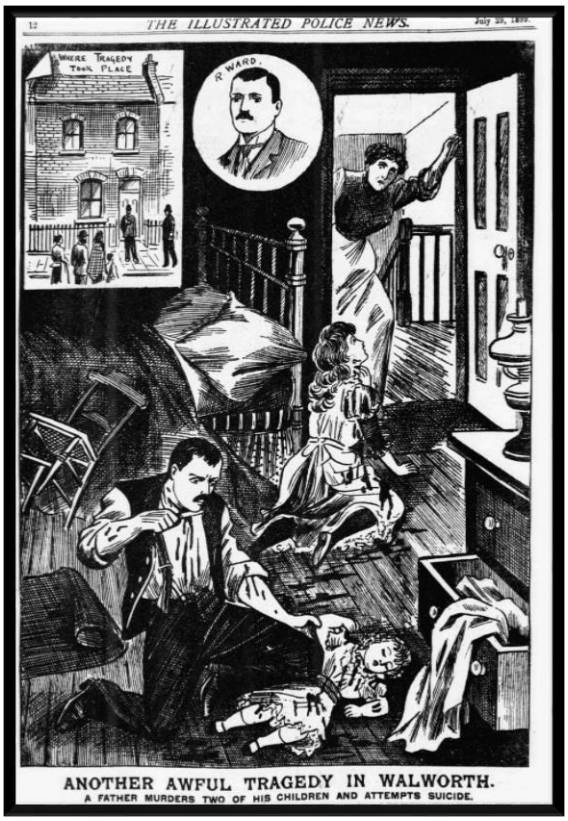
Masculinity and Fatherhood in Representations of Male-Perpetrated Child Homicide in London, 1889–1913.



Alesha Lister

BA(Hons)GDipEd.

A thesis submitted for the degree of *Doctor of Philosophy* at

Monash University in 2016

School of Philosophical, Historical and International Studies.

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Abstract

This thesis is the first legal-historical study of male-perpetrated child homicide cases tried in the Central Criminal Court of London between 1889 and 1913. It examines how concepts of masculinity and fatherhood were mobilised in representations of men accused of killing their children in late nineteenth- and early twentieth-century England. The research draws upon a dataset of 306 homicide cases involving victims under fourteen years of age tried at the Central Criminal Court of London between 1889 and 1913. The 120 homicide cases involving male defendants are the specific focus of the study and select cases are analysed using gender as the primary category of analysis. Divergent representations of men indicted for the death of their child within legal and social contexts are examined within a post-structuralist theoretical framework. Qualitative and quantitative methodologies are employed to analyse archival material produced by the Criminal Court and Home Office, and relevant cultural discourse within the printed media. This study finds that constructions of male-perpetrated child homicide in nineteenth and early twentieth-century England were highly gendered and culturally specific. It argues that contemporary cultural expectations of working-class masculinity played a decisive role in determining verdict and sentencing outcomes in trials of child homicide.

The first chapter establishes the research design and conceptual framework of the thesis and positions my thesis in relation to existing literature on child homicide in nineteenth- and early twentieth-century England. In chapter two I explore how cultural assumptions about masculinity and fatherhood were bought into play within criminal trials of women accused of killing their children. Chapter three considers how cultural assumptions about class and gender underpinned spousal provocation as a mitigating

defence for men and women accused of killing their children. Chapter four examines the construction of masculinity and fatherhood within insanity defences of paternal filicide. My fifth chapter demonstrates the extent to which perceptions of men's guilt and culpability in cases of child homicide were shaped by cultural expectations of class, gender and sexuality. The final chapter analyses how contemporary understandings about paternal responsibility and authority played out in trials of homicidal paternal negligence.

The willingness of the Court to accept socio-economic explanations of male-perpetrated child homicide was underpinned by late Victorian and Edwardian understandings of class and gender. Rulings recognised working-class men's ability to attain full masculine status was subject to a range of external social and economic forces beyond their control. Juries repeatedly showed their willingness to extend mercy to men who killed their children out of desperation when they tried and failed to provide for their family. The strength of cultural associations between child homicide and the economic marginalisation of London's poor lent credence to men's appeals to socio-economic circumstance to mitigate acts of child homicide.

Declaration

This thesis contains no material which has been accepted for the award of any other degree or diploma at any university or equivalent institution and that, to the best of my knowledge and belief, this thesis contains no material previously published or written by another person, except where due reference is made in the text of the thesis.

