include guidelines for its management beyond authorizing permitted punishments.<sup>573</sup> The lack of a prescription for reform gave management an enormous degree of freedom in the Home's running.

An inquiry in 1908 into the Home and its treatment of the girls was the result of another moral panic. Unexpectedly harsh punishments for young women caught public attention while Te Oranga staff argued corporal punishment and solitary confinement were necessary tools for the discipline of the most troublesome.<sup>574</sup> Comments about these 'incorrigible girls' were widely reported, linking the established legal term of incorrigible rogue to Te Oranga's underage

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<sup>567</sup> Dalley, *Family Matters*, 142.; *The Industrial School Act, 1882*, [http://www.nzlii.org/nz/legis/hist\\_act/isa188246v1882n25299/](http://www.nzlii.org/nz/legis/hist_act/isa188246v1882n25299/)

<sup>568</sup> *Auckland Star*, 8 Mar 1913, 9, <https://paperspast.natlib.govt.nz/newspapers/AS19130308.2.48>.

<sup>569</sup> *Press*, 23 May 1907, 8, <https://paperspast.natlib.govt.nz/newspapers/CHP19070523.2.54>.

<sup>570</sup> Industrial Schools Amendment Act 1909 (9 Edw VII, No. 14), *New Zealand Acts as Enacted*, [http://nzlii.org/nz/legis/hist\\_act/isaa19099ev1909n14395/](http://nzlii.org/nz/legis/hist_act/isaa19099ev1909n14395/); Education Amendment Act, 1910, 1 Geo V. No.70, *New Zealand Acts as Enacted*, [http://www.nzlii.org/nz/legis/hist\\_act/ea19101gv1910n70256/](http://www.nzlii.org/nz/legis/hist_act/ea19101gv1910n70256/).

<sup>571</sup> Barbara Brenzel, "Domestication as Reform: A Study of the Socialization of Wayward Girls, 1856-1905," *Harvard Educational Review* 50, no. 2 (1980): 197. Mahood, *Policing gender, class and family*, 105.

<sup>572</sup> *Press*, 3 Dec 1901, 4, <https://paperspast.natlib.govt.nz/newspapers/CHP19011203.2.24>.

<sup>573</sup> Beagle, "Children of the State," 35, 38.

<sup>574</sup> "Education: Industrial Schools," 2.

inmates. Led by the established and able magistrate H. W. Bishop, the inquiry also revealed something of the priorities of education, work, and the girls' perceptions of their treatment. The girls were only required to have two hours of schoolroom learning per day which was not compulsory thus often interrupted by other priorities. The schoolteacher testified she held a morning class for the most backward attended by thirty or more girls and the afternoon class of about twenty girls with ages ranging from 11 to 20 years. The highest level taught was standard four, when standard six was the maximum in other schools. Matron listed the training Te Oranga offered as school, drill, cooking, sewing, singing, house and laundry work, gardening, milking, and poultry-rearing, all intended to produce capable women ready to run 'homes of their own.'<sup>575</sup> While clearly regarded as training for their futures as housewives and not just domestic servants, it is also evident that the girls provided essential domestic labour at the reformatory. The reformatory staff was the matron, a sub-matron, teacher, four attendants and a gardener. Through the girls' labour, the facility supplied much of its own food, with vegetable gardens, cows, and poultry. Honey, beeswax, and firewood were also produced on site, as these institutions were supposed to be self-supporting. Schooling was said to be valuable and important, but in practice was subordinate to the work needed to run the reformatory.

The girls' 'opinions, emotions and behaviours' are glimpsed in the inquiry record.<sup>576</sup> Some of the girls enjoyed their work, and seem to have thrived in the stability Te Oranga provided. They would have been the ones most likely to regard the reformatory as their home and the matron as their substitute mother figure. Other girls complained about the work, 'I would sooner do washing, ' the food, 'not very nice at times', the petty restrictions and the punishments.<sup>577</sup> For them, the prison-like institutional setting was not a home no matter what the authorities wanted the girls to believe, with one girl writing 'I really never wish to enter the door of Te Oranga again.'<sup>578</sup> Additionally, segregation from society which included severely limited communications with their families deprived them of experience in normal family relationships and of the practice of appropriate courting rituals.<sup>579</sup> Instead the girls were closely monitored,

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<sup>575</sup> "Transfer of Inmates, 1909", Letter from Te Oranga Manager to Secretary for Education, 17 Oct 1909, Archives NZ, File ref R16801564, Record 40/15/4.

<sup>576</sup> Nell Musgrove, Carla Pascoe Leahy, and Kristine Moruzi, "Hearing Children's Voices: Conceptual and Methodological Challenges," in *Children's Voices from the Past : New Historical and Interdisciplinary Perspectives*, ed. Kristine Moruzi, Nell Musgrove, and Carla Pascoe Leahy (Cham, Switzerland: Palgrave Macmillan, 2019), 12. 28. "H-21 Te Oranga Home: Report of Commission," in *Appendix to the Journals of the House of Representatives* (Wellington, New Zealand: 1908 Session I), 3, 7.

<sup>578</sup> "Te Oranga Home Report ", 31.

<sup>579</sup> Beagle, "Children of the State," 124.

particularly for suspected sexual behaviour, and strictly disciplined to enforce desired behaviour. Given the lack of a program for reform and a way of testing that a girl was reformed it is not surprising that staff were given to tactless talk about the girls' behaviour. One girl when asked if her morals had improved stated, 'I do not know. They do not seem to talk about it as though they are.'<sup>580</sup> The success of the reformatory had little to do with the actions and beliefs of its staff and management.

From 1916, the direction of the Education Department altered under a new leader, influenced by modernizing international trends in child welfare. Institutional care came to be regarded as damaging, and reclassification of inmates using scientific methods enabled some to be transferred to more appropriate institutions that better met their needs.<sup>581</sup> Older inmates received increased vocational training and greater numbers were placed in domestic service positions to prepare them for life beyond the supervision of institutions. Restrictions over the girls were reduced. During 1918, most of the girls were released with only nine detained in other facilities.<sup>582</sup> Local residents were vocal in their displeasure, with popular perceptions of known 'dangerous moral degenerates' spreading their toxic (and perhaps intoxicating) influence onto innocent men-folk.<sup>583</sup> The moral panic about immoral girls had re-ignited.

### **Incorrigible Girls**

As the nineteenth-century ended, the moral panic about 'social evil' had gripped New Zealand, as in other parts of the Anglophone world, and prompted attempts to control young women. As a result, lower-class females suspected of a desire to live an 'evil life' encountered the edge of the penal system in the form of Te Oranga. Although they were from backgrounds that defy simple classification labels, some common motifs emerge: the broken family, a childhood spent in State or church care or an unhappy home where poverty and alcohol abuse operated together, a lack of work or place to stay, and behaviour that attracted attention. Their incarceration reflected that ideas of appropriate female roles had been transgressed, thus their actions hindered the forward drive of moral progress. In particular, female delinquency was thought to be sexually or morally driven. For example, Mabel Bond was charged with theft, but evidence of promiscuity was

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<sup>580</sup> "Te Oranga Home Report ", 28.

<sup>581</sup> *Lyttelton Times*, 26 October 1915, 7, <https://paperspast.natlib.govt.nz/newspapers/LT19151026.2.39>.

<sup>582</sup> Beagle, "Children of the State," 72.

<sup>583</sup> *NZ Herald*, 2 October 1919, 9, <https://paperspast.natlib.govt.nz/newspapers/NZH19191002.2.123>.

allowed to be given in court which led to her labelling as 'absolutely depraved and vicious.'<sup>584</sup> Her criminal behaviour provided the excuse for committal which would prevent further immoral conduct it was believed would inevitably lead to her 'fall.' The belief that the innocence of childhood was incompatible with sexual knowledge allowed girls to be removed from temptation, and placed into an institution in which they were infantilised, being deprived of any autonomy, and taught to follow social rules.<sup>585</sup>

For many girls, childhood ended when working life began, and among the working classes this might be at an age seen as unacceptably young to the middle class. Working families often relied on their children's small incomes to build a family wage and so transgressed rules about the female role in allowing girls to work not only outside the home setting, but on the street and in hotels. As part of a large family without a breadwinner, Margaret and Mary Capill, aged fourteen and eleven, contributed by selling trinkets on the streets in the evening. Their removal to Te Oranga after a theft was framed as being 'for their own good.'<sup>586</sup> Similarly, fifteen-year-old Maggie Sneddon was working in a hotel as a nurse girl when convicted of theft.<sup>587</sup> Those with influence were able to use the ideologies of Evangelical Christianity and social purity to combat the perceived threat of social and moral disorder posed by these children.<sup>588</sup> In particular, the social purity movement's influence can be seen in legislation extending the definition of childhood's length, which was in direct conflict with a working-class reality of the need to provide for family. Legislation allowed these working children to be taken, and forced into what was considered a more appropriate mould with a balance of work within the home, training, and school.

Te Oranga's first manager, Mrs Ellen Branting, considered her primary method for correcting a lack of moral training was 'moral suasion': teaching, encouraging, and coaxing the girls to improve their behaviour.<sup>589</sup> Her attitude was of its time, as individuals were routinely blamed for their lack of morality while social conditions and context escaped scrutiny. She dealt with both the quasi-criminal cases, and inmates from industrial schools as managers of

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<sup>584</sup> *Lyttelton Times*, 4 Sep 1901, <https://paperspast.natlib.govt.nz/newspapers/LT19010904.2.11>.

<sup>585</sup> Michelle Cale, "Girls and the Perception of Sexual Danger in the Victorian Reformatory System," *History* 78, no. 253 (1993): 206.

<sup>586</sup> *Lyttelton Times*, 1 Jun 1904, 5, <https://paperspast.natlib.govt.nz/newspapers/LT19040601.2.19>.

<sup>587</sup> *Evening Post*, 3 Mar 1906, 4, <https://paperspast.natlib.govt.nz/newspapers/EP19060303.2.26>.

<sup>588</sup> Tulloch, "State Regulation of Sexuality " 26; Shurlee Swain, "Sweet Childhood Lost: Idealized Images of Childhood in the British Child Rescue Literature," *The Journal of the History of Childhood and Youth* 2, no. 2 (2009).

<sup>589</sup> "Te Oranga Home Report ", 104.

institutions feeding into Te Oranga sent their most difficult cases.<sup>590</sup> However, not all reformatory girls were considered equally incorrigible, as some were amenable to reform. Mrs Branting stated the older incorrigible girl, one certain to revert to 'an evil life,' was unaffected by corporal punishments but they were still inflicted as an example to the others. Instead, incorrigible girls nearing twenty-one were transferred to a Catholic women's institutional home called Mount Magdala. This informal arrangement allowed supervision by Te Oranga to continue thus providing a means to retain State control of over-age women, although how this detention was enforced is unclear demonstrating the haphazard solutions that had developed ahead of legal authority.<sup>591</sup> An Education Department official described the women thus detained as 'Very bad cases, or cases where we are absolutely sure control after twenty-one is necessary.'<sup>592</sup> Early on these women had no opportunity to appeal this decision. This extension of confinement was legislated for in 1909 with an addition to the Act allowing 'morally degenerate' or otherwise unfit persons to be detained for further four-year periods.<sup>593</sup> Ultimately, lengthy detention proved the most effective tool in preventing undesirable behaviours spreading back into the community.

Escape attempts from within the Home often followed repeated punishments for impudence and insubordination, suggesting some girls were less malleable, more strong-willed.<sup>594</sup> Some escaped to return to families, which could be seen either as a rejection of Te Oranga Home and its 'family,' or as a determination to return to their old life. Neither motivation was acceptable to the reformatory which prided itself on its home-like qualities (despite its locked doors and barred windows). Escapes while out on service created a significant problem for Te Oranga as service placements were the only means of testing the progress of a girl's reform, and going out on a service placement was considered its own reward. Those on service placements remained under the supervision of the Home, with employers given details of their record and periodic conduct reports required. Certainly, a placement gave the girl a degree of freedom that was denied in the prison-like environment of the Home where every move was watched, every sound listened for. They were still restricted by the circumstances of their placement, and by lack of money as their wages were paid to the inmate's savings account controlled by the Home's

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<sup>590</sup> *Dominion*, 20 Mar 1908, 8, <https://paperspast.natlib.govt.nz/newspapers/DOM19080320.2.91>.

<sup>591</sup> Children were only placed under the guardianship of the Child Welfare Branch from 1925, Child Welfare Act 1925 (16 Geo V, No.25), *New Zealand Acts as Enacted*, [http://nzlii.org/nz/legis/hist\\_act/cwa192516gv1925n22187/](http://nzlii.org/nz/legis/hist_act/cwa192516gv1925n22187/), 115.

<sup>592</sup> "Te Oranga Home Report ", 132.

<sup>593</sup> Beagle, "Children of the State," 56. *Industrial Schools Amendment Act 1909 (9 Edw VII, No. 14)*.

<sup>594</sup> Punishment register, "Te Oranga Home Report ", 135-37.

manager.<sup>595</sup> The mythologizing of an idyllic and ideal rural environment, away from urban vices, created a preference for rural service locations which, while they reduced the opportunity to escape, increased the likelihood young women would head for the town if they were unhappy with country life.<sup>596</sup> Economic conditions and location probably contributed towards escape, while the spectre of physical and sexual harassment that servants often received was overlooked as a motivation. If caught, police returned girls to the Home, to lengthy punishments with little effort to uncover reasons, but rather certainty about the draw of an evil life and a belief they were incorrigible.

Labelling girls incorrigible allowed the Home to increase in size, from two to three wards, to separate and detain the incorrigible from the improving, and to avoid contaminating the innocent by preventing the spread of the corruption of sexual knowledge.<sup>597</sup> This emphasised the importance and difficulty of the work of reform. The incorrigible label also explained any failure by the Home to reform, finding fault with the girl rather than the system. Both matron and staff warned such girls that they would fail once released, certain, again, of the pull of an 'evil life.'<sup>598</sup> This certainty about their fate led to the girls being held for extended periods, denying them the potential for release earlier than the age of twenty-one. The lengthy segregation allowed girls to outgrow adolescent impulsiveness and contributed to the reformatory's success. Once separation of girls into three categories was possible, the focus shifted to retaining control of 'moral degenerates' over twenty-one years. Consequently, Maggie Jones was twenty-four when she escaped from Te Oranga for a third time. She headed to her hometown where the police tracked her down and arrested her.<sup>599</sup> She escaped from the police station, evaded capture for another three weeks, and married a returned soldier.<sup>600</sup> Given her age, she must have been regarded as morally deficient, but there was little or no discussion on how such a deficiency was to be measured when the staff of the home made their recommendations to those in authority. This lack of official guidance allowed the incorrigible label to fulfil that need.

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<sup>595</sup> Beagle, "Children of the State," 32.

<sup>596</sup> "Education: 23rd Annual Report," xx.

<sup>597</sup> Cale, "Sexual Danger," 207.

<sup>598</sup> "Te Oranga Home Report ", 22, 30.

<sup>599</sup> *NZ Police Gazette*, 24 Jan 1917, 48, <https://paperspast.natlib.govt.nz/periodicals/NZPG19170124.2.5>.

<sup>600</sup> *Evening Star*, 24 Jul 1917, 6, <https://paperspast.natlib.govt.nz/newspapers/ESD19170724.2.46>.

## Social danger?

Instead of being a social danger, the kind of adolescent sexual behaviour which moral panics problematised represented relatively normal courting behaviour in the working classes.<sup>601</sup> This concern is evident during the inquiry which grilled girls about going out to town and meeting up with friends, with much suspicion that they were spending time with boys. Maggie Jones's first escape in 1913 might be taken as an example of relationship behaviour. She met up with a young man, spent a night with him and seems to have expected the relationship to continue.<sup>602</sup> He helped her get a job out of town, they had a patchy correspondence and he visited her twice before she was recaptured. Her fellow escapee had interacted with the boy's brother in the local church and somehow arranged to get away from the home. Sexual activity seems to have been part of establishing the couple's relationship, but there was also financial help, support in finding work, and ongoing contact between the parties.

Despite an overt focus on immorality, few inmates were recorded as being admitted for sexual behaviour. The majority had committed a minor crime or came from broken or dysfunctional families. The first girls sent to Te Oranga were from Industrial Schools, supposedly their most difficult cases although most were close to reaching eighteen, the maximum age to which they could be held. Reformatory records show the sections of the Industrial Schools Act individual girls were admitted under, but these relate to when they were first admitted to care thus do not reflect the behaviour of the inmate transferred from an Industrial School to Te Oranga. Admissions under various sections peaked and then subsided, for example between 1905 and 1907 those entering for committing punishable offences peaked at five or six per year. The offences were minor, usually theft. Mabel Bond's committal for theft, however, masked the sexual conduct that so offended the court. In 1910 girls began to be charged by police with not being under proper control (often correlating with sexual activity) with admissions averaging five per year with a peak of eleven in 1914. Of the 201 young women committed between 1900 and 1910 only eight were pregnant on arrival. The low rate suggests that they were neither as sexually active nor as incorrigible as generally portrayed. Girls moving about the cities and towns were considered by those trying to influence community mores to be a social danger. Generally, the

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<sup>601</sup> Walkowitz, *Victorian Society*, 249.

<sup>602</sup> *Star* (Christchurch), 18 Jun 1913, 5, <https://paperspast.natlib.govt.nz/newspapers/TS19130618.2.46>.

evidence does not support their suppositions, with only two cases found where the girls admitted were described by police as prostitutes.

Ideas about the causes of juvenile offending did not change significantly before the mid 1920s, with the men running the Education Department in 1900 and 1917 both expressing the idea that genetics and poor parenting were primary factors.<sup>603</sup> One of the most dangerous categories in terms of perceived genetic inclinations towards sexual misbehaviour should have been those rescued from brothels. However, these children usually passed into industrial schools, rather than being sent direct to Te Oranga. Despite this, only eight girls were admitted for association with disreputable persons (the catchall term for prostitutes and thieves). This included children found living in a brothel. For example, Charlotte S and her siblings were removed from their mother Sarah's house in 1894 as she had a reputation as a prostitute. After six years Charlotte moved from Auckland Industrial School to Te Oranga, theoretically still in need of reform. She did well under the Home's supervision and married four years after her release. Like other brothel rescues, Charlotte was never charged with, nor suspected of, prostitution.

It appears that a particular danger was felt to be the spreading of the 'infection' of sexual experiences. This made girls known to have suffered sexual assault (including by incest), a particular menace to families, community and within Te Oranga. The courts treated parties involved in incest cases differently. Henry C was convicted of incest with his fourteen-year-old daughter, and sentenced to five years, while the girl went into Te Oranga for indefinite confinement. Evidence at the inquiry suggests that staff monitored the dormitories for 'immoral behaviour,' with the focus being on masturbation rather than sexual activity between girls. Inmates noted the alertness of staff to girls turning over in bed, and rustling about, and some recalled having to deny they had been in bed with another girl.<sup>604</sup> As Michelle Cale has observed, the juvenile delinquent was assumed to be inherently sexual, a trait that was to be eliminated in favour of passive obedience.<sup>605</sup> The girls' recollections suggest this belief was held by staff.

The moral panic about prostitution underlay the need to provide an institution to deal with the problem of young girls seen as vulnerable to the 'easy life' and the financial rewards it seemed to offer. The same concerns affected the attitudes of staff and management of the

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<sup>603</sup> "E-01a Reforms in Connection with the Industrial School System," in *Appendix to the Journals of the House of Representatives* (Wellington, New Zealand: 1917), 4; Beagle, "Children of the State," 42.

<sup>604</sup> "Te Oranga Home Report ", 14, 23, 24, 29.

<sup>605</sup> Cale, "Sexual Danger," 214.

reformatory as well as of judges and magistrates, sweeping a variety of girls with a variety of problematic backgrounds into an institution that succeeded by holding girls until they outgrew their earlier impulsiveness. One newspaper described many of them as 'girls whose only crime was in being robbed of their parents' love and care at an early age and being committed to a State orphanage.'<sup>606</sup> The same report labelled the moralizing portion of society as busybodies who liked to promote their 'superior virtues by patronizing these unfortunate girls.'<sup>607</sup> The social danger posed was more imagined than real.

### **Absconders**

Absconding girls and their escape plans posed a problem in the smooth running of Te Oranga. Considered the most incorrigible of them all, the rejection by absconders of the reformatory's discipline was seen as evidence of their lack of moral character. However, analysis of the runaways shows that even the most incorrigible girls were little different, in either precipitating factors or life outcomes, to other inmates. Between 1905 and 1919, the *New Zealand Police Gazette* listed forty-two escapes by inmates aged between fourteen and twenty-four. Thirteen absconders were not recaptured. They ran both from the Home itself, and from service placements. Those who were found were typically discovered within a few days, a few weeks, or a few months. They went to family, to friends, or to find a fellow, a flame, or a fancy-man. They did not return willingly. They were given away by their fellow inmates, former friends or given up by their families. In addition, despite the fears of the staff, most of the girls who escaped were not sexually experienced. Eighteen-year-old Carrie Agnes J, for example, who as half Chinese and rescued from a brothel could be regarded as a particular danger, had been in care since the age of four with presumably no sexual experience, while the promiscuous Mabel Bond never absconded. In addition, the only two girls found described as prostitutes before admission never escaped.

However, the thirty-eight girls reported in the *Police Gazette* as absconding from Te Oranga on forty-two occasions represented only part of the problem. Attempted escapes and short term escapes thwarted by local police never made it into the *Police Gazette*. Some of these events can instead be found in the 1908 inquiry report's record of punishments and interviews with escapees. Harriet M, aged nineteen, was labelled the ringleader of an unsuccessful escape

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<sup>606</sup> *NZ Truth*, 12 Jul 1919, 4,  
<https://paperspast.natlib.govt.nz/newspapers/NZTR19190712.2.22>.

<sup>607</sup> *NZ Truth*, 12 Jul 1919, 4,  
<https://paperspast.natlib.govt.nz/newspapers/NZTR19190712.2.22>.

from the Home in 1908. She was one of two girls found in the roof-space above the lavatories, their plan given away by another girl who had not taken the opportunity to escape. Another two girls were found by staff searching the nearby road. Court cases in the newspapers reveal others also escaped for a time. In 1901 Sarah Rowe ran to her parents.<sup>608</sup> Mary Capill returned to her mother in 1908.<sup>609</sup> Her family put her up in a boarding-house under an assumed name while they prepared to get her to another city. Her mother received a fine for harbouring her. Other escapes also warranted a brief newspaper mention. Six girls escaped in May 1914, with five quickly caught.<sup>610</sup> Four, aged eighteen to twenty-three, had a fleeting day of freedom in October 1914.<sup>611</sup> Having escaped through the adjoining paddocks, searchers found them hiding while awaiting darkness to get away.

A few were serial absconders. In many ways Violet W was typical of the type of child placed into care. Aged five when her father died, she was rescued from life with her mother, a reputed prostitute, and placed in the Christchurch Receiving Home. She was boarded out, often for quite short periods. At seventeen, she ran away from a service placement and was found a few months later in another city. Sent to Te Oranga in 1912, she almost immediately absconded. She escaped again when aged twenty and on her return was sent to Mount Magdala for continual misconduct, until her release in 1916. By 1920 she was in the Essex Maternity Home for unmarried mothers. Violet married Jack in 1921 and they had five children. He divorced her for desertion in 1946 and she immediately remarried. This marriage endured to her death. Notwithstanding the failure of social norms of marriage and family to provide for her as a child, Violet ultimately embraced the normative institution of marriage.

Other absconders successfully returned to family. Eva Hockey was never found by police after she absconded in 1914.<sup>612</sup> Back in her hometown she married a few years later surrounded by parents and siblings with the wedding lavishly reported in the local newspaper.<sup>613</sup> Her case demonstrates the success a former reformatory girl, even an absconding one, could achieve reintegrating into family and community.

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<sup>608</sup> *Star* (Christchurch), 16 Jul 1901, 3, <https://paperspast.natlib.govt.nz/newspapers/TS19010716.2.44>.

<sup>609</sup> *Star* (Christchurch), 9 Jun 1908, 3, <https://paperspast.natlib.govt.nz/newspapers/TS19080609.2.59>.

<sup>610</sup> *Press*, 14 May 1914, 6, <https://paperspast.natlib.govt.nz/newspapers/CHP19140514.2.32>.

<sup>611</sup> *Sun* (Christchurch), 10 Oct 1914, 12, <https://paperspast.natlib.govt.nz/newspapers/SUNCH19141010.2.57>.

<sup>612</sup> *NZ Police Gazette*, 2 Sep 1914, 547, <https://paperspast.natlib.govt.nz/periodicals/NZPG19140902.2.2>.

<sup>613</sup> *Hawera & Normanby Star*, 17 Nov 1916, 4, <https://paperspast.natlib.govt.nz/newspapers/HNS19161117.2.17>.

Nineteen-year-old Jane Millard also escaped from Te Oranga Home, in the winter of 1905.<sup>614</sup> She had been in institutional care for more than ten years. Her parents had separated when she was eight, with Jane and her two sisters Agnes and Annie entering a Catholic Home aligned to the State system. She evaded capture, but lived a life which the reformatory probably felt deserved the label of 'very bad girl.' It included a long-term cohabiting relationship, a short, failed marriage, and charges of theft and drunkenness into the 1930s before she finally settled down.<sup>615</sup> In contrast, her sister Agnes was sent to Te Oranga after escaping from the custody of her industrial school.<sup>616</sup> Agnes married once and had two children. Youngest sister Annie married, but was divorced by her husband for adultery. She then married a different man four years later. Their brothers who never experienced State care showed similarly divergent paths, with two in stable marriages, and two frequently in trouble with the law. The sisters' life paths might suggest little real influence from a brief period spent under the care of the reformatory.

Violet, and Eva and Jane's different outcomes reflect the range of experiences of former inmates. They appear to have been affected by their family circumstances prior to committal as much as their time in the reformatory, that is by their formation as much as their reformation. They all attempted to adopt the socially normative practice of marriage as a life-path although there may have been few other viable options.

### **Ordinary Lives**

On being discharged from the Reformatory, records suggest most former inmates went on to live ordinary lives in line with social expectations, meaning most married and raised families. At the time of its closure, it was reported over ninety percent of the girls had 'made good.'<sup>617</sup> Of 272 inmates located in this research, 213 married and 172 had children. Even the most incorrigible group, the absconders, mostly returned to their loved ones, married, and had families. From forty-seven known absconders, thirty-seven married, only two did not, and the other eight cannot be found. The inclination towards marriage contrasts with backgrounds of broken families. There is a tension between marriage and subsequent childbearing which was viewed as potentially

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<sup>614</sup> *NZ Police Gazette*, 21 Jun 1905, Page 212, <https://paperspast.natlib.govt.nz/periodicals/NZPG19050621.2.7> (noted as Jane Mallard).

<sup>615</sup> *NZ Police Gazette*, 16 Nov 1932, 717, <https://paperspast.natlib.govt.nz/periodicals/NZPG19321116.2.7> (noted as Jean Millard).

<sup>616</sup> *NZ Police Gazette*, 6 Feb 1907, 57, <https://paperspast.natlib.govt.nz/periodicals/NZPG19070206.2.7>.

<sup>617</sup> *NZ Truth*, 12 Jul 1919, 4, <https://paperspast.natlib.govt.nz/newspapers/NZTR19190712.2.22>.

continuing the girls' supposed defective genetic inheritance and the alternative of excluding former inmates from social conventions in the interests of social and racial purity endorsed by the then increasingly credible eugenics movement. In fact, eugenic groups in New Zealand were on the cusp of actively petitioning to prevent marriages of the 'feeble-minded', aiming to avoid an increase in those unable to provide for themselves, thus requiring expensive life-long State care. Additionally, another eugenic concern was that the poor's supposed excessive sexuality created large families that were a burden on the rest of society. Contrary to this expectation, among former inmates with children, sixty percent had three children or less. Consequently, contemporaries' emphasis on marriage as a reformation remains a curious one.

The implication is marriage gave women a degree of respectability. However, the Home did not regard former inmates as reformed, and continued to seek information about them. By holding young women until their twenty-first birthday, the likelihood of a speedy marriage increased slightly as they followed the example of their free sisters. In 1921, the mean age at marriage was 26.72, but the mode age (most frequent) was twenty-one.<sup>618</sup> For reformatory girls the mode age was the same, with a mean of twenty-four and median of twenty-five. Some inmates married while still under the authority of the reformatory. It required official permission, often given when the girl was pregnant. They had probably either absconded and then found themselves pregnant, or had defied the rules and sought male company while in service placements with increased social opportunities. As a result, they may have been respectably married, but they were not necessarily regarded as reformed.

It is perhaps co-incidental that three women of four who entered bigamous marriages were all in care for seven or more years. In fact, there is no indication that the length of time in care had any effect on the likelihood of divorce. Dalley argues that despite the Home believing marriage meant a success, some marriages failed.<sup>619</sup> A girl could still be regarded as having 'gone bad,' including the four married women who divorced and then subsequently lived in informal cohabiting relationships. Divorce became increasingly common in early twentieth-century New Zealand but was still socially censured. Forty-two reformatory women were found to have had marriages end in divorce, with causes covering the full range from adultery and desertion to mutual separation, a rate many times higher than the New Zealand average of less than one

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<sup>618</sup> Census and Statistics Office, Report on the Vital Statistics of the Dominion of New Zealand for the year 1921, Wellington, 1922

<sup>619</sup> Dalley, "Demi-mondes to Slaveys," 130.

percent. It appears that only ten married three times or more, with one woman having six marriages of short durations. Young widows tended to remarry but one had an informal second relationship. Marriage was undoubtedly seen as a viable and important institution in former inmates' lives, one which allowed most to create families and strong personal relationships.

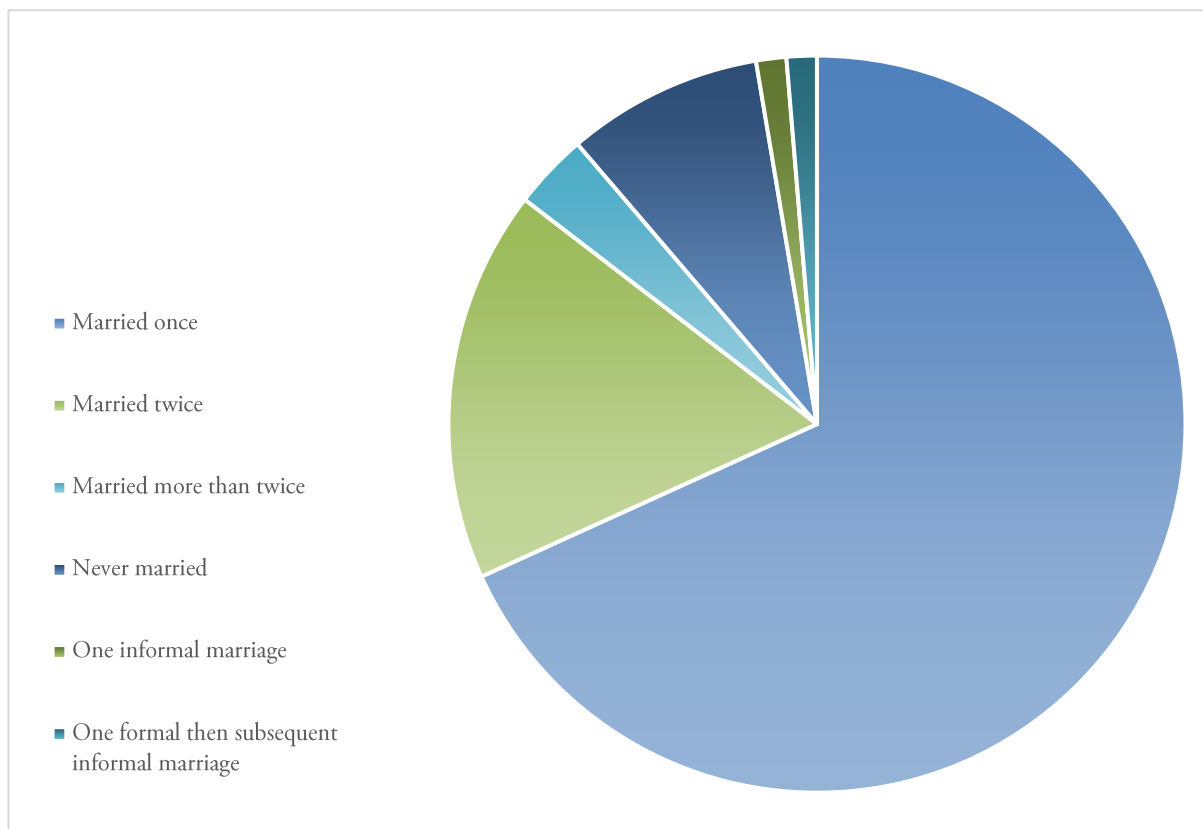


Figure 7: Marital outcomes for former inmates able to be identified. Sources: New Zealand Births, Deaths and Marriages, PapersPast, Archives New Zealand.

About eleven percent never married. Of the two hundred girls admitted between 1901 and 1910, twenty-two died single.<sup>620</sup> Some died young, a few remained under State care and others entered paid work. A 1920 report of former inmates noted one as managing a department store tearoom, a position of considerable responsibility. Other occupations are obscured by regulations reporting single women's status as spinster on the electoral rolls, otherwise the most readily available source of occupation. Details for a few divorced women were found, for example, Violet W was a cook after she left her marriage and Louisa S worked in a hotel, suggesting the type of work undertaken by women supporting themselves.

<sup>620</sup> "Te Oranga Home Roll" (typed transcript) 1900-1910, Archives NZ, File ref R19912780; [www.ancestry.com.au](http://www.ancestry.com.au); [www.bdmhistoricalrecords.dia.govt.nz](http://www.bdmhistoricalrecords.dia.govt.nz).

Others, including Mabel Bond, were not found, having changed name, or moved into the larger Australian population. Some entered informal relationships with an associated name change, and would therefore have been judged as going 'bad,' but this type of relationship was not uncommon among the working classes.<sup>621</sup> Ethel Seymour lived in a cohabiting relationship and had a child.<sup>622</sup> Her committal to Te Oranga at fourteen resulted from her undesirable friends (including Mabel Bond), theft and being beyond the control of her parents.<sup>623</sup> In her version of events she left home at thirteen to escape an unhappy atmosphere due to drink.<sup>624</sup> As one of the trouble-makers in Te Oranga, she absconded more than once.<sup>625</sup> She was one of twenty-seven women who had children outside of marriage after their discharge.

Despite the circumstances of their committal, very few went on to a life of known crime or prostitution. In 1909, Mary P was described by a Catholic priest as a prostitute living in Australia. However, she was never charged as such and instead had children in a ten-year informal relationship before she married her partner. Another, Kathleen B, was charged by police with assisting in the management of a brothel in 1918. She had spent four years in Te Oranga's care after being diverted from a three-month jail sentence on an idle and disorderly charge. She married in 1916 and had two children. Instead of a prison term she was given the second chance of a deferred sentence and ultimately, she returned to her husband and family without further misdeeds. Even supposed moral degenerates made good, and in 1920 one was described as 'Married, character was bad, now doing well.'<sup>626</sup> As examples, these women show that family and previous behaviour did not necessarily predict outcomes.

## Conclusion

The austere atmosphere of the looming brick edifice on the edge of the city, with barred windows and enclosing fences, provided a contrast to the urban hovels many of the inmates' families called home. Any lack of home comforts may not have registered, particularly for girls previously housed in sparsely furnished rented rooms. The institutional shelter, food, clothing and moral instruction intended to reclaim lives from criminal and immoral futures mostly succeeded,

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<sup>621</sup> Delwyn Blondell, "Till Death Do Us Part: Laborers' Marriage Practices in Late Victorian New Zealand," *Journal of Family History* (2022), <https://doi.org/10.1177/03631990221078588>.

<sup>622</sup> *Evening Post*, 4 Dec 1913, 2, <https://paperspast.natlib.govt.nz/newspapers/EP19131204.2.5>.

<sup>623</sup> *Star* (Christchurch), 15 Jun 1901, 5, <https://paperspast.natlib.govt.nz/newspapers/TS19010615.2.75>.

<sup>624</sup> *Dominion*, 18 Feb 1914, 3, <https://paperspast.natlib.govt.nz/newspapers/DOM19140218.2.5>.

<sup>625</sup> *NZ Police Gazette*, 1 Apr 1908, 147, <https://paperspast.natlib.govt.nz/periodicals/NZPG19080401.2.7>.

<sup>626</sup> Archives NZ, File ref R19684776, "List of Past Inmates Discharged" (CW15). Viewed 12 Apr 2022.

despite beliefs about inmates' inferior genetic material and predispositions towards sinful habits. Girls' supposed immorality which drove social panic ultimately reveals more about groups with agendas for social improvement and their use of influence and power than the prevalence of sexually active girls moving into prostitution. Significantly, little evidence of sexual activity among incoming girls was found, despite a considerable official focus on the irresistible draw of an 'evil life.' Evidence of subversive and disruptive behaviours inside the reformatory instead reveals the girls' agency. The behaviour most likely to attract the incorrigible label was absconding, as the Home's systems were tested by those running away from service placements or the Home itself. The behaviour of absconders beyond the reformatory reinforces that there were various kinds of success, and an incorrigible label given for one type of behaviour did not predict how well someone might cope with life beyond the institution.

The investigation of Te Oranga's incorrigible girls demonstrates the value of a collective biography approach, particularly in a small population, in assessing the impact an institution had on the majority of its inmates both during their incarceration and after. Collective biography provides a practical means of seeking out the commonality of a group, and enables their voices to be heard by uncovering their actions. It provides concrete evidence that can be applied in the more theoretically driven criminology. The investigation of a female cohort, a group which historians generally experience difficulties uncovering, provides an extension to the work on institutions of this kind. The investigation's conclusions are similar to those found by Godfrey et al in that, despite Te Oranga's girls being considered generally unreformable, predicting a future criminal pathway is more complex than a simple assessment of deprivation or disadvantage and any resultant labelling. The investigation's analysis shows the troublesome were little different to their sisters and other inmates in the variety of their life-paths.

It is difficult to determine how much reform was expected or even possible in a place where docile, demure traits were imposed on girls, some of whom had big personalities. Reform in an institution that lacked a reforming program instead relied on lengthy terms of preventative detention. Young women moved beyond the reformatory and studying their subsequent lives contributes to a greater understanding of the effects of earlier child welfare provisions. Even Mabel Bond, once thought depraved and vicious, blended back into the community when released. She successfully obscured the path she followed, either changing her name or moving overseas so she disappeared from New Zealand's public record. As one of the damaged or defiant adolescent girls who outgrew their troublesome traits while confined for her own good, Mabel

reclaimed her life, a testament to the resilience of young women defying the labels imposed upon them.

## Chapter Seven: Blaming Bad Behaviour on Breeding

The Hon. Mr Young—I am quoting what are facts: the histories are in the possession of, and given by, the Education Department. These particulars are supplied by experts. Similar evidence was given before the Mental Defectives Committee which was set up in 1924. That is only right that these particulars should go on record, because they have an important bearing on the subject under discussion.

*New Zealand Parliamentary Debates*, Vol.219, Wellington: Government Printer, 1928, 609

This chapter is based on the study of six New Zealand families given as examples of hereditary degeneracy in a 1925 government report into mental deficiency. The family studies were used to localise and justify the eugenic argument in New Zealand, but the unnamed families from the report raised questions about the reliability of the evidence and of what became of them.

The names of families used as examples were not published; however, they were included in the evidence given before the committee. The evidence file was examined to locate these names, and then these families were researched using the various sources available on family history websites. In comparison to the other case studies, this group was small and focused on families in ways that the other studies did not. The families were traced forward to find if they continued to be socially problematic, thus the children and grandchildren, if any, had to be located and attempts made to assess the kind of lives they had. The chief difficulty lay in tracing the families back to their origins. Those with British origins met with greater success than those with Irish or Danish roots. This was a relatively straightforward investigation.

The chapter addresses the extent to which 'incurribility', as a means of describing and controlling social behaviour, changed across the late nineteenth and early twentieth centuries. The belief that a segment of society was less useful, and more likely to be incurrible, allowed modern medical professionals more scope for influencing social policy and how this was enforced. This helps answer the second question about the role of the label 'incurrible' in moulding New

Zealand society. The redefining and treatment of the deficient reflected changes in education, to the use of intelligence testing, and to the development of special schools with teachers trained in using the latest techniques to make backward students as useful as possible.

Analysing their lives showed the families were less defective than presented in the research. One was badly affected by some form of mental impairment, and another had some members with impairments. The other families only had one or two members that spent time in care. However, these families were not labelled incorrigible, meaning that beliefs about incorrigibility were not directly applicable. The incorrigible was instead more closely related to what was termed socially or morally defective, a label that strongly applied to only one of the families.

The article presented within this chapter was submitted to the *Journal of World History* in June 2023. After revisions, it was accepted in December 2023.

Blondell, Delwyn. "Illustrative Cases of Hereditary Degeneracy': The Use of Family Studies to Support New Zealand's Eugenic Narrative in the 1920s."

Case No. 1.

Father: Weak-minded. Mother: Weak-minded.

Female, born 1906. Female, born 1907. Female, born 1908. Female, born 1909. Female, born 1911. Male, born 1912. Male, born 1913. Male, born 1915. Female, born 1916. All these children except one are feeble-minded, and when committed to the care of the State were found living under deplorable conditions. Most of these children will require lifelong control in an institution. The total cost of maintaining this family will be approximately £9,500. These children are cousins of another family under State control. There are four children, two of whom are simple-minded. The mother is feeble-minded, and the father died in a mental hospital. In this case the mothers of the children are sisters.

Case No. 2.

Father: Feeble-minded. Mother: Feeble-minded and drunkard.

Female, illegitimate, born 1902. Male, born 1904. Male, born 1906. Male, born 1907. Male, born 1910. Male, born 1912. Female, born 1914. Female, born 1916. Male, born 1918. Male, born 1920. Male, born 1923. All these children are feeble-minded and have been brought under State control shortly after birth. Some are now in mental hospitals and some in special schools. All these children are lifelong custodial cases. The cost to the State for maintenance is approximately £16,000, towards which amount the father has contributed but £6.

Case No. 3.

Father: Old-age pensioner in Home for Aged People. Mother: Apparently weak mentally and morally—at present in reformatory home.

1. Female. Prostitute residing with drunkard.				2. Female. Prostitute and addicted to drink.			3. Female. Immoral and generally bad character. Inmate of private reformatory.		4. Female. Indifferent, married criminal, now in prison.			5. Female. Drunkard and married a drunkard although man of good education.			6. Female. Well-known prostitute, married member of notorious criminal family, and himself criminal.
Female, born 1908.	Female, born 1911.	Male, born 1913.	Male, born 1915.	Male, born 1907.	Male, born 1910.	Female, born 1912.	Male, born 1911.	Male, born 1912.	Female, born 1908.	Female, born 1912.	Female, born 1916.	Female, born 1898.	Female, born 1900.	Female, born 1902.	Male, born 1910.
All these children are illegitimate. Reputed father a drunkard and man of bad character.				All these children are illegitimate. In most cases father unknown.			Both illegitimate. Reputed fathers well-known bad characters.		Mother married a widower with three children. There are three more the result of marriage maintained by the State.			All delicate neurotic types and difficult to manage.			

All these children, numbering twenty-one, were committed to the care of the State, in most cases shortly after birth. Twelve of the children are illegitimate. The husband of daughter No. 6 is also the father of one each of the offspring of daughters Nos. 2 and 3. Most of the children are delicate and poorly developed, and at least six of them are definitely tubercular. The remainder are either neurotic or erratic in their conduct and have given a great deal of trouble in their up-bringing. The total cost to the State for the maintenance of these children may be quoted at £10,000, but of this amount £482 has been recovered from the various men liable. It is difficult to assess the State's total commitment. If some of the children have to be maintained until they reach the age of twenty-one the additional cost will be £3,000. There is the probability, too, that the offspring of these children will become charges upon the State.

Case No. 4.

Father: Addicted to drink and degenerate. Mother: Drunkard and mentally deficient.

Female, born 1908. Male, born 1909. Female, born 1910. Male, born 1914. Male, born 1916. Female, born 1917.						Male, born 1918. Male, born 1920. Male, born 1923.		
Admitted special school, 1920. All these children are illegitimate and are feeble-minded, requiring lifelong control. Three are now inmates of mental hospitals, and in time the remainder of the family at present in special schools will be sent on to mental hospitals.						All probably feeble-minded. Not yet brought under State control.		
An officer of the Education Department describes the home as "one of the dirtiest and most squalid homes I have seen." The cost (including past, present, and approximate future maintenance) to the State for the upkeep of this family is estimated at £10,000. Nothing has been paid by the parents towards the support of these children. In all probability, the remaining members of the family will be brought under State control at a probable cost of £4,500.								

Case No. 5.

Father: Drunken waster; subnormal; frequently in gaol. Mother: Feeble-minded helpless invalid. Died shortly after children committed to care of State.