Acknowledgements

I have accrued many debts of gratitude in the course of completing this thesis. Firstly, I would like to acknowledge financial funding provided by the Australian Government through the Australian Postgraduate Scholarship scheme and financial assistance provided by Monash University to fund my archival research in the UK. This thesis simply would not have been possible without this generous financial support.

My supervisors, Professor Christina Twomey and Associate Professor JaneMaree Maher, have my deepest gratitude. I could not ask for more competent, caring and knowledgeable mentors. As my primary supervisor, Christina has offered critical expertise, encouragement and guidance at every stage. I am thankful for her sensitivity, humour and enthusiasm for this project. JaneMaree has been a guiding presence in my academic life for over a decade and at times I would have been lost without her warm encouragement and editing prowess.

Paula Michaels, David Garrioch, Kate Murphy, Carolyn James, Ernest Koh, Charlotte Greenhaugh and Michael Hau have generously shared their valuable time, knowledge and expertise in feedback at various stages of this project. Daniel Grey deserves special thanks for his generosity in sharing his knowledge, resources and passion for history.

I am grateful for Bryce's unflagging support and belief in my abilities. The support of my parents and parents-in-law has been invaluable and I am especially grateful for Mum always being there when I needed her. Finally, my thanks and love goes to Mali and Flynn, who brighten my days and make everything worthwhile.

Table of Contents

Copyright Notice i
Abstract ii
Declaration iv
Acknowledgements v
Abbreviations vii
List of Illustrations viii
Introduction 1
Chapter One. *'Any Honest Man with a Spark of Pluck': Men's Roles in Women's Stories of Child Homicide* 36
Chapter Two. *'The Children of the Lost': Criminal Trials of Fatal Paternal Negligence* 68
Chapter Three. *'London Brutes': Spousal Violence in Trials of Child Homicide* 105
Chapter Four. *'I will not Hurt or Kill Her, But I will Break Her Heart in Another Way': Manliness and Women's Provocation in Men's Narratives of Child Homicide* 134
Chapter Five. *A 'Sad and Terrible Story': The Criminal Responsibility of Fathers who Murdered their Children* 167
Chapter Six. *'I love My Baby; Wilful Murder! You Must be Mad': Male-Perpetrated Child Homicide and Criminal Insanity* 196
Conclusion 224
Glossary 232
Appendix 239
Bibliography 245

Abbreviations

CCA – Court of Criminal Appeal

CCC - Central Criminal Court

CCCR – Court for Crown Cases Reserved

CCCSP - Central Criminal Court Sessions Papers

KBD – King's Bench Division

NSPCC – National Society for the Prevention of Cruelty to Children

PMO – Prison Medical Officer

QBD – Queen's Bench Division

TNA – The National Archives (UK)

List of Illustrations

Table 1. Cases of Male Perpetrated Child Homicide (CCC, 1889–1913).[1]…….. ix

Table 2. Residing Address of Offenders in Cases Cited in Text…….. x

Table 3. Male and Female Indictments for Homicides against Children under Fourteen Years Old (CCC, 1889 – 1913)…… 10

Figure 4. Cartoon Depicting a Working-Class Father who has Spent Much of his Wage in the Pub. Image by 'A. Patriot', published by the Women's Freedom League in *The Vote*, February 1911…… 86

Figure 5. Portrait of Arthur Devereux published in the *Morning Leader*, 14th April, 1905…….. 186