Male, born 1904. Tubercular. Partly self-supporting.		Female, born 1907. Tubercular. Suffers from epileptic seizures. Inmate mental hospital. Lifelong custody.		Male, born 1909. Subnormal. May in time become partly self-supporting under favourable conditions.		Male, born 1911. Mentally deficient. Case for lifelong control.		Male, born 1913. Mentally deficient. Lifelong custodial case.		Female, born 1914. Feeble-minded and badly nourished. Case for permanent segregation.		Male, born 1916. Very backward. May become partly self-supporting under favourable conditions.	
In 1916 the whole of this family was committed to the care of the State, and at least six of them will be lifelong cases. The cost to the State, computed up to twenty-one years in each case, is approximately £8,500, but the additional future cost may easily be estimated at £5,000, making in all the sum of £13,500. The father was ordered to pay at the rate of 15s. a week, but the amount recovered from him to date is only £156.													

Case No. 6.

Father: Subnormal. Was a watersider, so dirty in habits that watersiders complained. A sexual case. Mother: Has always been addicted to periodic fits of insanity. Has been in mental hospital on several occasions.

Female, born 1904. Subnormal.		Female, born 1909. Subnormal; also delinquent.		Female, born 1913. Subnormal.		Female, born 1916. Subnormal.		Unknown.		Unknown.		Unknown.	
These four children were committed to the care of the State in 1917. [Not yet brought under State control.]													
The approximate cost to the State of maintaining these four children will be £5,150, less what is recovered from the father. Up to the present the amount received from him is £176. Should the other three children be brought under State control, the additional cost may amount to approximately £5,000.													
This is a glaring case of persons being allowed to marry who are totally unfit to marry. A relative stated that the mother's mentality was in a shocking state at the time of marriage. The father has always been subnormal. The woman is too insane at times to attend to ordinary household duties or matters of ordinary personal cleanliness. At the time the children were committed the home was in a shockingly filthy condition, and at that time was one of the worst brought under the notice of the Department in the district. The second girl (age fifteen) has had her hair cut for the sake of cleanliness by some kindly disposed well-wisher. The mother allowed the dirt to accumulate to such an extent that the whole of the girl's head was covered with a scab of dirt. She had to enter the Hospital to have this removed. This was a most objectionable case. After the State took charge of these children the mother and father were still allowed to cohabit, with the result that three more children have been born. Without doubt, these children will also be supported by the State. The father is a sexual case, and foster-parents of the children have objected to the father visiting them on account of the way he handles them.													

2.—H. 31A.

Figure 8: Family cases studies were presented in the 1925 report as pedigree charts. Source: Mental Defectives and Sexual Offenders. Report of the Committee of Inquiry Appointed by the Hon. Sir Maui Pomare, K.B.E., C.M.G., Minister of Health, <https://paperspast.natlib.govt.nz/parliamentary/AJHR1925-I.2.3.4.39>

## Abstract

How were family studies used to localise and justify the eugenic argument in a far corner of the British Empire? This paper, based on the study of six New Zealand families given as examples of hereditary degeneracy in a 1925 government report, argues that the transmission of eugenic ideas allowed dominant American examples to be used to address concerns about the costs of feeble-mindedness far beyond their original context. The flawed methodologies employed in the American studies were likewise replicated without critique. Re-examination finds the example families were both more complex and less defective than their representations.

## 'Illustrative Cases of Hereditary Degeneracy': The Use of Family Studies to support New Zealand's eugenic narrative in the 1920s.

In October 1926, the New Zealand Government sent Dr Theodore Gray, Inspector-General of Mental Hospitals, to visit thirteen countries whose institutions dealt with the 'mentally deficient'.<sup>627</sup> On his return, Gray observed that the widespread enthusiasm generated by America's experimentation with eugenics did not alter the fact that the science was, as yet, unproven. He cautioned that, 'what is new is not necessarily true,' and was unconvinced about the science of determining intellect.<sup>628</sup> Gray's visit followed a government-commissioned inquiry into Mental Defectives and Sexual Offenders in 1924, which had reported to Parliament in 1925 detailing the effects of heredity and the environment in creating a feeble-minded population. In contrast to Gray, the committee's report had accepted, without reservation, the multigenerational histories of the American Juke and Kallikak families, and the 'pedigree charts' fashioned to illustrate their deficiencies as well as the stridently racial eugenic views of Lothrop Stoddard's *Revolt against Civilization*.

Whereas Gray accepted compulsory sterilization as a genetic tool, his approach to eugenics demonstrates how transnational ideas can be modified and localised to different national contexts. The use of New Zealand examples of family studies by the 1924 inquiry committee reveals a surprising level of uncritical and unmodified acceptance of American ideas. The committee's agenda demonstrated the appeal of eugenics, which Alison Bashford and Philippa Levine attribute to its optimism about the potential for improvement and the application of scientific ideas.<sup>629</sup> Eugenics appealed across the political spectrum and its family studies appeared to provide scientific support for New Zealand's wave of postwar xenophobia.<sup>630</sup> This acceptance of expert knowledge was evident in the inquiry evidence, the resultant report, and was seen in

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<sup>627</sup> *New Zealand Herald*, 12 October 1926, 12, <https://paperspast.natlib.govt.nz/newspapers/NZH19261012.2.122>.

<sup>628</sup> Dr Theodore G. Gray, "Mental Deficiency and its Treatment," in *Appendix to the Journals of the House of Representatives, Session I, H-07A* (Wellington: Government Printer, 1927), 2, 3.

<sup>629</sup> Alison Bashford and Philippa Levine, eds., *The History of Eugenics*, Oxford Handbooks (Oxford: Oxford Academic, 2010), 13.

<sup>630</sup> Diane B. Paul, John Stenhouse, and Hamish G. Spencer, *Eugenics at the Edges of Empire: New Zealand, Australia, Canada and South Africa* (Palgrave Macmillan, 2018), 4. For an example of 'white New Zealand' sentiment see *Auckland Star*, 20 Oct 1919, 6, <https://paperspast.natlib.govt.nz/newspapers/AS19191020.2.56>.

vigorous debate about the Mental Defectives Amendment Bill that was presented in Parliament in 1928. A significantly diluted form passed into law.<sup>631</sup>

Despite hearing evidence about New Zealand families exhibiting deficiencies, and including six case studies in its report, the inquiry committee relied on the Juke and Kallikak families as the ultimate expression of genetic and heredity theories.<sup>632</sup> The names were well-known in New Zealand, as they were wherever eugenics was being proposed as a way of managing those described as feebleminded, sexually deviant and criminally inclined. The 1924 enquiry, aimed at reviewing the country's first legislation founded on eugenic principles, the Mental Defectives Act 1911, was a response to the increasing influence of those who were demanding greater powers, including compulsory sterilization, as tools for preventing those judged unfit from having children. In this way New Zealand was participating in transnational moves which legislated the freedoms of the 'unfit'.<sup>633</sup> As elsewhere, it was argued that socially defective behaviour, that is, anything regarded as not normal, had hereditary causes.

The science and politics of eugenics have been extensively discussed in the considerable literature on the subject. Studies by scholars such as Daniel Kevles, Diane Paul, and Pauline Mazumdar have established that eugenics spread from Britain to North America and the British Empire, to South America, Scandinavia, continental Europe, and Asia during the first decades of the twentieth century. Although the family study has been acknowledged as an important eugenic tool, its role and use have rarely been examined. Published American eugenic family studies dominated the field and a limited number have been re-examined. Nicola Hahn Rafter made a crucial contribution in 1988, publishing a collection of eleven influential American family studies featuring both the Jukes and the Kallikaks. However, there has been little literature on the use of family studies elsewhere. This is somewhat puzzling since, while the field work conducted by trained researchers resulted in a slew of studies published by the American Eugenics Record Office (ERO), other countries were taking notes. Their doctors, social workers and government officials recorded family histories of patients, inmates and those in need. They often produced information in the form of a pedigree chart, a technique Bashford and Levine call part of the 'core

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<sup>631</sup> *Dominion*, 27 Sep 1928, 13, <https://paperspast.natlib.govt.nz/newspapers/DOM19280927.2.113>.

<sup>632</sup> "Mental Defectives and Sexual Offenders, Report of the Committee of Inquiry," in *Appendix to the Journals of the House of Representatives, Session I, H-31A* (Wellington: Government Printer, 1925).

<sup>633</sup> Stephen Garton, "'Liberty of the Nation': Eugenics in Australia and New Zealand and the Limits of Illiberalism," in *Eugenics at the Edges of Empire: New Zealand, Australia, Canada and South Africa*, ed. Diane B. Paul, John Stenhouse, and Hamish G. Spencer (Palgrave Macmillan, 2018), 23.

business' of eugenics.<sup>634</sup> Other historians have noted how pedigree chart use could reflect established cultural practices, shown by the use of charts supplied by the American ERO in the Dutch East Indies, and in India where the caste system precluded the method.<sup>635</sup> However, this adaptation of the methodology is largely absent in the New Zealand experience of eugenics. Eugenics as a science appeared valid. The underlying evidence was unable to be tested in the New Zealand context, hence the uncritical veneration of the American studies and perhaps even the replication of their failings.

This article contributes to the literature on the transnational dissemination of ideas by examining how eugenic practices, including their flawed methodologies, were replicated in another location, thus extending the geographical scope of the history of eugenics. In this context, Akira Iriye's definition of transnational history as 'the study of movements and forces that cut across national boundaries,' one in which ideas are linked — national to international to global — has been used.<sup>636</sup> The focus is on the way locally produced family histories were used to ground eugenics, ideas transmitted from England to America and beyond, in the New Zealand situation. An important characteristic was an uncritical deference to science, which included the apparently scientific and statistical studies on which eugenic theories were promoted. The historiography of eugenic family studies demonstrates the importance of proof of the heritability of defect wherever the issue was debated, and that the issues were part of a larger shared transnational context.<sup>637</sup> This importance is seen in the way the inquiry committee used family studies to justify a eugenic narrative of dysfunction for New Zealand. The article argues that the six case study families were described as defective using dubious techniques that replicated the results of well-known American eugenic family studies, such as the Jukes and Kallikaks. The most important elements in both were the degree of defect, its inheritable nature and cost to the State. This article shows how eugenic ideas, ones that may not have been simple to discredit but could have been localised, represented differences in both New Zealand's social environment and the policies used to deal with the control of mentally defective people. Modifications were left to be made later, in the practical workings of the Mental Defectives Act 1928 policies, effectively

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<sup>634</sup> Bashford and Levine, *History of Eugenics*.

<sup>635</sup> Hans Pols, "Eugenics in the Netherlands and the Dutch East Indies," and Sarah Hodges, "South Asia's Eugenic Past," in Bashford and Levine, *History of Eugenics*.

<sup>636</sup> Akira Iriye, "Review: Transnational History," *Contemporary European History* 13, no. 2 (May, 2004): 213.

<sup>637</sup> Nicole Hahn Rafter, *White Trash: The Eugenic Family Studies 1877-1919* (Boston: Northeastern University Press, 1988), 9; Paul, Stenhouse, and Spencer, *Edges of Empire*, 1-2.

localizing them in ways that distinguished eugenics in New Zealand from its American inspiration.

A transnational focus allows the historian to use a microhistory approach to illuminate the transfer of ideas from one environment to another, the context of this transfer and how ideas are then adopted or adapted. The principal figures in the New Zealand debates were aware of the larger eugenic movement, and that they were shaping a transnational phenomenon to the local environment. They formed a network of interested individuals and founded a eugenic education society based on one in London, as ideas flowed across borders, and across oceans. The ideas were given added credibility as they were transferred, deferred to and applied in different situations around the world. The audience was receptive to eugenic ideas which reinforced fears about biological threats central to white race nationalism. These threats were illustrated in family studies, particularly in the pedigree chart. They provided a visual shorthand of the information collected, and enabled dissemination to concerned organizations globally. Their acceptance is seen in New Zealand eugenic arguments which relied on the authority of the American studies. However, historians investigating the families represented in pedigree charts of the period have exposed the assumptions made by researchers, experts compiling charts and promoters of the eugenic narrative. Pedigree charts appear credible if taken at face value. However, in order to illustrate a clear relationship between heredity and what Paul Lombardo called a 'litany of defect: alcoholism, illegitimacy, feeble-mindedness, sexual immorality, poverty and criminality', researchers making a eugenic argument simplified and omitted data to emphasise defect.<sup>638</sup> As an expression of the idea, family studies from one place were a tool to frame issues in a way that was persuasive to the audience from another place, contributing to the world-wide spread.

Reviewing the family study methodology is an easier proposition in New Zealand, with its small populace and links to the British Empire, which encouraged early adoption of centralised record-keeping. Archives New Zealand holds a transcription of the evidence given to the Committee of Inquiry into Mental Defectives and Sexual Offenders, although access requires the permission of the Ministry of Health. During the 1924 Inquiry, witnesses supplied varying amounts of data on 184 named examples of mentally, morally or sexually defective cases. Of these, six families with sufficient information were chosen for the final report. The official

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<sup>638</sup> Paul A. Lombardo, "Pedigrees, Propaganda, and Paranoia: Family Studies in a Historical Context," *The Journal of Continuing Education in the Health Professions* 21 (2001): 250.

government report identified the families named by witnesses as case numbers.<sup>639</sup> Access to the evidence enabled the investigation of the life-courses and ancestry of the example families. However, restrictions on this archive means pseudonyms have been used to protect family privacy.<sup>640</sup>

The records of the government inquiry needed to be supplemented with material from newspapers and police gazettes, and genealogy sources. This methodology has become a viable option with academics using websites developed to cater to family historians, reflecting the increasingly common use of non-traditional digital research sources in scholarly practice. The proliferation of commercial websites such as Ancestry and Findmypast enables online access to many digitised primary sources. For this study, these included England's census records, civil registration of births, marriages, and deaths, and church baptism records. New Zealand sources utilised range from official sources, like registration indices, electoral rolls and probate files, to passenger lists, cemetery records and school rolls of admission and discharges. Family trees hosted by genealogical sites can be very useful but require a cautious approach; ironically in this case, not all genealogies are reliable.<sup>641</sup>

The multigenerational family study has long been recognised as the chief methodological form used to promote eugenics.<sup>642</sup> Juke family descendants, subject of an 1877 study by Richard Dugdale, included an abundance of paupers, criminals, harlots, prostitutes, and sufferers of venereal diseases.<sup>643</sup> Dugdale originally suggested that their social dysfunction was the result of both heredity and environment.<sup>644</sup> A 1916 eugenic reworking by Arthur Estabrook made them an argument for preventing 'propagation' of the unfit.<sup>645</sup> The Kallikak family study became a narrative of a 'natural experiment' in which one man fathered two families, one with good

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<sup>639</sup> "Inquiry Report."

<sup>640</sup> Case study families have been given pseudonyms to protect their descendants' privacy, and to comply with archive access conditions. Government agencies are bound by the provisions of the New Zealand Privacy Act 2020 to protect the information gathered on individuals. Permission to consult these archives requires the researcher not to publish material that identifies an individual. Archives consulted have included the inquiry evidence which provided the families' names, as well as records of industrial schools and psychiatric hospitals.

<sup>641</sup> See McCliskie, "Using Digital Genealogy."

<sup>642</sup> Rafter, *White Trash*, 2.

<sup>643</sup> Robert L. Dugdale, *The Jukes: A Study in Crime, Paupersim, Disease and Heredity*, 4th ed. (New York: G. P. Putman's Sons, 1910).

<sup>644</sup> Ruth Clifford Engs, *The Eugenics Movement: An Encyclopedia* (Westport, CT, USA: Greenwood Press 2005), 47.

<sup>645</sup> Arthur H. Estabrook, *The Jukes in 1915* (Washington: Carnegie Institution, 1916).

<https://archive.org/details/jukesin191500esta/page/18/mode/2up>.

breeding and one with bad.<sup>646</sup> The bad included generations of feeble-minded social misfits, paupers, and criminals. The pedigree was also a favourite tool of the British eugenicists, according to Pauline Mazumdar.<sup>647</sup> Unlike the Americans, who emphasised a Mendelian inheritance of traits, the British movement used the pedigree chart to show that defect was inherited, not to explain how.<sup>648</sup> The pedigree confirmed like begets like. As a method, it was used in many countries, but its application varied depending on different contexts.<sup>649</sup> For example, English family studies linked numerous families to argue for a defective class, while the American Juke study emphasised consanguinity. Peter Aspinall has described transnational attempts at standardizing pedigrees in 1913 and 1926, to enable comparisons to be readily made.<sup>650</sup> The pedigree chart was integral to eugenic practice and propaganda, being adapted and applied differently depending on the specific goals and cultural approach of eugenicists in each locality.

The research methods of the Kallikak study were starting to be questioned as early as 1926.<sup>651</sup> More recently, Nicole Hahn Rafter's collection of eleven family studies demonstrated that they were characterised by researcher biases, overgeneralizations, and a rudimentary understanding of genetics.<sup>652</sup> She analysed the literary devices used to create the eugenic narrative: animal imagery, words denoting decay, devolution and the illicit, and language that enhanced an 'us-other' perspective. Her work was not a re-evaluation of the factual basis of any family study, although she noted study authors were not above improving the factual with a little manipulation.<sup>653</sup> David Smith, in 1985, seems to have been the first to seriously challenge a family study, as he analysed Henry Goddard's Kallikak narrative of hereditary degeneracy.<sup>654</sup> Smith's research determined that the founder of the 'bad' line was quite normal: a land owner,

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<sup>646</sup> See Rafter, *White Trash*.

<sup>647</sup> Pauline M. H. Mazumdar, *Eugenics, Human Genetics and Human Failings: The Eugenics Society, its Sources and its Critics in Britain* (London: Routledge, 1992), 80.

<sup>648</sup> Mazumdar, *The Eugenics Society*, 87.

<sup>649</sup> For example see Maria Björkman and Sven Widmalm, "Selling eugenics: The case of Sweden," *Notes and Records of the Royal Society* 64, no. 4 (2010); Yuehtsen Juliette Chung, *Struggle For National Survival: Chinese Eugenics in a Transnational Context, 1896-1945* (Taylor & Francis, 2018); Sarah Walsh, "The Chilean Exception: Racial Homogeneity, Mestizaje and Eugenic Nationalism," *Journal of Iberian and Latin American Studies* 25, no. 1 (2019), <https://doi.org/10.1080/14701847.2019.1579499>

<sup>650</sup> Peter J. Aspinall, "How the Use by Eugenicists of Family Trees and Other Genealogical Technologies Informed and Reflected Discourses of Race and Race Crossing during the Era of Moral Condemnation: Mixed-Race in 1920s and 1930s Britain," *Genealogy* 2, no. 21 (2018): 2,3 of 15, <https://doi.org/10.3390/genealogy2030021>.

<sup>651</sup> J. David Smith, *Minds Made Feeble: The Myth and Legacy of the Kallikaks* (Rockville MD: Aspen Systems Corp, 1985), 66.

<sup>652</sup> Rafter, *White Trash*, 22-25.

<sup>653</sup> Rafter, *White Trash*, x.

<sup>654</sup> Smith, *Minds Made Feeble*.

married and literate.<sup>655</sup> More recently, Nathaniel Deutsch's 2009 book provided a comprehensive re-examination of another family study.<sup>656</sup> Deutsch went back to the original sources, and was able to bring the research into the twenty-first century, finding a normal family history. He also examined two previous reworkings, which used the family study to make racial arguments. These arguments relied on misreading the family's origins, demonstrating the political appropriation of the supposedly scientific study.

Investigating the families behind the eugenics narrative revealed not only inaccuracies but also fundamental errors in identification. David Smith and Michael Wehmeyer's 2012 article, "Who was Deborah Kallikak?," provided evidence that undermined Goddard's central argument.<sup>657</sup> They named the central figure of his study after she had been identified as such by a family history. The authors of the family history are credited with uncovering that the original illegitimate birth on which Goddard's 'natural experiment' argument rested was fiction. Goddard's researcher had entirely relied on a single 'reliable' verbal account.<sup>658</sup> Deborah's great-grandfather was the legitimate son of his married parents, and a second cousin of the man Goddard had named as his father.<sup>659</sup> Smith and Wehmeyer contend that despite his assertions, Goddard's constructed narrative of hereditary feeble-mindedness was false, and, in fact, the reality reflected the common experiences of economically vulnerable families.

In contrast to the Kallikaks, no academic study of the real Juke family has been published. A *New York Times* article, "Bad Seed or Bad Science?" written by Scott Christianson, appeared in February 2003. Christianson reported that a code book had been located and, as a result Max, the 'founder' of the Juke family, was identified as Max Keyser. The woman commonly identified as Ada Juke, or 'Margaret, the Mother of Criminals', was 'Margaret Robinson Sloughter'. A limited investigation of New York State family trees shows that Margaret Robinson married Jacob Sluyter in 1790, and Jacob was a grandson of Cornelius Keyser, a man identified in one family tree as possibly Max Keyser. The complex family pedigree is one of multiple consanguineal marriages, often of first cousins. Even this cursory study suggests a fuller investigation would

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<sup>655</sup> Smith, *Minds Made Feeble*, 91-93.

<sup>656</sup> Nathaniel Deutsch, *Inventing America's 'Worst' Family: Eugenics, Islam, and the Fall and Rise of the Tribe of Ishmael* (Berkeley, Los Angeles & London: University of California Press, 2009).

<sup>657</sup> J. David Smith and Michael L. Wehmeyer, "Who was Deborah Kallikak?," *Intellect Dev Disabil* 50, no. 2 (2012): 8, <https://doi.org/10.1352/1934-9556-50.2.169>. Although Smith and Wehmeyer knew the family's real identity, it was not revealed at that time.

<sup>658</sup> Smith, *Minds Made Feeble*, 55-56.

<sup>659</sup> Smith and Wehmeyer, "Who was Deborah Kallikak?," 10.

assist in the understanding of how family studies were first created to sustain their makers' narratives.

The vast array of transnational literature includes a limited contribution on New Zealand's experiences. General coverage of eugenics in New Zealand was provided by a 1981 thesis and was followed almost twenty years later by a thesis about the effect on four pieces of legislation.<sup>660</sup> Recent writing has included articles on an opponent of eugenics and the involvement of women promoting the movement.<sup>661</sup> A volume on eugenics in the British Empire includes chapters relevant to New Zealand.<sup>662</sup> These range from the interplay of ideas shaping the New Zealand version of eugenics to how it impacted the passage of sterilization laws, and Diane Paul challenges recent assertions that Frederick Truby King was a eugenicist. What is missing in this history is an examination of how changing ideas of deficiency, from being individuals lacking moral character to a biologically based assessment of social worth to be judged by experts, affected people's lives. It is the people discussed as mentally or morally deficient, the people represented in family studies and pedigree charts, who are missing.<sup>663</sup>

In New Zealand, some local examples of family histories were produced in evidence during the 1924 Inquiry. They received a favourable reception from the committee members who were generally in favour of the proposed eugenic solutions. Chairman Triggs felt that mentally defective girls were a burden on society and that defective parents should not be able to continue producing more children once they had been before the courts; Truby King held eugenic views on heredity but with a strong environmental bent, and was active in promoting maternal health and proper feeding of infants; Donald McGavin had stated that the feeble-minded should 'produce but not reproduce'.<sup>664</sup> John Beck from the Special Schools Branch sent advice to witnesses from his department, suggesting which cases should be provided in evidence. During the evidence about one family, he stated that 'a majority of these children will ultimately become

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<sup>660</sup> Philip J. Fleming, "Eugenics in New Zealand 1900-1940" (MA (History) thesis, Massey University, 1981); Robert W. Metcalfe, "The Debate about Eugenics: Eugenics and Social Legislation in New Zealand, 1900-1939: Four Case Studies" (MA (History) thesis, Massey University, 2000).