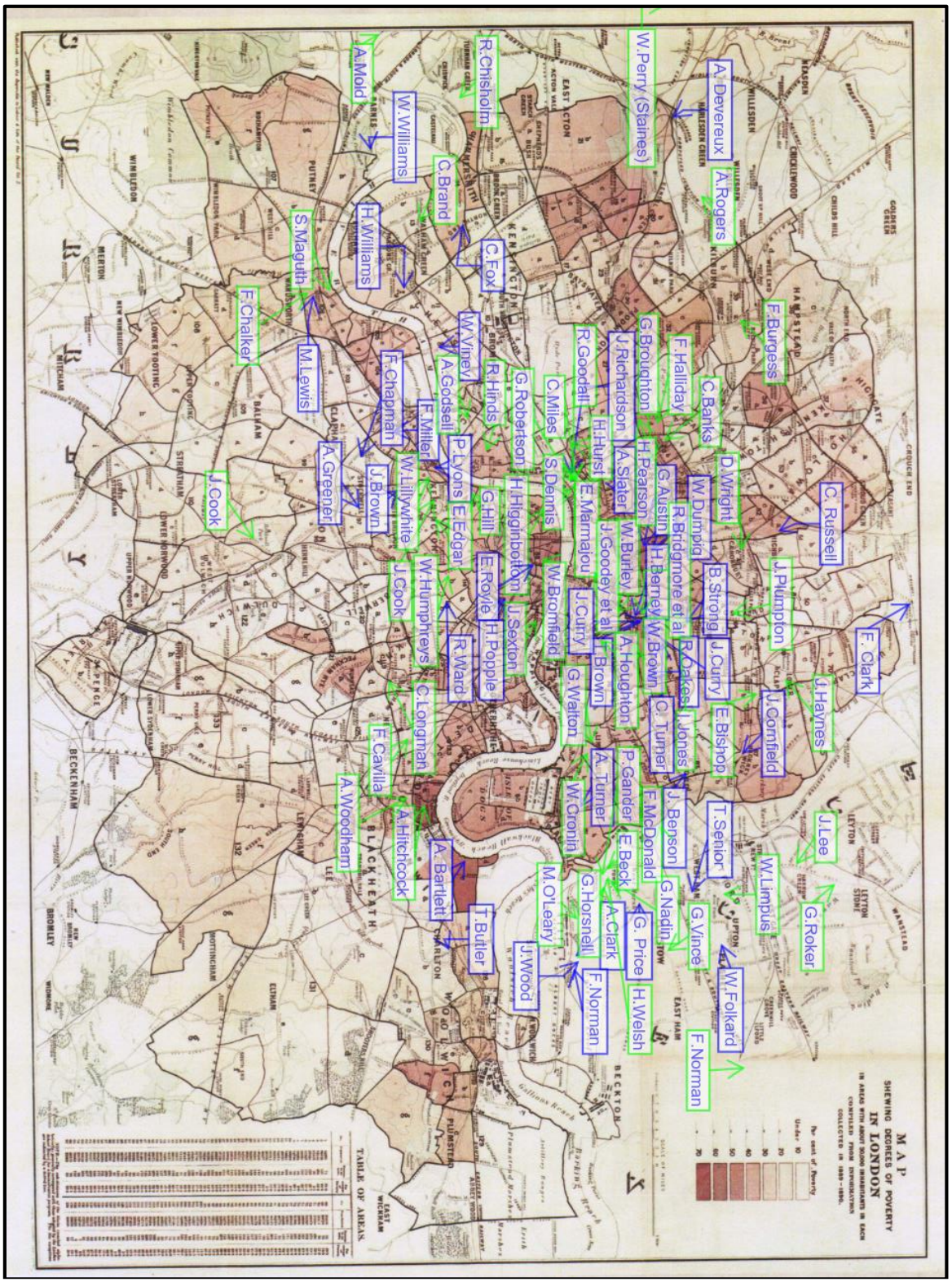
Table 6. Verdicts on Individual Indictments for Child Homicide (CCC, 1889–1913)... 195

Table 7. Total Verdicts on Male Indictments for Child Homicide (CCC, 1889–1913)... 196

Figure 8. Sketch of Thomas Cole Butler taken at his arraignment at Woolwich Police Court, reproduced in *Sussex Agricultural Express* (24th May, 1901) and *Tamworth Herald* (2th May, 1901)…….. 218

[1] Cases highlighted in blue are discussed in this thesis, cases shown in green are included in the study, but are not analysed in the text. Cases related to traffic offenses are not shown on the map due to the limited space available.

Table 5. Cases of Male Perpetrated Child Homicide Tried at the CCC, 1889 – 1913.[2]



[2] Cases highlighted in blue are discussed in this thesis, cases shown in green are included in the study, but are not analysed in the text. Cases related to traffic offenses are not shown on the map due to the limited space available.

Table 6. Cases Cited in Text (cases discussed in multiple chapters are listed in the first chapter in which they appear).