<sup>661</sup> Tony Taylor, "Thomas Hunter and the Campaign Against Eugenics," *New Zealand Journal of History* 39, no. 2 (2005); Angela C. Wanhalla, "Gender, Race and Colonial Identity: Women and Eugenics in New Zealand, 1918-1939" (MA (History) thesis, University of Canterbury, 2001).

<sup>662</sup> Paul, Stenhouse, and Spencer, *Edges of Empire*.

<sup>663</sup> Paul Weindling, "The History and Historiography of Eugenics," in *Handbook of the Historiography of Biology*, ed. Michael R. Dietrich, Mark E. Borrello, and Oren Harman, *Historiographies of Science* (Cham: Springer Nature, 2021), 130, 36.

<sup>664</sup> Taylor, "Thomas Hunter and the Campaign Against Eugenics," 199.

a permanent charge on the State and the cost incurred will probably amount to many thousands of pounds.<sup>665</sup> About another family, he pointed out that the cost given was to the present time and did not include any future figure, nor the cost of any additions to the family.<sup>666</sup>

Witness views ranged from concerns about the menace to the purity and stamina of the white race, through the threatening fertility of the unfit, to a determination that the social problems caused by the defective could be tackled while still manageable in the small population. A doctor noted that the cost of segregation had to be balanced with the criminal harm caused in the community. Others noted the economic effects of keeping the defective in schools, charitable aid for the illegitimate, and of officials dealing with problem individuals - the police, health authorities, truant officers, probation officers. Cost was a central concern, and potential witnesses asked for both numbers and costs. Segregation was proposed by many. This was known to be an expensive solution, but witnesses quickly asserted it was worthwhile for the community and would become more economical as it minimised the future defective population.

The use of family studies reflected concerns expressed in American studies about the cost of caring for burdensome families and their tendency to have large numbers of children. Goddard's Kallikak publication in late 1911 was promoted in New Zealand as 'a sermon with a shocking example as a text.'<sup>667</sup> The Juke family's narrative was well established at that time and used as an example of the inheritability of bad genetics.<sup>668</sup> An influential New Zealander and eugenicist, Sir Robert Stout, submitted a statement to the committee of inquiry, which was quoted in the 1925 report.<sup>669</sup> He emphasised that he knew of multi-generational cases of dependence on charitable aid. Tracing some cases back to Britain found links in previous generations with similar dependence; thus, he argued, they were unable to avail themselves of the increased opportunities of immigration, implying a hereditary weakness.<sup>670</sup> The blame was squarely placed on defects in the selection process during the 1870s influx of immigrants, rather than on the original settlers, 'men and women of sturdy determination, enterprising spirit, and

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<sup>665</sup> 1924 Committee of Inquiry into Mental Defectives and Sexual Offenders (Transcription of Evidence), 1925, Box 1 ADBZ W1628 H3W1628, R22300642 13, 595, Archives New Zealand.

<sup>666</sup> Inquiry Evidence: 641.

<sup>667</sup> *Otago Daily Times*, 28 Dec 1912, 14, <https://paperspast.natlib.govt.nz/newspapers/ODT19121228.2.100.2>

<sup>668</sup> *Press*, 11 Feb 1911, 7, <https://paperspast.natlib.govt.nz/newspapers/CHP19110211.2.25>.

<sup>669</sup> Stout was Chief Justice and President of the Prisons Board.

<sup>670</sup> "Inquiry Report," 8.

strong physique.<sup>671</sup> The report noted that despite its short history New Zealand had imported the Old World's problems.

The post-war period was marked by anxieties about the health of society as a whole. These translated into experimental State interventions in the form of provisions of health, education and welfare.<sup>672</sup> These measures included a pro-natal policy that gave a family benefit, effectively paying people to promote a particular behaviour, in stark contrast to the previous generations' emphasis on charity promoting pauperism. The Plunket Society, founded by Truby King and his wife Mary, promoted infant health through proper feeding, with a growing team of specially trained nurses. School children were subjected to the attention of school medical officers and dental nurses. Health camps for malnourished and backward children were in their early years. As a result, public health soaked up public spending.<sup>673</sup> In contrast, the dysfunctional were viewed as unable to play their part in building up the health of the nation, and thus they were seen as a continuing social liability. Eugenic principles encouraged the argument that the State should use measures to minimise the costs of mental deficiency.

The cross-national context of eugenic ideas framed the committee's arguments seen in the 1925 Report of the Inquiry which included the Juke family under the heading 'Illustrative Cases of Hereditary Degeneracy'. It followed the published literature to misreport that the family was the offspring of 'one morbid couple', which in five generations produced only a small number of 'honest workers'. Most were a social burden: illegitimate, diseased, paupers, criminals, 'and of 229 women of marriageable age, 128 were prostitutes'.<sup>674</sup> The distinction Dugdale made in his 1877 text between the 'professional' prostitute and the 'imprudent' harlot had been lost in his summarizing table which conflated Juke women, Juke men and others who 'married' into the family to total 128 under the heading 'prostitute'.<sup>675</sup> This blended figure was then used in an ERO publication in 1912 and repeated by Lewis Terman in 1916 in his treatise on intelligence testing. Both used the phrase copied in the Inquiry report.<sup>676</sup> The Juke example in the report

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<sup>671</sup> "Inquiry Report," 8.

<sup>672</sup> Rachael Bell, "Introduction: A Nation on the Cusp", in Rachael Bell, ed., *New Zealand Between the Wars* (Auckland: Massey University Press, 2017), 22.

<sup>673</sup> Charlotte Macdonald, "Revisiting Three Eugenic Moments: 1903, 1928, 1937: The Disappointments and Hopes of Antipodean Progressives," in *Eugenics at the Edges of Empire: New Zealand, Australia, Canada and South Africa*, ed. Diane B. Paul, John Stenhouse, and Hamish G. Spencer (Cham: Palgrave Macmillan, 2018), 221.

<sup>674</sup> "Inquiry Report," 7.

<sup>675</sup> Dugdale, *The Jukes: A Study in Crime, Pauperism, Disease and Heredity*, 18, 69.

<sup>676</sup> Lewis M. Terman, *The Measurement of Intelligence* (Cambridge, Mass., USA: Houghton Mifflin, 1916), 11; Rafter, *White Trash*, 81, 105.

ended with their cost to the State of New York, not only economic, but through disease and evil influence. The Kallikak family was likewise used as an illustration. It reported Goddard's study 'shows the hereditary nature and sociological bearings of feeble-mindedness.... The explanation of so much immorality will be obvious when it is stated that of the 480 descendants 143 were known to be feeble-minded, and that many of the others were of questionable mentality.'<sup>677</sup> In New Zealand these studies had been publicised in the 1910s through books by Americans Dr Goddard and Lothrop Stoddard, and through lectures and literature instigated by the Dunedin branch of the Eugenics Education Society of London. Local arguments were made by powerful and influential people convinced that eugenics had a solid scientific basis proven by overseas experiences.

This introduction of transnational proof of inherited mental and social dysfunction was evident in New Zealand example families, which showed the seriousness of the problem and that it was already established locally. As examples, they formed part of the argument for preventing the marriage of the unfit when the Mental Defectives Bill 1928 was being debated in Parliament.<sup>678</sup> The Minister of Health, Alexander Young, argued that a range of methods were needed to contain the problem of the proliferation of feeble-mindedness. These included both segregation and sterilization. Preventing marriage was an additional tool. The six families were then cited 'to show the effect of the mating of the feeble minded.'<sup>679</sup> Some members of the House questioned how prostitution and drunkenness were related to feeble-mindedness.<sup>680</sup> Young concluded with a comment that the illustrations were of 'the fecundity of the feebleminded' and justified restriction on marriages.<sup>681</sup> Young's presentation did not go unchallenged. A member of the minority Labor Party, Peter Fraser, provided the chief opposition to the Minister's position. Although he supported the administrative changes in the bill, he questioned both the validity of the eugenic theory behind the changes and the accuracy of the information provided about the case-study families.<sup>682</sup> He stated that he would have liked to study the families himself. Fraser also questioned the validity of the Juke and Kallikak studies, stating that 'In all the books on eugenics I have failed to find how they have been traced'.<sup>683</sup> He went on to say that in such studies, any

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<sup>677</sup> "Inquiry Report," 8.

<sup>678</sup> NZ Parliamentary Debates Vol. 219, 609 (Wellington: Government Printer, 1928).

<sup>679</sup> NZ Parliamentary Debates Vol. 219, 609.

<sup>680</sup> NZ Parliamentary Debates Vol. 219, 609.

<sup>681</sup> NZ Parliamentary Debates Vol. 219, 611.

<sup>682</sup> *Evening Star*, 18 Jul 1928, 3, <https://paperspast.natlib.govt.nz/newspapers/ESD19280718.2.19>.

<sup>683</sup> NZ Parliamentary Debates Vol. 219, 631.

cause other than heredity was ignored. He favoured an environmental approach, and argued changes should be made to provide all children with the same opportunities in health and education.

The six families that illustrated the 1925 report were documented three times. At first, they were among the sixty-seven families and 115 individuals produced as examples for the inquiry. The level of detail provided by the witnesses ranged from a brief summary to a detailed report on the living situation and family structure. Some of the most detailed were supplemented with a chart. From these, a few of the worst cases of large 'defective' families were used to illustrate the problem in the report. Their second appearance, in the 1925 report, reduced the amount of detail given: the supposed mental defect, the number of children, their need for State care, the cost thus far, and an estimated future cost. They went unnamed in the interest of confidentiality, making verification of facts impossible and distancing the evidence from the person. Parents were generally described as weak-minded. This term was not defined in the evidence, nor did witnesses reveal how the determination of weak-mindedness was made. Parents would not have been subjected to the latest tool for evaluating and labelling, the intelligence test. This was used for children from 1923. The pedigree charts that accompanied the text had obvious ties to those used by the New York based ERO.<sup>684</sup> New Zealand examples included references to the financial burden on the State of providing institutional care and reflected the wide spread of family studies as a form of eugenic propaganda. The section of the report containing the localised examples then ended without any summary or concluding remark, moving immediately to dealing with elements of the problem. The focus shifted from localizing the problem to justifying a solution when the families were next used as an example. The third time they were presented, the families were part of the narrative about the costly biological spread of feeble-mindedness. They were provided as examples as the Mental Defectives Amendment Bill was debated in parliament in 1928.

### **Case Study One**

The first case presented in the report fulfilled the explicit aims of the inquiry. Walter and Emma Ambler had children in State care and there were familial links to others who had required similar care. John Beck directed the witness, William Cumming, a probation officer, to relate the details

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<sup>684</sup> Lombardo, "Pedigrees, Propaganda, and Paranoia," 251-52.

of their living conditions.<sup>685</sup> This included the report of a health inspector who found the family with nine children had been living in three small huts.<sup>686</sup> These were cramped and poorly ventilated, with sodden bedding including old coats and sacks. Beck then emphasised the cost to the State and predicted this case would require future expenditure.<sup>687</sup>

Walter Ambler was a labourer who continually moved between employers.<sup>688</sup> This was seen as proof of mental impairment and affected his ability to reimburse the State. Walter also admitted to drinking and attending picture shows. The children, bar one, were declared to be unable to earn a living in the future. Cumming warned they were potential social menaces, and that 'by procreating their kind the numbers [would] reach abnormal proportions.'<sup>689</sup> The evidence included two older children, Amy and Charles, not in State care. Amy was suspected of having had an incestuous relationship with her father.<sup>690</sup> This was inferred from their accommodation, which saw her sharing a hut, and probably a bed, with her parents. Charles appeared normal.

The family was reported to be related to another family that had been admitted to the receiving home, a facility for children in difficult circumstances or taken from undesirable homes. These were the children of Emma's sister and her husband. Ellen Austin was listed as feeble-minded, and Thomas had died in a mental hospital. The evidence stated they were all related to a woman who had been in the State reformatory for girls. This was not true, as Eva Ambler was the daughter of Walter's brother, hence not genetically related to the Austin family.

Drawing on this flawed narrative, the 1925 report presented Walter and Emma Ambler as a simple case of two weak-minded parents producing numerous feeble-minded offspring who would continue to need lifelong care. The report ignored the complication of the two oldest, very normal, children, whose existence called into question the belief that a mentally deficient couple could not produce a normal child. This widely held conviction originated from the ERO and had led to calls for the marriage of the feeble-minded to be prevented.<sup>691</sup> The related Austin family was briefly described as having four children, two of whom were simple-minded. The report concluded by stating the mothers were sisters, to confirm its position on the hereditary nature

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<sup>685</sup> Inquiry Evidence: 595.

<sup>686</sup> Inquiry Evidence: 595-96.

<sup>687</sup> Inquiry Evidence: 596.

<sup>688</sup> Inquiry Evidence: 597.

<sup>689</sup> Inquiry Evidence: 598.

<sup>690</sup> Inquiry Evidence: 598-99.

<sup>691</sup> Diane B. Paul, *Controlling Human Heredity: 1895 to the Present* (New Jersey: Humanities Press, 1995), 58.

and impact of feeble-mindedness. During the 1928 Parliamentary debate on the Mental Defectives Amendment Bill, Young read the evidence of the 1925 report of this family, adding only that the estimate of the Education Department was of £9,500 up to the age of twenty-one.<sup>692</sup>

My investigation of the family found the children's schooling was, at best, sporadic and that some of the children had not been enrolled in their local rural school. This would have affected their results on intelligence tests. There was discussion about the use of these tests by the inquiry committee and witnesses. The Director of Education thought they were most reliable on children of normal intelligence, and doubtful for those reported as falling behind.<sup>693</sup> He argued that the tester needed to assess the character of the subject to gauge feeble-mindedness. A professor of education challenged their use as he preferred an expert psychological examination.<sup>694</sup> It seems that the children's circumstances with minimal schooling would have played a significant role in low intelligence scores.

The two oldest, Amy and Charles, went on to have completely unexceptional families. The next two girls also both appear to have lived in the community, marrying and raising families. Another three sisters may have suffered some health problems or impairment, as they were very late starting school. All three spent time in the special school system, never married, and are largely absent from electoral rolls. Two of the three were in Christchurch psychiatric hospitals. Walter junior was fostered out under the boarding-out system but died aged thirteen. The next son, Henry, was also boarded out. He went on to have a normal life as a labouring worker and family man with three children. David was probably in lifelong care; he never married and died in a mental hospital. The youngest daughter, Louisa, was returned to her parents, married and had thirteen children.

The report invited the conclusion that Emma Ambler's birth family was defective, but without providing any evidence. In fact, Emma and Ellen's school attendance had been compromised when their mother could not afford to buy them boots to wear to school. Respectably poor, she had refused charitable aid. Their six other siblings' children did not require State care, thus undermining the contention of familial feeble-mindedness. In addition, the report on the Austin family excluded the youngest daughter who was not taken into care. The Austin

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<sup>692</sup> NZ Parliamentary Debates Vol. 219, 609.

<sup>693</sup> Inquiry Evidence: 24.

<sup>694</sup> Inquiry Evidence: 152.

children had a broken education. Only one, Rosie, was in State care at the time of the inquiry and she may have remained in care as she never married. The other children all married, so did not become a burden on the State. The father, Thomas Austin, who died in a mental hospital of senile decay, had a couple of serious head injuries earlier in life. Statements about this family appear unjustified.

The family was a charge on the State, but the extent is difficult to assess. Four Ambler children required care for most or all their lives, with one in a mental hospital until his death. One died young, possibly while still in State care. Six, including the two never listed in the pedigree provided to the inquiry, went on to have normal lives. The exclusion of the two oldest normal children demonstrates the way evidence could be manipulated.

### **Case Study Two**

Alice Edwards, the manager of a city receiving home, used the Birch family as an example during the inquiry.<sup>695</sup> She described the parents, Charlotte and Frank Birch, as feeble-minded, with Charlotte at the Salvation Army-run Inebriate's Home. The removal of their ten children was in twos and threes, at different times. Alice listed the children, starting with Burt, the only normal one. She presented the others in their birth order and finished with their illegitimate older half-sister, also under the care of the Education Department aged twenty-two. She stated that when the first three boys were taken, they were like frightened animals on arrival at the home. They 'crept under the table and huddled together and raised their arms as if to protect themselves if looked at. They were in a filthy condition.' Alice concluded with the approximate cost to the State, while noting Frank's meagre contribution. Annie Herbert, a hospital board social worker, also included the Birches in her evidence. Somewhat inaccurately, she described Charlotte, then forty-one, as 'a very deficient girl' and the mother of 'illegitimate children' before marriage, thus exaggerating one child. Annie added that the hospital board was providing for Frank.

The inquiry report again simplified the material provided. The parents were 'father feeble-minded; mother feeble-minded and drunkard.' The children were all feeble-minded and under State control shortly after birth, all lifelong custodial cases requiring the highest level of care. It repeated the cost estimate and Frank's contribution. This material was repeated for Parliament by Young in 1928. He then emphasised the 'terrific economic burden' on the fit by the unfit as they produced a 'crop of weak humanity'.

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<sup>695</sup> Inquiry Evidence: 633-34.

My research found Frank Birch had been an inmate of the Burnham Industrial School until the mature age of nineteen, first admitted in September 1880 after his father left his mother and she subsequently abandoned him. His retention in the system suggests a hesitancy to release him into the community, perhaps it was thought he would have difficulty supporting himself. Frank may have had some kind of mental impairment, possibly even one with a genetic element. His parents were first cousins who had married in England, emigrating to New Zealand in 1875. His father had some mental health problems, was examined for insanity, declared sane, released, and moved on before being examined again.

The children's impairment was less likely to have been inherited from the mother, Charlotte, who was at school until age fifteen. She was one of eleven siblings who appear to have been respectable and responsible, including several who served in the Great War. Another alternative, given that Charlotte was described as a drunkard, is foetal alcohol syndrome; however, it could have been some other environmental cause not investigated or unknown to those in contact with the family. The link between alcoholic parents and affected offspring was known to early eugenicists, including Goddard. Goddard's conclusion was that instead of creating the defect, the opposite was true: 'alcoholism is to a very large extent due to feeble-mindedness.'<sup>696</sup> It was not until much later, in the late 1960s, that a French paediatrician identified the foetal alcohol syndrome.<sup>697</sup> Of particular relevance is that indicators vary between children, but common signs include brain damage and growth problems. Charlotte's first court appearance was just before the youngest child was taken in 1923 and may have precipitated his removal. She was charged with breaching a prohibition order, the first in a series of five times. Subsequent charges followed a predictable path, as she gained a reputation with the police as a prostitute. Repeated charges bought reformatory detention sentences, until a theft charge meant time in a prison reformatory. She ended up at the Mt Magdala home, a Catholic reformatory, and died in 1950.

Despite the assertion that the Birch children were committed shortly after birth, they were mostly taken, as Alice Edwards stated, in clusters. In 1911 the four oldest children, including illegitimate daughter Ada aged nine, were taken to Alice's receiving home. Newspapers reported the father was in a sanatorium and the mother was not living 'properly'. Five children

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<sup>696</sup> Robert J. Karp et al., "Fetal Alcohol Syndrome at the Turn of the 20th Century: An Unexpected Explanation of the Kallikak Family," *Archives of Pediatrics and Adolescent Medicine* 149 (Jan 1995): 46.

<sup>697</sup> Janet Golden, *Message in a Bottle: The Making of Fetal Alcohol Syndrome* (Cambridge, MA: Harvard University Press, 2004).

were removed from the parents in 1919 – well nourished but dirty and not under proper control, and the younger two in 1921 and 1923. The ones taken in groups varied in age, and only the last two children who can properly be described as taken shortly after birth.

This is the most convincing case of a whole family affected by intellectual impairment. Only one son, Burt, seems to have lived a normal life outside of State care. He was the only one who married. He was a barman and dabbled in running an illegal gaming-room. Another, Jack, was released into the local community later in life. He worked as a kitchenhand, before living in the community as a sickness beneficiary. The others stayed under State control. They spent their childhoods in special school care, then lived and died in three of the country's various mental hospitals. Segregation from the community achieved all that the eugenicists could have hoped for, as the Birch family does not appear to have reproduced any further.

### **Case Study Three**

The Ryan family was also reported by Alice Edwards, the receiving home manager. Under the heading 'Girls of abnormal sexual tendencies', five middle-aged Ryan sisters, Lucy, Elizabeth, Josephine, Julia and Mary, were detailed.<sup>698</sup> She gave an assessment of character: 'bad', 'indifferent', 'drunkard', 'prostitute'. The sisters' children were mostly listed as born in or committed to the receiving home, thus Alice's knowledge of the family. While she gave evidence about five sisters, a rudimentary chart incorrectly included a sixth, Mrs Cox nee Martha Ryan.

The Inquiry report emphasised that the offspring of Hugh and Ellen's unfit union went on to unfit unions of their own, either marrying poorly, or producing a mass of illegitimate children. Alice had supplied a location for each parent: Hugh Ryan in a Salvation Army Home and Ellen in a Catholic reformatory. This was expanded, explaining Ellen was 'Apparently weak mentally and morally – at present in reformatory home.' The daughters' circumstances were also expanded. Lucy was described as residing with a drunkard, and her four children were all the reputed offspring of 'a drunkard and man of bad character'. Elizabeth's six children were reduced to five (eliminating the one who had died), mainly with 'father unknown'. Josephine was called immoral and bad, and the fathers of her two illegitimate sons were 'well-known bad characters'. Julia's three legitimate children who were 'not under government control' in Alice's evidence were described as 'maintained by the State'. In contrast, Mary's legitimate children, originally stated as being committed to the receiving home, were called 'delicate neurotic types and difficult to

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<sup>698</sup> Inquiry Evidence: 638-39.

manage.' The report incorrectly included Martha Cox, who was in fact the sister of Josephine's husband, David Cox. Josephine's marriage was not mentioned in either report.

In the final account to Parliament, the parents were again framed as unfit, and as a result the offspring were feeble-minded daughters. This explained their gravitation towards living as prostitutes while mating with drunkards and criminals. Their children were physically and mentally affected: 'delicate', 'poorly developed', 'tubercular', 'neurotic', 'erratic' and 'troublesome'. It was stated that all were committed to State care, usually as infants. The cost was emphasised, an estimated £10,000 to £13,000 for care until adulthood, with the added implication of a further generation likely to become charges on the State.