Ch.	TNA Record	Defendant	Year	Indictment	Verdict	Sentence
1	CRIM 1/47/3	Florence Clark	1897	Murder	Guilty, concealment of birth	18 months hard labour
	CRIM 1/90/3	Lily Coleman	1904	Murder	Guilty, but insane	Detained as criminal lunatic
		Ada Kirk	1902	Murder	Guilty, but insane	Detained as criminal lunatic
	CRIM 1/89/4	Louisa Lunn	1904	Murder	Guilty, manslaughter	Discharged on recognisances
		Lucy Strong	1904	Murder	Guilty, manslaughter	Discharged on recognisances
	CRIM 1/40/4 HO 144/931 /A55620	Ada Turner	1894	Murder	Guilty, but insane	Detained as criminal lunatic
	CRIM 1/59/4 HO 144/280 /A61654	Ada and William Williams	1901	Manslaughter	Guilty, lesser charge (neglect)	9 months hard labour
2		Ellen and Ernest Alfred Brown	1909	Manslaughter	Guilty, lesser charge (neglect)	Discharged on recognisances (£5 each)
		John and Mary Brown	1895	Manslaughter	Not guilty	NA
		Alice and Thomas Brown	1902	Manslaughter	Not guilty	NA
		Alfred and Sarah Clark	1902	Manslaughter	Guilty	4 months imprisonment (Alfred); 2 months imprisonment (Sarah)
		Antony Greener and Eleanor Frost	1902	Manslaughter	Guilty, lesser charge (neglect)	1 month hard labour (Antony); 4 months hard labour (Eleanor)
	CRIM 1/99/8	Walter Gammon	1905	Murder	Not guilty	NA

		Frederick and Margaret Miller	1901	Manslaughter	Guilty, lesser charge (neglect)	9 months hard labour
		Frederick and Eleanor Norman	1899	Manslaughter	Guilty, lesser charge (neglect)	6 weeks imprisonment (second division)
		George Rueben Price	1895	Manslaughter	Not guilty	NA
		Charles Stewart and Elizabeth Russell	1893	Manslaughter	Not guilty	NA
	HO 144/522 /X72492	Thomas George Senior	1897/ 1898	Manslaughter	Guilty (twice convicted)	Discharged on recognizance, second sentence respited.
3		James Henry Cornfield	1905	Manslaughter	Guilty	12 months hard labour
		Matthew Lewis	1902	Manslaughter	Guilty	Discharged on recognizance, conditional on marriage to victim's mother.
	CRIM 9/50 CRIM 1/88/3	Adolph Dumpig	1904	Murder	Guilty, but insane	Detained as criminal lunatic
	CRIM 1/97/7 CRIM 4/41244 CRIM 10/96 HO 144/795 /131419	Arthur Devereux	1905	Murder	Guilty	Executed
4		Frederick James Chapman	1893	Murder	Guilty, manslaughter	Discharged on recognizance
		Ernest Alfred Royle	1910	Murder	Guilty, but insane	Detained as criminal lunatic
	CRIM 1/88/10	James Valentine Curry	1904	Murder	Guilty, but insane	Detained as criminal lunatic

	CRIM 1/56/9	Robert Ward	1899	Murder	Guilty	Executed
	CRIM 1/75/11 HO 144/678 /101552	Henry Williams	1902	Murder	Guilty	Executed
5		Henry Augustus Berney	1907	Murder	Guilty	Reprieved
	CRIM 1/15/27 CRIM 4/41160	William Viney	1898	Murder	Guilty	Respited, commuted to penal servitude for life.
	HO 144/100 /5138459	James Benson	1906	Murder	Guilty	Reprieved
	CRIM 1/583/32	Henry Walter Popple	1905	Murder	Guilty	Reprieved
6		George William Austin	1899	Murder	Guilty, but insane	Detained as criminal lunatic
	CRIM 1/35/5	Alfred Bartlett	1891	Murder	Guilty, but insane	Detained as criminal lunatic
		Joseph Wood	1890	Murder	Guilty, but insane	Detained as criminal lunatic
		William James Folkard	1904	Murder	Guilty, but insane	Detained as criminal lunatic
	CRIM 1/69/4	John Thomas Richardson	1901	Murder	Guilty, but insane	Detained as criminal lunatic
		Richard Arthur and Amy Oakes	1890	Murder	Guilty, but insane	Detained as criminal lunatic
	CRIM 1/42/12	Henry Dracott Jackson	1895	Murder	Guilty, but insane	Detained as criminal lunatic
		Charles Everard Fox	1908	Murder	Guilty, but insane	Detained as criminal lunatic
	CRIM 1/103/2	Charles Henry Turner	1906	Murder	Guilty, but insane	Detained as criminal lunatic
	CRIM 1/67/3	Thomas Cole Butler	1901	Murder	Unfit to plead	Detained as criminal lunatic

Introduction

The central objective of this thesis is to advance historical understanding of how late nineteenth-century and early twentieth-century expectations and assumptions of class and gender were mobilised in cases of male-perpetrated child homicide. This study examines criminal prosecutions of child homicide at the Central Criminal Court of London (CCC) between 1889 and 1913. It engages with contemporary conceptions of masculinity and fatherhood to show how they played out within representations of non-normative and criminal modes of fatherhood. Constructions of fatherhood are analysed at the extreme edges of normative cultural practice where cultural expectations and assumptions of class and gender were contested, reinforced and adapted.