My investigation of this family found flaws in these accounts. Even while the evidence was debated in Parliament, Peter Fraser, a Labour Party MP, pointed out that Hugh Ryan's presence in an Aged Persons' Home was not a sign of mental defect. At the time of the inquiry, Hugh was aged 73, a retired railway labourer who had worked on the lines in New Zealand for nearly half a century. Hugh and his wife Ellen came from Ireland's County Cavan. They emigrated in 1876 with three children and moved about the country as railway work dictated, producing a family of nine children before settling in Christchurch. Theirs was not always a happy family, and Ellen sued Hugh for maintenance in 1903, saying he had deserted her but blaming his drinking. The most serious factual error in the report is the woman called daughter number six, Martha Cox, who, as previously stated, was only related by marriage. By 1924 she was married to a Chinese man but continued to come to police attention as a prostitute.

The oldest of the Ryan girls was Mary, although she was presented as daughter five. In 1924, she was married with five daughters, having lost her two sons as infants. This loss may have contributed to her subsequent drinking problems, leading to frequent court appearances, four convictions, and jail time. The evidence stated her children had been committed to the receiving home, but newspaper reports from the late 1900s show that the five girls were under the care of the Industrial School. However, by 1924, her two eldest daughters were married, each with one daughter of her own. The third daughter was likewise married but had a son. At the time of the inquiry the youngest daughter was already sixteen. Instead of becoming the grandmother of a multitude, Mary only ever had six grandchildren.

The next four Ryan children were not included in the evidence, as all had died before 1924. Catherine died aged twenty-one, Hugh died in 1914 and had been a railway labourer like his father; Francis followed a similar path and worked for the Public Works Department. He

enlisted for the war in December 1915 and was killed in action in June 1917. Another daughter, Mary Ellen, had married and had two legitimate children before her death, aged thirty-four. These family members, who did not conform to the underlying charges of moral deficiency, were excluded from the evidence.

The second listed daughter, described as a prostitute, and addicted to alcohol, was Elizabeth. She had an illegitimate son with David Cox in 1907. She then had three illegitimate children in 1910, 1912, and 1914. Another born in 1917 had her father identified in court, whereas the son born in 1921 did not. She attempted to support the two in care in 1921 but was unable to make payments, as she was both working and drinking. She married in 1923 when she was forty-one.

The next daughter, Josephine, had three illegitimate children in care. Josephine managed to get the eldest, Ada, back. The two boys, Winston and Ronald, seem to have remained in the receiving home in which they were born. Josephine tried to get the father of one of them to provide support, but he vanished. Both boys were subsequently boarded out from the institution. Josephine married David Cox in 1912 (the same man who had fathered an illegitimate child with her older sister). They had two boys and two girls. She was found guilty of keeping a disorderly house in 1915 but avoided imprisonment. In December 1917, charged as drunk, idle and disorderly, she was ordered to spend a year in a Salvation Army Home. At the time of the inquiry, she was living with her husband and family. She died aged forty-four in 1931.

Julia, the fourth listed daughter, had an illegitimate child who died as an infant. She married Ian Packer, who the report correctly listed as a criminal and, incorrectly, a widower with three children. He served jail-time for sly-grog selling, theft, assault and robbery. Julia had her own criminal conviction, since in 1915 she had been found 'consorting with reputed thieves and prostitutes' at her sister Josephine's house. Julia and Ian had six children. As the report stated, the three oldest went to the receiving home. This was during the first of their father's longer imprisonments. The younger children stayed with their mother. The Packer family seems to have settled down by 1924, although they were not reunited.

Lucy, the youngest Ryan sibling, was listed first in the report. By the time she was twenty-five, she had three illegitimate children. A kind of turning point came during 1915. Picked up at her sister Josephine's house, she was charged as idle and disorderly and without lawful means of support. She agreed to go to a Catholic reformatory while her infant son was ordered to the receiving home. Lucy claimed the baby's father, her third child, was a serving soldier. She married

in 1916 and had two children. She was widowed in 1923 and remarried in 1927. The evidence incorrectly states that she had four illegitimate children, but she had five children, two of whom were legitimate.

It appears the evidence was reordered to place first the daughters accused of the worst behaviours, to create the most impact. Eliminating those who had died enabled the assertion that all the third generation were placed in care early in life, which maximised the financial cost.

### **Case Study Four**

Case four, John and Mabel Dutton's family, came from a large town. The evidence at the inquiry showed local officials found the symptoms of mental deficiency in the couple's dirt, squalor, and drunkenness. In 1922 it was reported that 'both [Dutton] and his wife drink considerably and nothing but degenerates can be expected from such parents.'<sup>699</sup> It seems that the children were being regularly assessed at school. In 1916 son Winton was considered mentally defective, and a few years later as a defective speaker. His sisters Jessie and Grace were also assessed as 'probably owing to parentage - speech not intelligible'. Another three siblings, Norman, Hazel, and Leslie had not progressed beyond Primer One, with speech problems. The nine children were not discussed in birth order; rather, the most seriously impaired ones were featured first. The reporter of this family followed the practice often seen in eugenic studies and did not report on 'normal' children.

In the 1925 report, the assessment of the parents - father: addicted to drink and degenerate, mother: drunkard and mentally deficient - was followed by the list of nine children. The first six, illegitimate, feeble-minded, life-long cases, were shown to be either in mental hospitals or in special schools prior to transfer to mental hospitals. The three youngest were dismissed as probably feeble-minded. Dirt and squalor were detailed, before the future cost was estimated. In Parliament the family was described as in the evidence. This led Young to question the wisdom of educating children who would be sent from special schools straight to mental hospitals. This case, he considered, showed the need for sterilization to prevent unnecessary propagation. After noting the cost to the State, he noted the parents' paltry contribution towards these children.

This family had more children than reported. John and Mabel had ten children who survived infancy. There were three daughters who died before they were a year old. The couple

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<sup>699</sup> Inquiry Evidence: 739.

never married. Consequently, the children, regarded as illegitimate, were registered under Mabel's birth name. In addition to this moral lapse, they violated the standards of cleanliness and sobriety. This combination of factors made them unrespectable, leading to assumptions about their ability to parent their defective children.

Winton was the first child to be removed, in 1920. Grace, Jessie, Norman, Hazel, and Leslie were taken in 1923. A few months later, Winton and his brothers Norman and Leslie were moved from the Special School to a mental hospital. They remained in custodial care, as did their sisters Grace and Jessie. All were noted as having speech defects. This could have been due to hearing loss, autism, or brain damage at birth or in childhood. Another strong possibility is foetal alcohol syndrome, given the evidence that both John and Mabel drank 'considerably'.

Hazel was one of the five children who went on to have quite normal lives. She married later in life and left her estate, which included a house, to her sister-in-law. The oldest, John, had some difficulties, but married and raised nine children. Harold became an aircraft engineer. Edward was a painter, and Charles was a labourer. All three of the younger sons married, but none had children. The children's ordinary lives belie assumptions about their parents' unconventional behaviour.

### **Case Study Five**

The circumstances of the fifth family seem to have been related to the ill-health of Rose East, the mother. Rose was described as feeble-minded by Miss Wylie, headteacher of the country's special school for boys. She was hospitalised, probably suffering from tuberculosis, when the children were taken in December 1916. Rose died in May 1917. Miss Wylie's evidence included material from police reports: 'The father is a good-for-nothing drunken waster, who neglects his home and children. He is a frequent guest at the local jail. The children are not properly clad, fed, or kept clean, and the home was in a filthy condition.'<sup>700</sup> The oldest son Alfred was 'tubercular' and the eldest daughter Alma an 'imbecile' with epilepsy. A premium had to be paid to foster parents due to the 'dirty and destructive habits' of the children.<sup>701</sup> Miss Wylie believed that six would probably be lifelong cases. However, her evidence stated that Alfred was on a service placement, three children were boarded out and two at the boys' special school.

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<sup>700</sup> Inquiry Evidence: 362.

<sup>701</sup> Inquiry Evidence: 363.

The 1925 report listed the parents as: 'Father - Drunken waster; subnormal; frequently in jail. Mother - Feeble-minded helpless invalid. Died shortly after children committed to care of State.' The list of the children was limited to a birth year, assessment of physical health and mental deficiency, and a prognosis of future care needs. Wylie's 'probably six cases' was increased to 'at least six of them will be lifelong cases'. Likewise, her estimate of the cost to the State was scaled up from £8,500 as permanent burdens to a future cost of £13,500. Richard, the father, was not credited with making any payments since 1924.

During the reading of the Bill, the parents' character and condition were omitted. Of the seven children, three were believed to be able to be partly self-supporting in the future, along with three lifelong custody cases and a case for permanent segregation. The report ended with an assessment of current and future costs, with Richard's minimal contribution noted.

Looking closely at this case, it seems that when Rose became unable to care for the home and children, conditions became problematic. The oldest children were boys, apart from Alma who suffered from epilepsy. They were perhaps unfamiliar with domestic chores and failed to get themselves to school. In mid 1916 Richard was charged with failing to send the children to school and fined. There was the familiar lack of cleanliness leading to concerns about parenting. Once Rose died, Richard was always going to struggle to both care for and provide for the family. The opportunity to do so was taken out of his hands. The children were removed in December 1916 a few days after Rose went into hospital, and Richard allegedly took to the bottle. The inquiry evidence stated that Richard was a regular offender, but his record of two one-month sentences does not support this. He had only one arrest for drunkenness, so there is little evidence that he was a drunken waster. Other encounters with the law related to the failure to pay maintenance for the children. He was pursued for this debt until his death in 1932.

The results for the children were mixed. Four evidently did quite well, working and marrying. Three went into care and remained there, although two died before they reached their majority. Lifelong care was cut short in their cases. Those who married produced a small number of children for the next generation. This outcome is significantly different to that forecast in the inquiry and report.

Studying the family's ancestors reveals an unexpected feature. Rose East could claim to be the progeny of some of the early settlers who were said to be of superior stock to subsequent imports. But once her widowed mother entered a common-law relationship, the children, including Rose, were removed, having been characterised as neglected and living in a brothel.

Richard's forebears belonged to the desired multigenerational farm labourer class. This history contradicts claims degeneracy related to failures of the 1870s immigration initiatives.

### **Case Study Six**

The Felsen family was presented by John Cupit, a probation officer. This family, in his opinion, was one which insanity ran through.<sup>702</sup> Charlie Felsen and Bertha Jones had been 'totally unfitted to marry'. Evidence had been collected from family members and one stated Bertha had been in a mentally 'shocking state at the time of marriage'. A pedigree chart was included in evidence. On it, Bertha was labelled 'has always been addicted to periodic fits of insanity. Has been in mental hospital on several occasions.' Charlie was 'subnormal. Was a watersider, so dirty in habits that other watersiders complained. A sexual case.' Cupit went on to list the effects of Bertha's 'insanity'. She was unable to do the usual household duties or look after her own ablutions. In 1917 the house was found to be filthy, and the children were very dirty. When the four children were removed, Jane, aged eight, had to be treated at the hospital to remove a scab of dirt from her scalp. Cupit lamented that Charlie and Bertha were allowed to remain living together; thus, three more children had been born. He was certain that they would also require State care. Cupit reiterated that Charlie was 'a sexual case', adding 'foster parents of the children have objected to the father visiting them on account of the way he handles them.' He did not provide details of the cost to the State.

The 1925 report included the cost of care. The Education Department estimated that it would be £5,150 for the four oldest. However, Charlie had paid £176 in maintenance. If the other children had to be removed, it would cost an additional £5,000. The allegations of the report were repeated in Parliament in 1928. The same language was used: 'a glaring case', 'extremely dirty' and 'shockingly filthy', 'most objectionable', 'one of the worst cases', to convince that the family was not only dirty but defectively so.

My research found that the father, Charlie, was a naturalised Dane. He married Bertha, the New Zealand-born daughter of English immigrants. It appears that Bertha suffered periods of mental illness when she was unable to cope with her daily tasks. She may have an inherited predisposition to this kind of episode, as her father had suffered from neurosis (excessive and irrational anxiety), or it could have been the result of the loss of five babies from her first seven children. Four children, Annie, Jane, Daphne and Joyce were removed in August 1917 and the

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<sup>702</sup> Inquiry Evidence: 193.

following month Bertha was convicted of loitering for the purpose of prostitution. She was not jailed as the police thought she had been led astray by another woman. She seems to have reacted badly to the removal of the children but recovered enough to remain at home. As the evidence stated, they had more children; two sons and two daughters. It is likely the family was monitored, yet none of these children were placed in care. By 1924 Bertha had spent some time in treatment, given the evidence stated, 'Has been in Mental Hospitals on several occasions.' Her mental health problems continued, as she resided in a mental hospital at the time of her death.

Some of the evidence given is not substantiated, including the implication of some kind of sexual abuse by the father, Charlie. Lovingly worded notices appeared regularly marking the years after his death, implying affectionate family ties. All the children seem to have lived quite normal lives, doing well in the community rather than in care. Leslie spent two years at a secondary school, leaving to work on the farm. He served in World War Two. Only Daphne never married. The others produced normal and intelligent children.

In New Zealand, the 1925 report drew on the American model of the family study. Its authors selected evidence that supported their aims, manipulated evidence to create a narrative of dysfunction and its cost, but did not attempt to modify the American model to local conditions. Without any knowledge of how the ERO had conducted its research or reached its conclusions, New Zealand experts managed to duplicate their methodological errors. Committee members' understanding of America's scientific authority convinced them and others that inadequate parents produced a crop of mentally and/or physically weak children. The proof that parents were feeble-minded was found in the production of feeble-minded children. These children had to be removed and cared for by the State, for their own good and the good of others.

New Zealand was following transnational trends in its growing reliance on the authority of science and its practitioners to decide complex issues such as the best course of action for progressive treatment of social ills. However, as seen in other places, there was little agreement between scientists or between the different disciplines. One of the inquiry witnesses, a professor of biology, John Johnson, appears to have been influenced by racial theories of superior and inferior human stock when he argued both mental defectives and sexual offenders were evidently inferior, as they broke moral laws.<sup>703</sup> Another biology professor, Charles Chilton, argued that transmission between generations had the potential to develop certain characteristics, and it was

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<sup>703</sup> Inquiry Evidence: 206.

education and training that developed such traits.<sup>704</sup> Another viewpoint was expressed by a third professor of biology, H. B. Kirk, who explained most clearly the emerging work on chromosomes, and on the subject of feeble-mindedness declared most cases were inherited, 'or at least heritable.'<sup>705</sup> His statements about the effect of the environment on potentially heritable factors were consistent with those of Chilton. John Smaille Tennant, professor of education, cautioned on the utility of science, warning that 'we have no standard of morality, that is to say, not the scientific standard of morality that we have in the matter of intelligence.'<sup>706</sup>

The report was not immediately acted on. Instead, Dr Gray was commissioned to undertake further investigations outside of New Zealand, seeking the most effective solutions that might be transferred to the local situation. This demonstrated what Stephen Garton describes as a transnational movement involving collaboration as ideas were shared across borders but adapted to be implemented locally.<sup>707</sup> Gray's 1927 report suggested several changes, but it did not challenge the family studies. The first change was to terminology – he suggested 'social defective' in place of the committee's recommended 'moral imbecile' or the newly introduced British term 'moral defective'.<sup>708</sup> He declared 'each country must evolve its own method, guided and restricted by its own peculiar racial, geographic and economic situations.' American experiments had widened the scope of feeble-mindedness, and he dwelt on the research done into families of 'degenerate stocks' and the results of intelligence tests revealing a large group of people of below normal intelligence. His critique of the intelligence test noted that it was unreliable, as the fact children could be coached to pass meant it did not test innate intelligence.<sup>709</sup> However, he did not question the family studies or their scientific basis. He reviewed the arguments about the social control of the feeble-minded, stating 'It is established beyond doubt that the mating of two feeble-minded persons will produce bad stock.'<sup>710</sup> His total acceptance of this as factual and proven demonstrates that the American family study had scientific authority that was recognised as indisputable, even by a medical professional.

In leading critique during the 1928 Parliamentary debate, Peter Fraser argued that he and other legislators lacked scientific knowledge and were thus having to make life altering decisions

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<sup>704</sup> Inquiry Evidence: 610.

<sup>705</sup> Inquiry Evidence: 725.

<sup>706</sup> Inquiry Evidence: 42.

<sup>707</sup> Garton, "Liberty of the Nation," 36.

<sup>708</sup> Gray, "Mental Deficiency and its Treatment," 2.

<sup>709</sup> Gray, "Mental Deficiency and its Treatment," 3.

<sup>710</sup> Gray, "Mental Deficiency and its Treatment," 9.

while at best only partly informed. They were reliant on the recommendations of others, just as the Commission of Inquiry in 1924 had been when gathering its information. The family studies were presented to Parliament as incontrovertible. Only one was challenged. When case study three was read out, with the first child described as a prostitute, Young was interrupted by questions about how the family fit the criteria of mentally defective. One member asked: 'Are they prostitutes because they are mentally defective?'<sup>711</sup> Young argued he was quoting the facts, evidence supplied by experts relevant to the subject. It should be noted that this family was the one which, on paper, most closely fitted the criteria of morally or socially defective, without any evidence offered of lack of intellect.

As demonstrated in the examination of the report's case studies, techniques manipulating the data were found in all case studies. Confirmation bias meant the methods used strongly resembled those of the American family histories. Normal children were excluded. Birth order was altered. Relationships to defective others were emphasised. Criminality was exaggerated. Environmental factors such as access to schooling were ignored. Circumstances of removals and births were simplified, happening to 'all' instead of some. The inquiry report again simplified the material provided, with the families stripped of identifying features, and when presented to Parliament it was as facts supplied by experts, and as cautionary tales of impending trouble and expense.<sup>712</sup>

Family	Number of children	Cost to State in 1924 evidence	Probable cost to State in 1925 Report
Case 4. Dutton	10	£16,800	£14,500
Case 2. Birch	11	£16,000	£16,000
Case 3. Ryan	6	£9,358	£13,000
Case 5. East	7	£8,500	£13,500
Family X	3	£5,072	
Family Y	8	£4,250	
Case 1. Ambler	9	£4,000	£9,500
Case 6. Felsen	8	Not given	£10,150

Table 2: Cost to the State for each family was recalculated between the time of the inquiry and the writing of the report. Sources: 1924 Inquiry Evidence and 1925 Inquiry Report.

<sup>711</sup> NZ Parliamentary Debates Vol. 219, 609.

<sup>712</sup> NZ Parliamentary Debates Vol. 219, 609.

It can also be argued that New Zealand experts applied the American model in their selection of examples. For the 1925 report, cost to the State seems to have been a significant factor. Only eight families of the 67 supplied at the evidence stage had costs attached, and five of these were used as examples. As shown in Table 2, the Duttons, Birchs, Ryans, and Easts were the costliest families. Family X was supplied in evidence with a family tree, but only showed three sisters and their illegitimate offspring. Family Y was larger, but four of the eight children were normal. The cost of the example families was recalculated, probably by the Education Department, for the 1925 Report. This resulted in some significant changes in the probable long-term cost to the State.

The other obvious factors influencing selection as examples were the intersection of family size, given the perceived fertility of the feeble-minded, and the degree of defect within the family. These were also important factors in the American studies. The exclusion of Family Y with an equal number of normal and subnormal children suggests that it did not have sufficient defective members. Another exclusion was a large family with normal parents. One family case had twelve children with what the witness regarded as an exceptional number of defective members. However, with normal parents and little cost to the State, this example was not selected. Another such case had ten children with a subnormal mother, but the father was reported to be 'in fairly comfortable circumstances. He appears to have the interests of his children at heart, and they look well cared for.'<sup>713</sup> This suggests that poverty affected the way families and parenting skills were perceived, with consideration given to those who were able to keep their children clean, well-dressed and out of trouble. Such families did not meet the standards set by the Jukes and Kallikaks for deficient behaviour.

The selected families were not chosen as representative of a particular section of society or even as representative of the defective part of society. The families were chosen because they came closest to the degenerate stock the American family studies led experts to expect to find. The committee lamented the lack of multi-generational examples in the local environment, but their existence was considered undeniable as the committee selected evidence that supported the inquiry's aims. There was no attempt to modify the American model to local conditions, as preconceptions about how defect manifested meant evidence was interpreted to create a similar narrative of dysfunction.

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<sup>713</sup> Inquiry Evidence: 701.

In the final report of the Inquiry, in a section headed 'Illustrative Cases of Hereditary Degeneracy', the Juke and Kallikak families appeared before the New Zealand examples. The far-reaching reputation of the American examples so dominated genetic theories that they were accepted as scientific evidence, and used to add credibility to eugenic fears. The committee adopted these family studies as proof of the inheritance of undesirable traits. However, as the committee had failed to document any multi-generational defective families in New Zealand, they deferred to the American family history evidence to suggest that, given time, the same outcomes would be seen. A similar confirmation bias enabled a flawed methodology, apparent in manipulation of the New Zealand family evidence to emphasise defects, seen throughout the process. Local families used to illustrate that New Zealand was facing the same problems as other industrial nations depended on the context offered by the American families. These examples survived Dr Gray's revision of the committee report prior to the introduction of the Mental Defectives Bill in 1928 following his extensive research around the Western world. It was not until the Bill was debated that anyone expressed scepticism about the family studies, with Peter Fraser doubting both the local and American research.

This article contributes to ongoing work studying the transmission of ideas around the world. The scientific authority of the American eugenic family studies allowed them to be used as models with only minimal opposition in New Zealand. Like the American examples, re-examination of the example defective families finds they were frequently disadvantaged by economic conditions, but, as families, were both more complex and less defective than their representations. What was less complex and more defective was the assessment of the assumptions foundational to the science of the eugenic family study.

## Chapter Eight: Discussion

The label of incorrigible is a useful way to understand the socially marginalised in a time of social change. 'Incorrigible' has been used as a unifying theme for some of the disparate groups — labelled either 'unrespectable', 'undeserving', or 'criminal' — that were perceived as challenging New Zealand's social cohesion, but who have received limited scholarly attention. The aim of the thesis was to investigate whether these people — viewed as lowlifes — were misrepresented as more distinctively different and unrespectable than the reality due to fears those on the social margins posed a threat to cohesion and order.

Located at the intersection of social history, criminology, the history of social and child welfare, and medical science, the case studies presented in this thesis provide fresh insight into how incorrigibility was defined. People were labelled incorrigible when other shaming tactics failed. They were punished by laws that became increasingly prescriptive, allowing those causing public outrage to be brought before the courts. Although it may have been expected that all incorrigibles would be treated alike, the reality was that there was a wide range of treatment, particularly evident in informal marriages, older prostitutes, and even baby-farmers. Each chapter has contributed to a more complex understanding of the way different types of people were included or excluded in New Zealand society.

In seeking to study the incorrigible, the idea of incorrigibility has been imposed onto groups I thought likely to be marginalised in society. Those chosen were people engaged in behaviour that was outside the social norms, behaviour that generally occasioned community concern and might precipitate moral panic. The selection of groups was carefully considered with those selected expected to have the incorrigible label bestowed by their contemporaries. However, the incorrigible label was applied more sparingly than envisioned. The label tended to be given to individuals instead of groups and was generally used in a specific instance or for a short period. This reinforces the idea that dysfunctional groups are a social construct. Numerous studies have stated that when these groups are sought, the findings do not support the existence of a distinct

group of problematic people.<sup>714</sup> New Zealand experts also struggled to find the elusive group – when the 1924 enquiry committee sought out the multigenerational defective family, it failed to locate a single convincing example, despite repeated declarations by witnesses of its existence. Yet the Dunedin Supreme Court judge, Mr Justice Richmond, had no doubt that the men and women who repeatedly appeared before him in 1866 were 'a class of incorrigibles, a class of persons who live by crime.'<sup>715</sup> Despite such convictions, dysfunction or aberrant behaviour did not, and does not, belong to one group or even one class of people.

### **Order, Morality and the Undeserving**

Perceptions about morality have been important to this thesis, as they were constantly referred to as the basis for acceptable behaviour in New Zealand society. Respectability depended on observing the guidelines for how people should act. To be virtuous people had to be hard-working and thrifty, while the flawed and immoral were considered lazy, selfish, and worthless to society. Moral standards were viewed as important to promote discipline and unselfish attitudes, to create good citizens and to govern community behaviour.<sup>716</sup> As a result, morality-based welfare was destined only for the deserving. Discussions about welfare emphasised the importance of 'self-help' and there was no doubt about the divide between deserving and undeserving.<sup>717</sup> This led to voluntary organisations, usually church-based, selectively accepting deserving cases, thus leaving the undeserving for the State to deal with.

Defiance of accepted moral behaviours, such as those attributed to the undeserving, were viewed as creating a burden for the respectable portion of society. The Hon. W. Downie Stewart expounded on the problem at the 1892 annual Otago Benevolent Institution meeting, saying that relying on the State for everything led to 'the industrious and provident' providing for 'the idle and the improvident'.<sup>718</sup> The threat was to the social order through affecting the financial position of government, the local worthies, and the charitable.

In practice the situation was always more complex. Informal marriages were a good example of moral standards being transgressed without being perceived as a significant social, economic, or political threat. There was no active policing of these arrangements. The official

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<sup>714</sup> Macnicol, "Pursuit of Underclass."

<sup>715</sup> *Otago Daily Times*, 2 Mar 1866, 5, <https://paperspast.natlib.govt.nz/newspapers/ODT18660302.2.17>.

<sup>716</sup> *North Otago Times*, 8 Mar 1872, 3, <https://paperspast.natlib.govt.nz/newspapers/NOT18720308.2.17>; *Thames Guardian and Mining Record*, 16 Dec 1871, 2, <https://paperspast.natlib.govt.nz/newspapers/TGMR18711216.2.10>

<sup>717</sup> Tennant, *Fabric of Welfare*, 46.

<sup>718</sup> *Otago Daily Times*, 15 Jan 1892, 3, <https://paperspast.natlib.govt.nz/newspapers/ODT18920115.2.38>.

response was as pragmatic as the informal ending of a marriage and the beginning of a new relationship. Baby-farmers, on the other hand, tested notions of the importance of family, and of the sanctity of the domestic environment. Fostering of children challenged the accepted model of the maternal responsibility to care and the paternal responsibility to pay. Both prostitutes and girls sent to Te Oranga were found guilty of inappropriate behaviour in public spaces. They breached standards for acceptable public behaviour and could be punished harshly for this. Jan Robinson argued that that a woman's apparent level of respectability was an important influence on sentencing.<sup>719</sup> Such punishments were described as for the good of the individual, but also served as a warning to others. The families used as case studies offended moral sensibilities by requiring financial aid. They were considered undeserving for reasons of lack of industry, lack of cleanliness, and irresponsible reproduction. Meanwhile, the eugenic ideas they seemingly illustrated can be seen as reinforcing the 1920s racially and socially exclusive immigration restrictions, demonstrating less obvious social tensions.

There was an initial expectation that incorrigibles would mostly be ordinary people who had been unjustly misrepresented. As mentioned in the literature review, various academic disciplines have differing views on the marginalised 'others', a situation enabled by contemporaries, such as Mr Justice Richmond, labelling some as being of the criminal class.<sup>720</sup> The forces that created poverty, the State's responses to it, and the institutions that dealt with the poor, have received most scholarly attention. In contrast, little was found in the literature on the people themselves, suggesting that their efforts to live in a society that regarded them as problematic remains underexamined. The people labelled incorrigible often had difficult lives, complicated by poverty, unemployment, and/or problems with family or relationship partners. They tried to resolve the intolerable situations they found themselves in. Usually, these solutions were pragmatic, and might become cultural practices. Over time such practises could be reframed and made illegal. The most notable distinguishing feature of the incorrigible was that they actively resisted being poor.

History from below continues to resonate, decades after British Marxist historians began to complicate established narratives.<sup>721</sup> Of all the literature referred to in this thesis the work of Peter Linebaugh's *The London Hanged*, Russell Davies's *Secret Sins*, Charlotte Macdonald's *A*

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<sup>719</sup> Robinson, "Rowdy Women," 13.

<sup>720</sup> Garrett, "Forgetfulness of Social Policy Research."; Macnicol, "Pursuit of Underclass."; Beddoe, "Feral Families."

<sup>721</sup> Jared Davidson's *Dead Letters* is a recent and well-regarded addition to the field.

*Woman of Good Character* and Barry Godfrey's teams' *Young Criminal Lives*, stand out. More historians are using collective biography and digital genealogical techniques and sources which extend the avenues for exploring the lives of ordinary people. This methodological approach leads to a richer understanding of the lives of these people, and places them in their broader family and social context. As more sources are digitised, historians are increasingly able to uncover the less visible lives, including histories of women. This study has been able to examine a significant number of women's lives, which can be used to complement or challenge statistical data about women in New Zealand. As such, it follows in the footsteps of work by Jan Robinson and Bronwyn Dalley. It has provided empirical evidence that contradicts widely held beliefs about the history of marriage, divorce, and bigamy, and the lives of prostitutes and baby-farmers in New Zealand.

Some themes which emerged, particularly the gendered worlds of public and private spheres, and respectability, are commonly seen in studies of aberrant behaviour. One common theme of the case studies is that of contested areas, with the most obvious being the public space. Prostitutes and young women were seen on the streets and in places of entertainment, and in these areas their behaviour was subject to observation and judgement. They occupied space that the respectable felt entitled to claim and use. These were spaces in which the respectable performed their public roles and expected those around them to conform to the social standards.<sup>722</sup> In these spaces, unrespectable behaviour was seen as impinging on the respectables' rights.<sup>723</sup> Those who failed to conform to their behaviour standards attracted censure. Another contested area, for the same two groups, was that of sexuality, which belonged in the private sphere. Both prostitutes and young women had the potential to offend by acting in sexually provocative ways, particularly in the public space.<sup>724</sup> Both groups consisted of women dressed up and out to have a good time in the company of men. Their overt similarities often misled observers to conflate the behaviour of young women in public spaces with prostitutes and to protest about the growing problem.<sup>725</sup> Another aspect was found in the home-based businesses of

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<sup>722</sup> Schrader, *Big Smoke*, 262.

<sup>723</sup> Schrader, *Big Smoke*, 274.

<sup>724</sup> Schrader, *Big Smoke*, 280-88.

<sup>725</sup> In 1895 Rev F.W. Isitt stated he had been told there were 700 prostitutes in Christchurch. This provoked a storm of letters to newspaper editors refuting his facts. *Press*, 27 Jul 1895, 10, <https://paperspast.natlib.govt.nz/newspapers/CHP18950727.2.79>; *Press*, 29 Jul 1895, 6, <https://paperspast.natlib.govt.nz/newspapers/CHP18950729.2.58.5>; *New Zealand Mail*, 16 Aug 1895, 36, <https://paperspast.natlib.govt.nz/newspapers/NZMAIL18950816.2.95>.

prostitutes and baby-farmers. These took the public sphere function of running a business into the private sphere.<sup>726</sup> They complicated the desired separation of home and work, of public and private, and of the separation of men's role in providing from women's role of caring. An additional complication was both resulted in women profiting financially from performing intimate activities for those outside their family. This was not acknowledged as problematic in the rhetoric, yet could have provided some of the justification for why the activities these women undertook were morally unacceptable.

Respectability is usually seen as the antithesis of the seemingly immoral behaviour of the undeserving and the incorrigible. In contrast, this thesis has found evidence that people of the lower classes aspired to respectability. Labourers in informal marriages mimicked the behaviour of the legally married, sharing house, name, and children with their partner. Prostitutes moved out of the policed zone when in formal or informal relationships. Some returned, but usually this indicated that the relationship had ended. Baby-farmers and foster parents were swift to sign up to have their houses licenced so they could continue to care for infants. Reformatory girls absconded to rejoin their families rather than become prostitutes, and they usually married despite the common background of broken family relationships. There was nothing to distinguish most of the eugenic studies families from their neighbours; their problems were largely private ones. Additional research is needed to better understand motivations and to ask how universal the desire to be respectable was. In this thesis, it appears that for some it was quite achievable or even a pragmatic solution enabling social acceptance, while for others it remained a lofty aspiration.

An area of commonality found in most of the case studies was the vulnerability of broken and unhappy families. Broken families were behind many instances of cohabitation, as deserted and widowed spouses formed new relationships. Unhappy families often featured in the background of prostitutes, foster-parents, and reformatory girls. Girls in the reformatory were found to have come from broken homes in twenty percent of cases. A further eleven percent were the daughters of single mothers, and the death of a parent preceded the admission to care for thirty percent.<sup>727</sup> Women who needed income in the temporary or permanent absence of a spouse could resort to prostitution or to taking in additional children. The broken family was susceptible

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<sup>726</sup> Bishop, *Women Mean Business*, 35-47.

<sup>727</sup> Of 271 girls, 53 were from broken homes, 31 were illegitimate, 82 had one or both parents die while they were a child, and another 6 were taken from suspected prostitutes.

to poverty, which intersected with prevailing ideas about its causes and the need to avoid encouraging dependence on financial aid.

The socially problematic were often presented as dirty and living in squalid conditions, emphasising the connection of lack of cleanliness with vice, poverty and disease. The principle, expressed by John Wesley as 'Cleanliness is indeed next to Godliness', is an ancient one which found new expression in the nineteenth century. Lack of cleanliness was used to justify accusations of immorality and to persuade others into pressuring authorities into providing solutions. In the nineteenth century, medical science attributed infectious diseases to noxious vapours from the soil and animal or human excrement. This enabled the connection of dirt with disease and was expanded to include moral pollution, for example, prostitution was thought to impair public health and a civilised society. The premises of those accused of farming babies could be described in terms of their filth. Constable Walker noted he found children in a room at Mrs Smith's Dunedin house, and stated 'The effluvium arising from this room was sickening in the extreme...the atmosphere was thick and evil smelling.'<sup>728</sup> A child he examined was 'covered with a mass of filth...its clothes were simply sticking together with filth and dirt.' In contrast, the Stickley's more respectable Auckland children's home was 'rather dilapidated' but was 'about as clean as it could be made'.<sup>729</sup> Such depictions fitted the narratives of threats to life, to health, and to social order. Pamela Wood, writing about the representation of dirt in Dunedin, noted that it was 'difficult to tell whether the descriptions were exaggerated and distorted to fit the... purpose'.<sup>730</sup> She also reported that 'Descriptions of Dunedin slums used literary devices, techniques of description, that also appeared in accounts of slums elsewhere in that same period...“dark”, “dank”, and “dirty”'.<sup>731</sup> There are similarities between Wood's speculations and the representations made about dirt and filth found in my studies. Barbara Brookes has written about the central responsibility of women to provide a clean and healthy environment for their family, although we must also note their position of authority was being usurped by health professionals.<sup>732</sup> The emphasis on dirt and disorder fit with the purposes of the police, petty

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<sup>728</sup> *Otago Witness*, 13 Nov 1890, 24, <https://paperspast.natlib.govt.nz/newspapers/OW18901113.2.59>.

<sup>729</sup> *New Zealand Herald*, 10 Jul 1891, 6, <https://paperspast.natlib.govt.nz/newspapers/NZH18910710.2.43>.

<sup>730</sup> Pamela Wood, *Dirt: Filth and Decay in a New World Arcadia* (Auckland: Auckland University Press, 2005), 186.

<sup>731</sup> Wood, *Dirt*, 189.

<sup>732</sup> Barbara Brookes, "Contextualising Care in New Zealand," in *Past Caring? Women, Work and Emotion*, ed. Barbara Brookes, Jane McCabe, and Angela Wanhalla (Dunedin: Otago University Press, 2019), 17.

officials, and social reformers, as they attempted to impose social order into spaces judged to be unclean and disorderly.

### **Insights from Case Studies**

Searching for the 'incurrable' among New Zealand prostitutes illuminated an older cohort. They moved into and out of active prostitution as the need arose. Their obvious presence on the streets allowed police surveillance and public condemnation. The incurrable demonstrated that punishment and reform would not deter further offending. At the same time, labourers who arrived in New Zealand in the 1870s included some who married in socially and morally questionable ways. They were willing to embrace the institution of marriage and the respectability that it represented. In addition, informal marriages were seldom the subject of negative attention. This study has suggested that marriage breakdown, cohabitation, and bigamy were not uncommon, and, despite prevailing social conventions, such relationship outcomes had little impact on the social standing of those involved.

The topic of baby-farming is usually one that reveals only the worst possible outcomes. The third study did not focus on the extent of the most pernicious kind of baby-farming, but instead found that the criminal cases were a tiny sampling of a range of paid child-care provided by foster and adoptive parents.<sup>733</sup> Legislation was never meant to ban the practise, but rather sought to monitor it, to improve the care of infants and prevent infant death. Moral panic generated by international and local cases facilitated change, as perceptions of children's worth transformed. Their value shifted from parental possessions into future citizens.<sup>734</sup> The fourth study examined girls and young women placed in New Zealand's State reformatory who were, on occasion, called incurrable. On examination, they were not as bad as they had been painted and most turned out well. Most of them married, which remains the best measure to judge their success in reintegrating into society. They seem to have outgrown their troubling behaviour, a result that accords with psychological research.<sup>735</sup> The incurrable label was generally given to girls who absconded and were then subjected to harsh punishments. The label justified the way they were treated in the minds of the reformatory staff.

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<sup>733</sup> Macdonald, "Crime and Punishment," 18.

<sup>734</sup> Dorothy Scott and Shurlee Swain, *Confronting Cruelty: Historical Perspectives on Child Protection in Australia* (Melbourne: Melbourne University Press, 2002), xi.

<sup>735</sup> T. E. Moffitt, "Adolescence-limited and Life-course Persistent Anti-social behaviour: A Developmental Taxonomy," *Psychology Review* 100, no. 4 (1993), <https://doi.org/10.1037/0033-295X.100.4.674>.

The final study, that of the eugenic family studies, shows that eugenic arguments enabled the narrative of dysfunction to be imposed on poor families experiencing difficulties, which had resulted in semi-criminal behaviour, or from mental illness. Examining the families found that, like the girls in the reformatory, they were not the simple cases depicted in official reports. Complexities had been downplayed or eliminated to create the kind of illustrative cases that the investigation was expected to uncover and that were required to demonstrate the need for eugenic solutions.

### **From Incurable to Deficient**

The first question this thesis sought to answer was how incorrigibility as an assessment of social behaviour changed. It appears that the basis for judging behaviour was shifting from moral-based, founded on long-established Christian values, to scientific, which reflected increasingly 'rational' views.<sup>736</sup> Some have argued that, unlike principles derived from Christianity, science has neither an ethical basis nor the ability to provide an ethical framework.<sup>737</sup> However, old ideas persisted and were augmented by expanding scientific and medical knowledge. Humanitarian doctrines continued to be presented as motivating the management of social problems. Despite that, there was an increasing confidence in science to explain why people had not changed their social behaviour patterns after prison sentences intended to punish, or time spent in a reformatory intended to persuade and retrain the recalcitrant. In New Zealand, the idea of moral insanity became more prevalent by the 1880s. Doctors linked head injuries and 'weak intellect' to later criminal acts.<sup>738</sup> Preachers lectured on the subject.<sup>739</sup> Some prohibitionists viewed alcohol related deaths, particularly suicide, as a form of moral insanity.<sup>740</sup> By the 1910s, judges would ask if the accused was suffering from moral insanity.<sup>741</sup> The focus shifted from intentional lawlessness to a biological theory of crime that required a different management approach.<sup>742</sup> This change of thinking justified the past failures to deter criminal behaviour, while it continued to problematise behaviours among the poor.<sup>743</sup> Examining attitudes towards girls in the reformatory shows they

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<sup>736</sup> Belich, *Paradise Reforged*, 165.

<sup>737</sup> Brian D Earp, "Science Cannot Determine Human Values," *Think* 15, no. 43 (2016), <https://doi.org/https://doi.org/10.1017/S1477175616000026>

<sup>738</sup> *New Zealand Herald*, 19 Dec 1885, 3, <https://paperspast.natlib.govt.nz/newspapers/NZH18851219.2.4>.

<sup>739</sup> *Star* (Christchurch), 1 Sep 1888, 3, <https://paperspast.natlib.govt.nz/newspapers/TS18880901.2.15>.

<sup>740</sup> *Wairarapa Daily Times*, 2 Sep 1891, 2, <https://paperspast.natlib.govt.nz/newspapers/WDT18910902.2.4>.

<sup>741</sup> *Poverty Bay Herald*, 16 Mar 1910, 5, <https://paperspast.natlib.govt.nz/newspapers/PBH19100316.2.26>.

<sup>742</sup> Wiener, *Reconstructing the Criminal*, 12.

<sup>743</sup> Rafter, *Creating Born Criminals*, 39.

were incarcerated for their immoral actions, but enquiry witnesses spoke about their inferior genetic material and a predisposition towards 'sinful habits'. In contrast, there was less emphasis on moral standards and more on scientific explanations for the example families' mental dysfunction in the 1920s. This reflected the increasing influence of professionals with social authority, such as medical doctors, psychologists, and psychiatrists.<sup>744</sup> The merging of the two ideologies is seen in the diagnosis of one family member. Admitted to an asylum in 1917, the causes of her mental defect were given as a bad environment, her bad 'heredity', and a probable case of congenital syphilis. The dysfunctional violated socially accepted moral standards and moral judgements continued to be fundamental in categorising people's dysfunction.

This thesis found that the groups that came to public attention in the late nineteenth century were vilified for the immorality of their actions. The moral distinction between respectable and disreputable had long come down to conformity to 'accepted' social standards.<sup>745</sup> New Zealand culture embraced social cohesion and conformity.<sup>746</sup> According to John Pratt, Emile Durkheim attributed the exaggeration of these qualities to the perception that lawbreakers were particularly threatening. This allowed those seen as threatening to be portrayed as different, and this further tightened social cohesion. Miles Fairburn argued violence and civil litigation were symptoms of atomism.<sup>747</sup> Perhaps the targeting of these crimes was a tool to enforce conformity. Enforcing conformity, as Louise Humpage noted, brought those on the margins back to the centre.<sup>748</sup> This was not always an easy process, and Erik Olssen drew attention to the need for small (thus, powerless) groups to make changes so that they could be accommodated.<sup>749</sup> Olssen suggested scattering minimised their presence, their difference, and their identity.

The second question related to the role that incorrigibility played in shaping or modifying New Zealand's modernising society over time. I expected it to play a minor role, but incorrigibles were perhaps too specific to have made a significant impact. People were labelled incorrigible when they were regarded as the worst example of some social problem, or continued to cause

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<sup>744</sup> Erik Olssen, "Truby King and the Plunket Society: An Analysis of a Prescriptive Ideology," *New Zealand Journal of History* 15, no. 1 (1981): 22.

<sup>745</sup> Gregory, "Saving the Children," 19.

<sup>746</sup> Pratt, "Dark Side of Paradise," 546.

<sup>747</sup> Miles Fairburn, *The Ideal Society and its Enemies: the Foundations of Modern New Zealand Society, 1850-1900* (Auckland: Auckland University Press, 1989).

<sup>748</sup> Louise Humpage, "An 'Inclusive' Society: A 'Leap Forward' for Māori in New Zealand?," *Critical Social Policy* 26, no. 1 (2006): 224.

<sup>749</sup> Erik Olssen, *An Accidental Experiment? The Social Bases of an Egalitarian Society* (Dunedin: Hocken Collections/Uare Taoka O Hākena and Univeristy of Otago, 2008), 21.

trouble in institutions and were generally an urban problem. While from the wider working-class who might find seasonal work on farms, they were rarely problematic in rural areas. It is possible that incorrigibles were used to draw attention to the social problems of urban life in the slummy areas of towns. The State's position was reactive as it waited to fix problems as they were perceived in the local community, rather than acting to prevent them from occurring. This partially reflected the notion that New Zealand had been established in a manner that had left the problems of industrial Europe behind. Often the problem group consisted of those seen as the undeserving poor, and the incorrigible might be the most extreme end of that group if we accept that this was an actual grouping.

The primary characteristic of 'others' was that they did not conform to the usual social norms. Incorrigibility was often associated with social misfits and outsiders, but that was not the case in reality. Incorrigible individuals were part of their communities; they had circles of family and friends that would appear to contradict Fairburn's assertions about violence and isolation as the cause of disorder. Their troublesome behaviour often resulted from socializing, with arrests for assault, for stealing from acquaintances, or for being loud and disorderly. Instead of being other or outsiders, they inhabited the margins of respectable society. They were part of a community more tolerant of different cultural norms than that inhabited by the middle-classes. Some of the undeserving poor came to be regarded as incorrigible others when they continued pragmatic cultural practices that the middle-class were intent on minimising or monitoring.

It might be expected that dealing with 'others' would be a story of progressive improvement, in which legislation provided increasingly effective control of social problems and that the need for active resistance of poverty would become less as conditions improved. The narrow definition of appropriate conduct focused on what was desired, a form of behaviour more fiction than fact. Social reformers called for legislation to require those who did not conform to social expectations to comply, with punishment considered necessary to encourage that conformity. Those who defined and judged what was appropriate failed to recognise the importance of agency among the poor. As such, legislation had to be continually adjusted to counter the challenge of those who resisted or undermined its intentions, resulting in surges in criminal prosecutions. Prisons, with their removal of personal freedom and enforced labour, were supposed to inspire better future behaviour and act as a deterrent to the criminally inclined. Those engaged in less serious offending, but undaunted by imprisonment, were increasingly diverted into the reformatory system. This also extinguished personal liberties, with reform

encouraged through small-scale rewards and punishments. Reformatories offered tight discipline and attempted to redirect the individual, but generally lacked any programme proven to alter behaviours. The failure of both punishment and reform of the incorrigible was originally blamed on the individual's response. Then, as the problem was redefined by a more 'rational' society seeking a scientific explanation, the emphasis shifted from punishing to treating as defective. The blame was not placed on the system nor on the individual's will, but increasingly focused on genetic predisposition, which enabled the argument that sterilization or segregation would prevent this from spreading. This was seen as something that could be managed by controlling the problem individual rather than necessitating a social change that would prevent poverty from having a negative impact on their lives.

The third question concerned the extent to which the discussion surrounding 'incorrigibility' reflected New Zealand's social dynamics. While anyone can be described as incorrigible, for the most part, the incorrigible element in New Zealand's history has been found among the poor, the working-classes and what was described as the 'criminal class'. Assumptions by contemporaries about those on the social margins, that they were in some way a distinctive group — the poorest of the poor — have been disproven in subsequent studies. The existence of a criminal class has been refuted by scholars like Gareth Stedman Jones and Nicole Hahn Rafter.<sup>750</sup> Instead, they were part of the undeserving poor, a section of society supposed to have been left behind as Europeans arrived in New Zealand. As the country became more settled, with the population swelled by British immigrants in the 1870s, social problems were blamed on the quality of this influx. This was attributed to the inadequate selection of immigrants, of poor quality control, driven by the fear that the problems of the Old World had been transported into the new in the person of the unrespectable labourer and the promiscuous domestic servant. Concerned citizens believed that if only they could control or coerce this element of society into conformity, then New Zealand would avoid the pitfalls of urbanisation and industrialisation, of the depletion of vitality that urban life entailed. New Zealand society found itself wanting, and the answer appeared to be eliminating dissent, disruption, and all that entailed.

Attitudes toward the incorrigible may have been influenced by an increasing pressure to conform to ideas about family. The importance of family is seen in the legislation that, at first, required a reasonably close circle to be responsible for its less fortunate family members. This later

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<sup>750</sup> Stedman Jones, *Outcast London*; Rafter, *Creating Born Criminals*.

relied on more distant relatives to provide care as the population increased and larger numbers of people, particularly men, did not have the means or relatives to look after them. The result of the early sexual imbalance was seen in the provision of old men's homes, while older women were generally cared for within their family circles, often shifting between family members. Baby-farmers also connected to ideas about family, perhaps offending middle-class ideas that families cared for their own. The precipitating factors — pre-marital sex and immorality — ensured that the problem of foster-care was problematic at several levels. These children were 'other people's' children, being cared for beyond the family. However, that did not mean the middle-class did not use the same services when the need arose. It does suggest that the respectable overcame some of the difficulties, perhaps by having a closer relationship with the carer, bringing them into their home, or by a more generous payment ensuring a higher standard of care.

The handling of reformatory inmates revealed attitudes about class and gender. By failing to behave as proper young women should, the children of poor parents could, without difficulty, be sent into an institution. It was far harder to get them out. The kinds of misbehaviour that were targeted reflected tighter standards from the 1910s. However, it was only a certain kind of lower-class girl who ended up there. Those belonging to respectable families managed to avoid being taken to court. Either they were being kept under stricter supervision or were the recipients of more favourable treatment as the children of respectable parents. Additionally, the tolerant attitudes toward different forms of working-class family glimpsed in relation to the informal marriage were not present in the policing of the baby-farming legislation. Rebecca Halford was rejected as a foster-parent because she was not married to the father of her four children. Her apparently altruistic motives were insufficient to overcome judgements about the immorality of her family situation.

Finally, and somewhat surprisingly, race was not an issue within the sampled groups. This does not mean Māori were not involved in a minor way. Reformatory girls included a few non-Europeans, with records for two Māori girls, two described as half-caste, and three with Chinese ancestry.<sup>751</sup> In addition, the South Island focus of the prostitute study showed that they were mostly of British or New Zealand birth. A study of Auckland prostitutes may have produced a different outcome, although the use of European names complicates identification of those of Māori ancestry. Anxieties about the incorrigible element were urban anxieties, and for the most

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<sup>751</sup> Only one of the four had a Māori surname, the others had European names.

part, the discussion of the treatment of social misfits related to the European portion of the population. Some evidence showed unfavourable attitudes towards the Chinese, largely in newspaper accounts of girls being sent to the reformatory. If they had been found in the Chinese quarter, it was assumed that they were involved in prostitution with or for Chinese men. However, this attitude towards the undesirable nature of Chinese residents did not appear to change over time. In contrast, Māori were not discussed as unable to take part in society. That discussion focussed on degenerate and degenerating Europeans.

By examining the experiences of the marginalised poor in nineteenth and twentieth-century New Zealand, and re-evaluating their categorization as undeserving, essential insights are revealed about their cultural practices and the changing societal perceptions, contributing to a nuanced understanding of New Zealand's historical complexities. Taken together, these studies contribute significantly to the growing body of knowledge on how poverty affects people, particularly the 'unrespectable' or 'undeserving'. The current historiography of the poor has a narrow focus on the interaction of the deserving with the charitable. By adopting a wider perspective, it becomes clear that there was little to distinguish between the deserving and undeserving, and it is best understood as a classification of behaviour rather than identity. The incorrigible element was probably imagined to have fewer family links, in line with Fairburn's theory of atomisation. Fairburn's work intersected with this thesis in his explanation that loneliness caused anti-social behaviour.<sup>752</sup> He looked at difference and saw atomisation. For loneliness, there was evidence of former friendships, but Fairburn seems to ignore that his examples show that these flourished quickly and were still a source of comfort years later.<sup>753</sup> In contrast, looking at difference shows the enforcement of social control measures grew, as an attempt was made toward social conformity. Fairburn's argument was that anti-social behaviours were caused by weak social bonds.<sup>754</sup> This thesis confirms that one group, older prostitutes, were often associated with weaker family bonds. Possible explanations for this might be that they had fewer family relationships or were unable to live with their family. Issues included drunkenness, addiction, and homelessness. Another finding which contradicts a more widespread dissociation is that most people who got into trouble did so with others; others they worked with, others they played with, others they lived with, others they refused to live with anymore. The behaviours

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<sup>752</sup> Fairburn, *Ideal Society and its Enemies*, 11-12.

<sup>753</sup> Fairburn, *Ideal Society and its Enemies*, 191.

<sup>754</sup> Fairburn, *Ideal Society and its Enemies*, 213, 223.

Fairburn interpreted as anti-social, drinking and fighting, were associated with cultural practices, as Dunstall suggested.<sup>755</sup> Connections to others were evident in all the groups studied.

This thesis draws attention to the gap in New Zealand's literature on the poor. The unrespectable tend to have been written out or written over. This suggests that they were the least important facet of New Zealand society. While John A. Lee wrote about some of this type of men in his book *Roughnecks, Rolling Stones and Rouseabouts*, his was a colourful popular history rather than an academic contribution.<sup>756</sup> The advantage of his book was that it engaged in telling their stories, whereas other research on the unrespectable has continued to marginalise them as those acted upon by legislation, as in Peter Gibbon's thesis, or by institutions, as in Margaret Tennant's publications.<sup>757</sup> Their lack of visibility in the literature contrasts with their problematic visibility at the time. Their presence in the streets and public spaces was seen as emblematic of the potential problems of their spreading influence.

A larger contribution is made by the close study of differentiated groups of the unrespectable poor, with a focus on whole lives rather than colourful stories, although their stories are often colourful. The case study approach allows for a deeper understanding of different facets of working-class practices and traditions, their pragmatic solutions to problems that were usually of little concern to the respectable until they affected them in some way. The case studies have provided detailed examples of how problems were handled, and how their solutions were understood and counteracted by legislation when they themselves were perceived as problematic. Collective biography requires a sample set of life histories. These allow for a more complete view of lives which have often been viewed from one point, the point at which an individual interacted with a court or an institution. The drama of the courtroom with its cast of characters is a well-known trope, but reporters were usually more focused on recording the magistrate's pronouncements than the effect on the accused. Only when details could be employed for comic relief was the offender's appearance, attitude, interactions, or reaction to sentencing recorded. Considering a whole life allows a view of change over time; it recognises a person's connections to

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<sup>755</sup> Graeme Dunstall, "Frontier and/or Cultural Fragment?: Interpretations of Violence in Colonial New Zealand," *Social History* 29, no. 1 (2004): 77.

<sup>756</sup> John A. Lee, *Roughnecks, Rolling Stones and Rouseabouts: with an anthology of early swagger literature* (Christchurch: Whitcoulls, 1977).

<sup>757</sup> Gibbons, "Tramps into Taxpayers."; Tennant, "'Brazen-faced Beggars of the Female Sex': Women and the Charitable Aid System 1880-1920."; Tennant, "Women's Homes."; Tennant, *Fabric of Welfare*.

family and community that are obscured by the brevity of a reported court appearance that is presented as a warning to others — a morality tale for the masses.

As well as adding to what is known about the collective undeserving poor, the group studies produced five different contributions to historiographies related to specific groups or themes. Studying marriage behaviour showed that immigrants retained conventions that they valued, including family and marriage. The perilous financial circumstances that some women faced led to convictions as common prostitutes. These were more related to their disruptive behaviour than the sale of sexual services. Both prostitutes and those providing paid child-care faced tightening legislation. Both trades faced magistrates who tried to find workable solutions to the challenges presented in court. Both trades continued despite the legislation, with carers continuing with traditional foster care practices and their established feeding methods. Girls sent to the reformatory demonstrated that the labelling given for one type of behaviour did not predict how well they would handle life beyond an institution. Reformatory enquiries show that beliefs about inferior genetic material emerged, while ideas about a predisposition towards sinful habits persisted. The finding of the study on mentally defective families, that the families, frequently economically disadvantaged, were more complex and less defective than represented, can be applied to all these group studies.

## **Challenges**

This thesis presents a historical perspective on the issue of marginalised people in New Zealand. The focus has been broad overall, while attempting to fill some of the gaps in our knowledge. One of the challenges has been that, as a thesis 'with publications', the amount of research that can be presented in each chapter is restricted. Word limits for journal publications introduce a constraint that is not present in the conventional monograph format. Focusing each article for a selected journal can be restrictive, not so much in terms of the research to be conducted, but in terms of how the research is presented and enforces an approach directing the argument to appeal to a select readership. The result is that some important issues and debates have not been addressed. For example, there is much more that could be said about foster care undertaken for State and private institutions, which was regarded as benign, even beneficial, in sharp contrast to that undertaken privately and vilified as baby-farming. Likewise, research into prostitution revealed more about brothels that was unable to be included in a single article.

The ethical restrictions imposed by the New Zealand Privacy Act 2020 prevented a complete presentation of some of the research carried out. Permission to view relevant archives required the permission of Te Whatu Ora the Ministry of Health and of Oranga Tamariki Ministry for Children. Both agencies stipulated that the information in the files is private and could not be published in a way that allowed a person or organisation to be identified, even when that person has died. To comply with this stipulation, pseudonyms were used in the relevant chapters, namely Chapter 6 and Chapter 7. The transparency of research results has been further affected as, to prevent identification of these individuals, some references to newspaper articles had to be omitted. It is important to acknowledge the limitations created by this necessary restriction.

Difficulties in researching the various groups have included that some featured a significant proportion of members who did not demonstrate strong family ties. This resulted in fewer connections found to family trees, as those who did not marry or did not have children are less likely to appear in a resource mostly compiled by descendants. Another difficulty has been a lack of archival sources, which encourages a reliance on newspapers as an alternative source. Some avenues of investigation encountered difficulty in accessing primary sources. For example, the New Zealand Society of Genealogists' Kiwi Collection includes school records from the State school system, but has not been able to provide similar index access to Roman Catholic school records. Given that a significant portion of the poor were of Irish origins and the Catholic faith, this difficulty has hampered the correct identification of some children and their parents. The Catholic church has not been responsive to approaches for school records, but inquest archives, industrial school admissions, and hospital records were consulted, which provided valuable insight into some lives. In contrast, the archives of the Catholic church run Mount Magdala, which are held in Australia, were searched by the helpful archivist. The information provided enabled the correct identification of women to their birth families. Perhaps more importantly, much of the research has relied on newspaper accounts of trials in Magistrates Courts. This is at best a partial account of the event, where a fuller account would have included material in police records, case records, judges' notes, and so on. For example, Christina Lawson's police photograph was provided with the summary page of her file by the police museum. However, these sources are simply not available for the courts during most of the period being studied.

## Conclusion

In August 1925 a report about prison facilities repeated the long-held belief that defined incorrigibles as 'persons for whom there is no hope'.<sup>758</sup> Just over a year later, Brigadier-General Albert Andrew argued that all boys had potential, and 'the vast majority will persist in rebellion and, although they be labelled "incorrigibles" by the church and "duds" and "retardates" by the schoolmaster, will go out into the world to become men of action who do things and get things done —the finest and the manliest men in the country'.<sup>759</sup> Such statements demonstrate that in the mid-1920s, attitudes towards the incorrigible remained varied. This thesis seeks to enhance our understanding of the undeserving poor and has made a significant exploration of the marginalised poor, demonstrating through granular research that there were multiple narratives that disrupt that created by the respectable. It adds to our knowledge of how flexible the markers of respectability were, that even labourers aspired to social norms like marriage, but in times of trouble some of the poor drifted into unrespectability, even into criminal activities.

Previous scholarship has observed that the history of crime has largely remained institutionally focused, a history of the administrative about the prevention and punishment of crime. This focus means that the marginalised, the very people thought to be involved in crime, have been excluded. Contemporaries imagined potential criminals were contained within the broader grouping of the poor, one which encompassed the working poor, respectable poor, unrespectable poor, and the criminal. Seeking the incorrigible element has led to questions about the roles of the marginalised and outsiders in society, and the finding that incorrigible as a term did not apply equally, or easily, to such groups. Instead, contemporary terms like low-life, undeserving, and unrespectable seem more appropriate as encompassing ideas. Contrary to assumptions, but in line with historians' assertions that there was often little to distinguish theoretical divisions, this research has not found the continuous thread of a single family representing all facets of the unrespectable. Overlaps occurred when marriage breakdowns led women into prostitution, and to the admission of children to industrial schools and a few of these into reformatories. However, foster-carers were not the type chosen as examples of defective families, and the family of prostitute sisters provided as an example of moral defect provoked resistance in parliament to labelling them mentally defective. Thus, this research supports the

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<sup>758</sup> *Taranaki Daily News*, 1 Aug 1925, 12, <https://paperspast.natlib.govt.nz/newspapers/TDN19250801.2.92>.

<sup>759</sup> *Southland Times*, 14 Dec 1926, 8, <https://paperspast.natlib.govt.nz/newspapers/ST19261214.2.77>.

hypothesis that respectable society had porous edges. The unrespectable passed into and out of society, often seeming to aspire to the respectable, at least in form if not practice. There was a degree of fluidity that contemporaries ignored in their belief the respectable were distinct from unrespectable. Instead, in poor communities they were neighbours, drinking companions, workmates, school-chums, and even friends.

Following in the footsteps of other social historians in looking at those 'below', this thesis has considered how ideas of unacceptable behaviour and its causes shifted over time. Some of these cultural norms have gained greater acceptance in more recent times. It is now considered normal for a couple to live together and have children, and to marry later or not at all. Prostitution has been decriminalised and legitimised as sex work. Paid child-care is available for working parents, and is government sponsored. Young women routinely engage in sexual relationships, and drinking to excess is seen as undesirable but almost a rite of passage. However, othering is still prevalent. The mid-twentieth century urbanisation of the Māori population allowed a different group to fill the role of the poorest part of the community. This added an overt racial element missing in the earlier period, which complicates the history of New Zealand's poor. The concept of the incorrigible is found in new forms, seen in concerns about 'boy racers', 'ram raiders', and even about the activities of gang members. Labels remain powerful triggers, able to arouse strong feelings about antisocial behaviour, and thus continue to be used by media and politicians to generate action, mirroring the moral panic flashpoints of previous generations.

Those thought to be incorrigible were people facing practical problems, thus defining the incorrigible was about more than values and attitudes. They often created a practical problem in their communities and to those tasked with maintaining law and order. The incorrigible element presents an opportunity to examine the lives of groups of ordinary women and men. The snapshot view of newspaper reports or police gazettes can be rounded out to provide a multi-dimensional view, challenging the sensational with the mundane and problematic. It shows another side of New Zealand society, one that grappled with those who struggled, those who failed, and those who defied expectations.

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# Appendices

Appendix A: Statement of Contribution Doctorate with Publications/Manuscripts (DRC 16)

Appendix B: Statement of Contribution Doctorate with Publications/Manuscripts (DRC 16)

Appendix C: Statement of Contribution Doctorate with Publications/Manuscripts (DRC 16)

Appendix D: Statement of Contribution Doctorate with Publications/Manuscripts (DRC 16)

Appendix E: Statement of Contribution Doctorate with Publications/Manuscripts (DRC 16)

Appendix F: Example of Method Used

Appendix G: Residential Institutions

## Appendix A: Statement of Contribution Doctorate with Publications/ Manuscripts (DRC 16)

DRC 16



GRADUATE  
RESEARCH  
SCHOOL

### STATEMENT OF CONTRIBUTION DOCTORATE WITH PUBLICATIONS/MANUSCRIPTS

We, the candidate and the candidate's Primary Supervisor, certify that all co-authors have consented to their work being included in the thesis and they have accepted the candidate's contribution as indicated below in the *Statement of Originality*.

Name of candidate:	Delwyn Blondell	
Name/title of Primary Supervisor:	Prof Michael Belgrave	
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## Appendix B: Statement of Contribution Doctorate with Publications/ Manuscripts (DRC 16)

DRC 16



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### STATEMENT OF CONTRIBUTION DOCTORATE WITH PUBLICATIONS/MANUSCRIPTS

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Please select one of the following three options:	
<input checked="" type="radio"/> The manuscript/published work is published or in press <ul style="list-style-type: none"> <li>• Please provide the full reference of the Research Output: Blondell, Delwyn. "Till Death Do Us Part: Laborers' Marriage Practices in Late Victorian New Zealand." <i>Journal of Family History</i>, 48 No. 1, Jan 2023 p.81-102, <a href="https://doi.org/10.1177/03631990221078588">https://doi.org/10.1177/03631990221078588</a></li> </ul>	
<input type="radio"/> The manuscript is currently under review for publication – please indicate: <ul style="list-style-type: none"> <li>• The name of the journal: Journal of Family History</li> <li>• The percentage of the manuscript/published work that was contributed by the candidate: 100.00</li> <li>• Describe the contribution that the candidate has made to the manuscript/published work: The candidate conducted all research and prepared the full draft of the manuscript. Supervisors provided feedback.</li> </ul>	
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## Appendix C: Statement of Contribution Doctorate with Publications/ Manuscripts (DRC 16)

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<input type="radio"/> The manuscript/published work is published or in press <ul style="list-style-type: none"> <li>• Please provide the full reference of the Research Output: Blondell, Delwyn. "Beyond Baby-farming: Prosecuting Paid Child-care in Liberal-era New Zealand"</li> </ul>	
<input checked="" type="radio"/> The manuscript is currently under review for publication – please indicate: <ul style="list-style-type: none"> <li>• The name of the journal: Law &amp; History</li> <li>• The percentage of the manuscript/published work that was contributed by the candidate: 100.00</li> <li>• Describe the contribution that the candidate has made to the manuscript/published work: The candidate conducted all research and prepared the full draft of the manuscript. Supervisors provided feedback.</li> </ul>	
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Please select one of the following three options:	
<input type="radio"/> The manuscript/published work is published or in press <ul style="list-style-type: none"> <li>• Please provide the full reference of the Research Output: Blondell, Delwyn. "Depraved and Vicious": The Incurable Inmates of New Zealand's Girls' Reformatory 1900-1918"</li> </ul>	
<input checked="" type="radio"/> The manuscript is currently under review for publication – please indicate: <ul style="list-style-type: none"> <li>• The name of the journal: Journal of the History of Childhood and Youth</li> <li>• The percentage of the manuscript/published work that was contributed by the candidate: 100.00</li> <li>• Describe the contribution that the candidate has made to the manuscript/published work: The candidate conducted all research and prepared the full draft of the manuscript. Supervisors provided feedback.</li> </ul>	
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## Appendix E: Statement of Contribution Doctorate with Publications/ Manuscripts (DRC 16)

DRC 16



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<input checked="" type="radio"/> The manuscript is currently under review for publication – please indicate: <ul style="list-style-type: none"> <li>The name of the journal: Journal of World History</li> <li>The percentage of the manuscript/published work that was contributed by the candidate: 100.00</li> <li>Describe the contribution that the candidate has made to the manuscript/published work: The candidate conducted all research and prepared the full draft of the manuscript. Supervisors provided feedback.</li> </ul>	
<input type="radio"/> It is intended that the manuscript will be published, but it has not yet been submitted to a journal	
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Date:	27 Jan 2024
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## Appendix F: Example of the Method Used

Agnes A was admitted to the Te Oranga Home, the reformatory for girls in Christchurch in June 1901. The institution's records show she was a Roman Catholic from Wellington. But this does not tell us why was she admitted, who her family was, or what happened to her when she left eight years later in June 1909.

The first information found was in the Wellington newspapers on Papers Past, referring to the reasons she was sent to the Home. But instead of finding her as Agnes, she was described as Annie A aged 13. She had been found in a house of ill-repute in Haining Street, associating with reputed prostitutes. The police said she was in the habit of being about the streets after eleven o'clock at night. The magistrate sent her into the industrial school system. Agnes and Annie were the same girl despite the difference in name.

*New Zealand Police Gazettes*, accessible through Papers Past and Ancestry, showed Annie A escaped from Te Oranga in 1906. She was aged 18, stood 5'2.5", of a slight build, a fair complexion, dark brown hair, grey eyes, and was wearing a black dress and white sailor hat. She had friends living at Petone, Wellington. When she was found at Kaiapoi and returned to Te Oranga, there was no hint of what she did while out of the Home for three months.

These reports showed what Agnes/Annie had done to be admitted to the Home, but did not say much about who she was. Searches for her birth, marriage and death details hit dead-ends. Knowing that she came from Wellington, I searched for her school records in the New Zealand Society of Genealogists' Kiwi Collection, looking for the name Annie.

An Annie appeared at Mt Cook Infant School in Wellington, admitted in February 1897 by her father. She had come from a school in Oamaru. There were further entries in 1898, 1899, and 1900. The first entry gave her birthdate as 15 June 1889, there was no birthdate given in 1898, and in January 1899 she was 10 years four months, while in January 1900 she was still 10. This was not helpful in narrowing down her birthdate. However, the entries did identify her father as James, occupation labourer, recorded in the entries under a variety of name abbreviations. Returning to Births, Deaths, and Marriages and searching for an suitable birth between 1890 and 1895 showed three births with a father named James, but none for a girl named Annie or Agnes.

School records in the Kiwi Collection provided vital information by identifying her father and sisters. This was a particularly lucky find, as many Catholic children were not educated in the State school system, so do not appear in any index. Looking for school records for Annie or her same surname siblings between the years 1897 and 1900 showed only 35 entries. While it would be desirable to search by location, this was not an option. On viewing each entry, Annie was found to have sisters Emily and Lily (or Lilly). Emily was 10 in February 1897, and 12 in October 1900. Lily's birthdate was given as 15 August 1893, 15 August 1892 and she was eight in September 1900. Clearly, the family moved around in the Wellington region, sending the girls from one school to another, and did not provide consistent birthdates.

Because Emily is spelt just one way, her birth was searched for rather than Lily/Lilly who could even be Lilian. Between 1885 and 1895 there were just two Emilys born in New Zealand, both in 1889 and both with a father James. Both families were then reconstructed – one for James and Rebecca, another for James and Louisa. James and Rebecca looked promising as they had numerous children registered, including one indexed as Silian, which could have been Lily. James and Louisa on the other hand only had three children registered, Emily, Edward James, and Francis Albert.

Family trees can be helpful in providing clues. On Family Search, a search for Emily born in New Zealand in 1889 with a father James revealed that both families had family trees there. Emily, daughter of James and Rebecca, died as an infant, something that could have been checked with the deaths index but it would not have shown her parents. James and Louisa's family tree on Family Search did not include either a Lily or an Agnes/Annie, but the tree was likely incomplete.

Ancestry had 25 trees for Emily A born 1889. Selecting one for Emily with parents James and Louisa showed that their family included Lilian born 1891 and Clara Agnes born 1892. The Ancestry family tree showed that when she left the Home Agnes/Annie began using Clara as her name. She had a daughter about a year later, who was raised by her parents. Clara married in Wellington and had a family of three daughters and four sons with her husband. After his death, she moved to Auckland, probably living with one of her children and died in 1970.

## Appendix G: Residential Institutions<sup>760</sup>

### Industrial Schools

A pamphlet from Sir Robert Stout's collection, entitled *The Reformatory and Refuge Journal*, states:

The children maintained in the eleven Industrial Schools and Orphanages in New Zealand may be divided into two classes: (1) Children committed to proclaimed Industrial Schools under the provisions of "The Industrial Schools' Act, 1882;" and (2) orphan and destitute children who are not so committed. The latter class comprises children admitted on the order of a Government relieving officer, and for whose maintenance a capitation payment is made by Government; and children admitted by the local managers at their own instance, and in respect of whom payment from the public revenue is not always made.<sup>761</sup>

The children were held in the school until the age of fifteen when they went out to work but remained under the guardianship of the school manager until they turned twenty-one. The Industrial Schools Act 1882 ensured that a child's earnings went into the Post Office Savings Bank with the child's costs for clothing and necessities was deducted. The money was returned to the child only if they had a report of good conduct "on reaching manhood" for the boys, or on their marriage for the girls with the approval of the manager.

Name	Town	Year founded
Caversham	Dunedin	1869
Burnham	Christchurch	1874
Kohimarama Naval Training School (boys)	Auckland	1874
Howe Street Home (girls)	Auckland	1882
Auckland Industrial School, Mount Albert (girls and young boys)	Auckland	1899

<sup>760</sup> This listing is not a complete list of all residential institutions. It is mostly of the ones encountered in my research. Sources include Archive New Zealand Christchurch Office Reference Guide 4: Charitable Aid and Social Welfare Records. Margaret Tennant's *The Fabric of Welfare: Voluntary Organisations, Government and Welfare in New Zealand 1840-2005* gives extensive coverage of the complexities of welfare provisions. In *Family Matters: Child Welfare in Twentieth-Century New Zealand*, Bronwyn Dalley focuses on government services provided by the child welfare agencies.

<sup>761</sup> *The Reformatory and Refuge Journal*, 1885, Victoria University of Wellington, New Zealand Electronic Text Collection.

By 1920 only two remained for longer-term residential care: Caversham for girls and Werarua for boys.

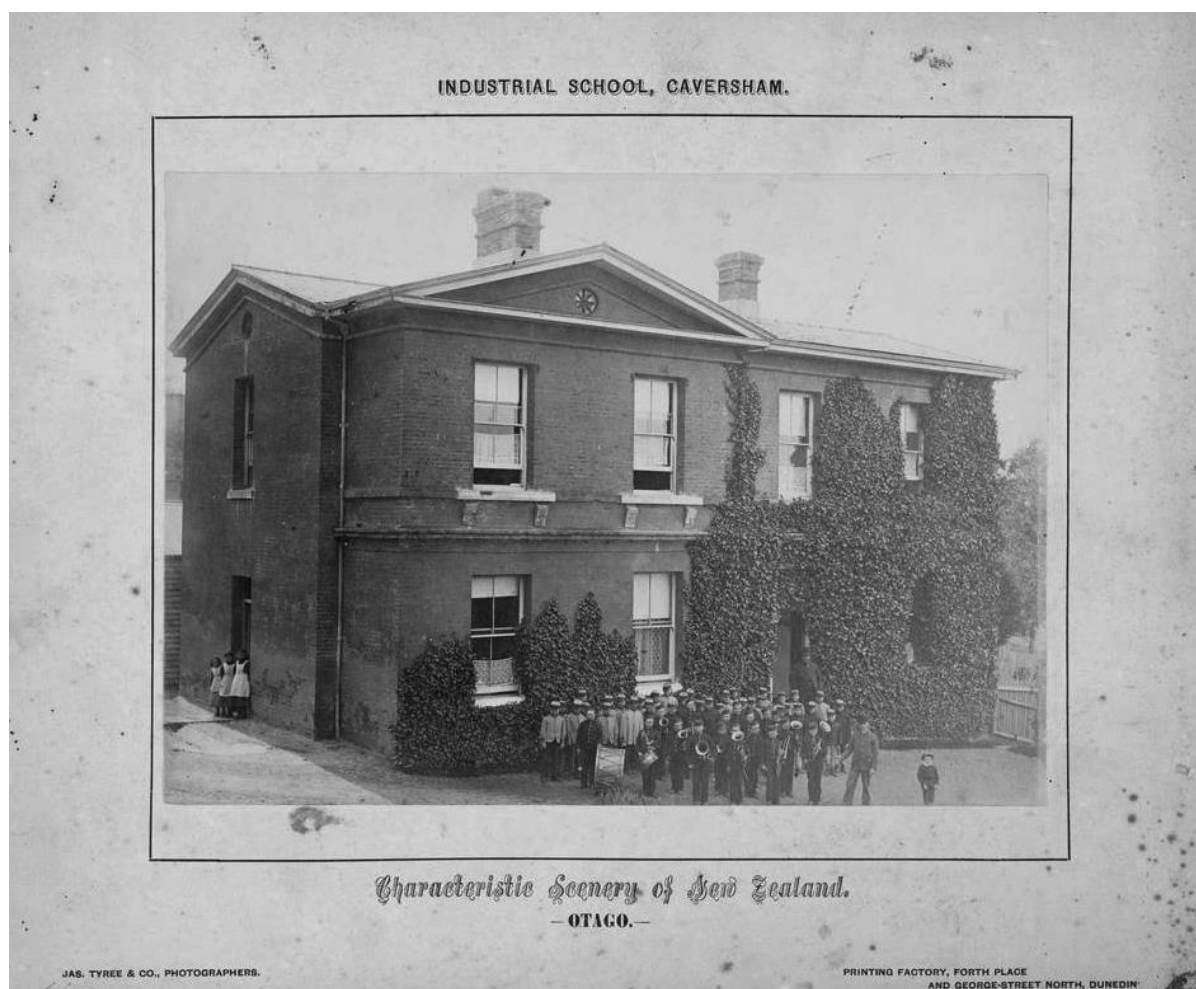


Figure 9: Caversham Industrial School in one of Dunedin's suburbs, with this photograph taken about 1887. While a crowd of boy musicians stand in front of the building, a trio of girls peek around from the side. No unknown copyright. Hocken Digital Collections, Reference Number: P2014-014/3-095, <https://hocken.recollect.co.nz/nodes/view/52617>

## Reformatory Schools

As greater classification was called for to enable different types of behaviour to be treated, troublesome girls were separated from boys with the opening of a reformatory school for girls.

Name	Town	Year founded
Te Oranga	Christchurch	1900
Burwood Home (older, delinquent girls)	Christchurch	1928

Te Oranga was closed in 1918, the other Industrial Schools were reorganised as institutionalising of children fell from favour. Burwood Home opened in the same facility a decade later.

## Special Schools

Special schools were also an innovation for the Education Department, allowing another form of classification. Weraroa concentrated on training boys for rural labour, while Otekaike was for ‘feeble-minded’ boys whose prospects could be improved with intensive behavioural training and special attention. Richmond and Stoke grew out of increasing needs for the less able children. There were also special schools provided for blind children and deaf children.

Name	Town	Year founded
Weraroa Training Farm	Levin	1905
Otekaike Special School	Oamaru	1908
Richmond (Girls)	Nelson	1916
Stoke (Boys)	Nelson	1920-21



Figure 10: Otekaike Special School was created for ‘feeble-minded’ boys, and sat on 342 acres of land.

### Private Reformatories/Industrial Schools/Orphanages

Name	Town	Year founded
St Mary's Industrial School and Orphanage (Roman Catholic Church)	Auckland	1849
St Joseph's (Roman Catholic Church and City Council)	Wellington	1852
Christchurch Orphan Asylum, Addington (Church of England)	Christchurch	1862
St Stephen's Orphanage, Parnell (Church of England)	Auckland	1870
Lyttleton Orphanage (Charitable Aid Board)	Christchurch	1870
Stoke Orphanage, part of St Mary's Industrial School (Roman Catholic)	Nelson	1874
Howe Street (Benevolent Society)	Auckland	1875
Thames Orphanage, (Borough and County Councils)	Thames	1879
Costley Boys Training Institute (Trustees)	Auckland	1886
Queen's Jubilee Memorial Home – for the aged poor (Charitable Aid Board)	Christchurch	1888
Samaritan Home (Church of England and Charitable Aid Board)	Christchurch	1896
St Vincent de Paul Orphanage and Industrial School (Roman Catholic Church)	Dunedin	1898
Waltham Orphanage	Christchurch	1905
St Mary's Orphanage	Dunedin	1913

The incomplete nature of the above list is shown in that Bronwyn Dalley counted “85 private institutions and orphanages” for more than 4000 children by the mid-1920s.<sup>762</sup> Some have served the community for long periods, and others had more fleeting existences. They were usually set up by church communities, and chose to cater for a select portion of the needy population.

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<sup>762</sup> Dalley, *Family Matters*, 134.



Figure 11: St Joseph's Industrial School and Orphanage for boys, Takapuna, Auckland. Photographed by an unknown photographer in 1924, after it was reopened following a fire. It originally opened as St Mary's School in 1849, but school closed only to be reopened in 1894 as St Joseph's Industrial School and Orphanage for boys. Credit: Morrison, John M, Photographs of Takapuna and Milford. Ref: 1/2-C-021066-F. Alexander Turnbull Library, Wellington, New Zealand. [/records/22761810](https://records/22761810)

The Salvation Army supplied many of the facilities that the poorest relied on. By 1892, they had four rescue homes, one in each of the main centres.<sup>763</sup> In 1903 they opened their first home for girls in Wellington, which moved locations and became Florence Booth Girls' Home.<sup>764</sup> In 1908 a home for girls was established in Otago's Middlemarch.<sup>765</sup> This was followed by one for boys at Eltham in 1910.<sup>766</sup> At the same time, the Habitual Drunkards Act 1908 enabled the foundation of a facility on Pakatoa Island which fulfilled the function for the government.<sup>767</sup> After legislative changes, Rotoroa Island was opened as a men's facility in 1910, leaving Pakatoa for women.

<sup>763</sup> Cyril R. Bradwell, *Fight the Good Fight: The Story of the Salvation Army in New Zealand 1883-1983* (Wellington: Reed, 1982), 76.

<sup>764</sup> Bradwell, *Good Fight*, 77.

<sup>765</sup> Bradwell, *Good Fight*, 77.

<sup>766</sup> Bradwell, *Good Fight*, 77.

<sup>767</sup> Bradwell, *Good Fight*, 78.

## Magdalene institutions

Name	Town	Year founded
Magdalen Asylum (proposed)	Auckland	1870
Mount Magdala	Christchurch	1886



Figure 12: Mount Magdala on the outskirts of Christchurch. The facilities included farm, orchard, and a large chapel. Most women residents were employed in the laundry. Photograph by Frank Douglas Mill and Audrey Mill, operating 1927-1937. Photo sourced from Auckland Libraries Heritage Collections FDM-0655-G.

## Female refuges

It is unlikely this was the only female refuge, however, it featured prominently in my research.

Name	Town	Year founded
Female Refuge later Essex Home (Church of England)	Christchurch	1864

## Receiving Homes

Government-run Receiving Homes operated to care for well-behaved destitute infants and children (i.e. not reformatory cases), and were mandated in 1900 as part of the industrial

school system.<sup>768</sup> The children were boarded out until aged fourteen when they went into domestic service or farm labouring positions, but remained under supervision until they turned twenty-one. The Homes were also responsible for industrial school girls when between domestic service jobs. Dalley described their activities as “taking in young children and screening others before placement”.<sup>769</sup>

Name	Town	Year founded
Christchurch Receiving Home, Fitzgerald Avenue	Christchurch	1900
Wellington Receiving Home	Wellington	1901
Nelson Receiving Home	Nelson	1915
Mount Albert	Auckland	1917
Girls' Receiving Home, Ferry Road	Christchurch	1918
Girls' Receiving Home, Anderson's Bay	Dunedin	1920
Napier Receiving Home	Napier	1921?
Wanganui Receiving Home	Wanganui	1921
Palmerston North Receiving Home	Palmerston North	1945

Christchurch Receiving Home moved locations, first in Barbadoes Street, then Hereford Street, and finally to Fitzgerald Avenue. It was for the temporary housing of children waiting on foster homes, or to be sent into service.

Wellington's Receiving Home opened about the same time as Christchurch's. It started business at 59 Tinakori Road. Nelson was the third to open, with five staff by 1920. Auckland's Home opened during late 1917 and grew quickly.

The Education Department opened facilities in smaller towns in 1920, adding 5 staff at Wanganui, four at Greymouth, Timaru, three at Hamilton, Palmerston North and Invercargill.<sup>770</sup> Napier had a Boarding Out Office with two on its staff. During 1921 some of these small facilities were renamed as Child Welfare Centres.

<sup>768</sup> *Auckland Star*, 6 Sep 1900, 5, <https://paperspast.natlib.govt.nz/newspapers/AS19000906.2.48>.

<sup>769</sup> Dalley, *Family Matters*, 77.

<sup>770</sup> “Appropriations Chargeable on the Consolidated Fund and Other Accounts for the Year Ending 31st March, 1921”, *Appendix to the Journals of the House of Representatives*, 1920 Session I, B-07, 190-92.

## Asylums and Mental Hospitals

The asylums existed on the edge of cities – they were both inside and outside of New Zealand society. They had aspects of hospital and prison but were outside of those concepts. They mixed together those considered 'idiotic', 'imbecilic', and 'demented' with the epileptic and the potentially curable. In addition, habitual drunkards held there during the nineteenth century. Meanwhile the criminally insane tended to be imprisoned for life in the gaol system.

Name	Town	Year founded
Karori	Wellington	1854
Sunnyside	Christchurch	1863
Avondale Lunatic Asylum and Carrington Psychiatric Hospital	Auckland	1865
Seaview	Hokitika	1872
Mount View	Wellington	1873
Seacliff	Dunedin	1884
Porirua	Wellington	1887
Orokonui Home for Inebriates, later Hospital	Dunedin	1902
Ngawhatu	Stoke	1922
Kingseat	Auckland	1932
Templeton	Christchurch	1929
Lake Alice		1950

In 1870, there were six asylums, with the main facilities in Auckland, Christchurch and Dunedin holding over one hundred inmates each. The other facilities were considered to be providing inadequate treatment. Wellington's Karori facility held twenty-one inmates, Westland had an asylum attached to the gaol with eighteen inmates, while Hokitika's Sea View contained twenty-three. Habitual drunkards were still being sent into asylums and mixed with ordinary 'lunatic' patients.<sup>771</sup>

Nine mental hospitals were in operation by 1930, being responsible for 6263 resident patients.<sup>772</sup> These were Auckland's Carrington and Kingseat, Tokanui, Porirua north of

<sup>771</sup> "Reports on the Lunatic Asylums in the Colony", AJHR 1872, Session I, G-27, p.9

<sup>772</sup> "Report on Mental Hospitals of the Dominion", AJHR 1931, Session I-II, H-07, p.2

Wellington, Nelson and Stoke, Seaview near Hokitika, Christchurch's Sunnyside and Templeton Farm, and Seacliff with a minor facility at Waitati.

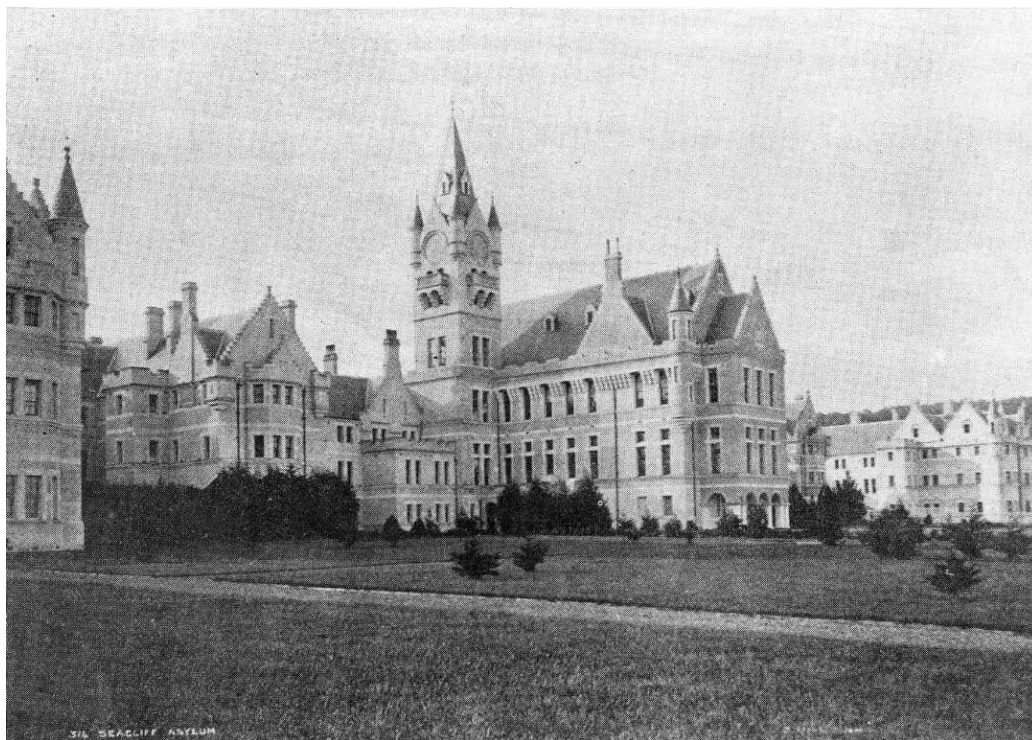


Figure 13: Seacliff psychiatric hospital, Seacliff, Dunedin, ca 1910. The gothic architecture was a direct link to the buildings at 'Home' that inspired provision of institutional care. Taken by unidentified photographer. Ref: 1/2-002563-F. Alexander Turnbull Library, Wellington, New Zealand. /records/23242138

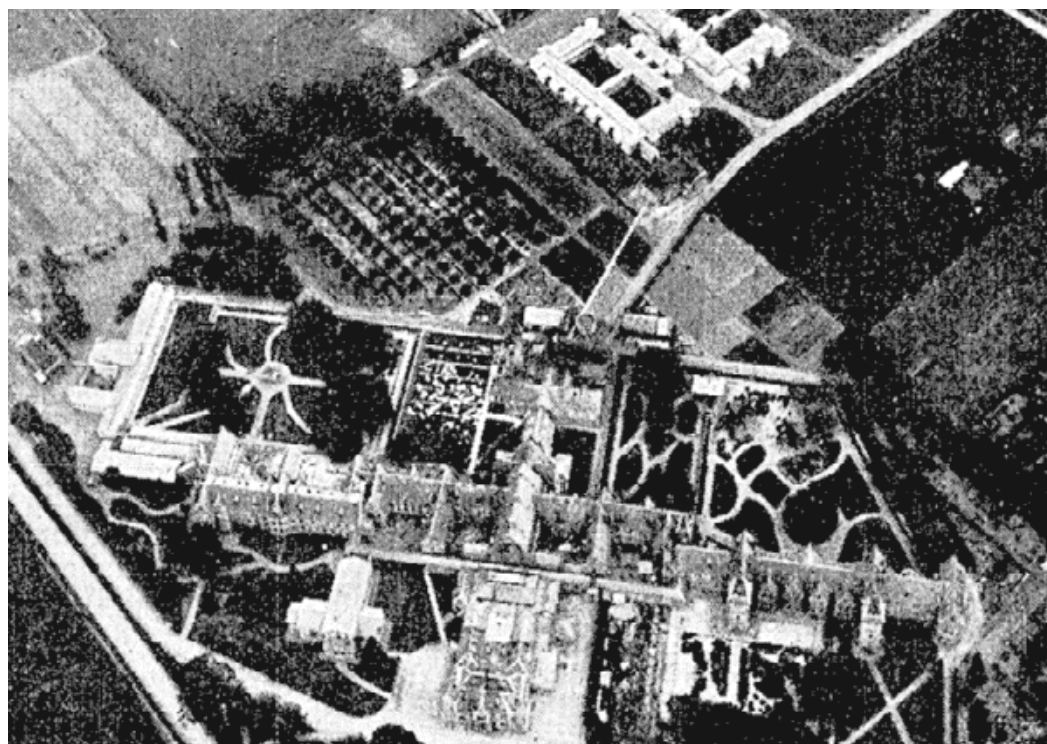


Figure 14: Sunnyside Mental Hospital buildings and grounds in 1931. The photo gives an indication of the scale of the facility and its self-contained nature. *Press* 10 Jan 1931, 17.



Figure 15: One of the self-contained villas at Templeton Farm School. This type of accommodation was thought to reduce the institutional aspect, and is very different in appearance to that of Seacliff. *Press* 10 Jan 1931, 17