The focus throughout on class and gender relations, and contemporary cultural and legal discourse about child homicide cases, does not displace focus on the child victim. I maintain that the historical, cultural and legal focus of child homicide cases is and was always centred on the perpetrator. The innocence of the child victim was already established in the nineteenth century by the legal presumption of innocence for children under the age of fourteen. The launch of criminal proceedings against the alleged offender established the suspicious nature of the child's death. Criminal proceedings and public interest in these cases centred on the alleged perpetrator. Narratives generated in the courtroom and the press about the alleged offence sought to position the perpetrator in criminal and cultural contexts. My analysis of the representation of working-class masculinities in narratives of child homicide extends existing historical understandings of how class and gender were mobilised in specific criminal and cultural domains.

Relatively few historical studies of male-perpetrated child homicide have been published.[3] Cathryn Wilson's (unpublished) study of judicial and newspaper representations of men who killed children in England between 1860 to 1900 is notably the first systematic account of male-perpetrated child homicide in Victorian England.[4] Wilson's excellent thesis provides a broad analysis of representations and juridical treatment of male-perpetrated child homicide across England in the last half of the twentieth century. My thesis has a narrower focus, concentrated on the representation and juridical treatment of men charged with the murder or manslaughter of their children at the Central Criminal Court of London between 1889 and1913. In doing so, this study will be the first to specifically examine male-perpetrated child homicide in late nineteenth-century and early twentieth-century London.

There have been a limited number of studies that have addressed paternal filicide within the context of wider analyses of maternal filicide, infanticide and domestic homicide in Victorian England.[5] Exploration of these under-researched areas in the

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[3] Melissa Valiska Gregory, '"Most Revolting Murder by a Father": The Violent Rhetoric of Paternal Child-Murder in The Times (London), 1826–1849', in *Writing British Infanticide: Child-murder, Gender, and Print, 1722–1859*, ed. Jennifer Thorn, (Newark: University of Delaware Press, 2003), 70–90; Patrizia Guarnieri, 'Men Committing Female Crime: Infanticide, Family and Honour in Italy, 1890 – 1981', *Crime, History & Societies* 13 no. 2 (January 2009): 41–53; Elaine Farrell, '"The Fellow Said It Was Not Harm and Only Tricks": The Role of the Father in Suspected Cases of Infanticide in Ireland, 1850–1900', *Journal of Social History* 45, no. 4 (2012): 990 – 1004; Patrizia Guarnieri, *A Case of Child Murder: Law and Science in Nineteenth-Century Tuscany*, trans. C. Miéville (Cambridge: Polity Press, 1993); Jade Shepherd, '"One of the Best Fathers until He Went out of His Mind": Paternal Child-Murder, 1864–1900', *Journal of Victorian Culture* 18, no. 1 (2013): 17–35; Amanda Kaladelfos, 'The Dark Side of the Family: Paternal Child Homicide in Australia', *Journal of Australian Studies* 37, no. 3 (2013): 333–349.

[4] Cathryn Wilson, 'Mad, Sad, or Bad?: Newspaper and Juridical Representations of Men Who Killed Children in Victorian England, 1860-1900' (PhD thesis, University of Essex, 2012).

[5] Katherine Watson, 'Suffer the Little Children', *Poisoned Lives: English Poisoners and their Victims* (London: Continuum, 2006): 77–96; Carolyn Conley, 'Children', *Certain Other Countries: Homicide, Gender, and National Identity in Late Nineteenth-Century England, Ireland, Scotland, and Wales* (Ohio: Ohio State University Press, 2007): 162–205; Daniel Grey, '"I Read That This Morning in the Newspaper": Press Representations of Infanticide', 'Discourses of Infanticide in England, 1880–1922' (PhD thesis,

historiography of child homicide in England deepens our understanding of how people made sense of the killing of children in the past. It contributes an important account of the social constructions of gender relations in narratives of child homicide and beyond. In particular, it sheds new light on how contemporary understandings of and anxieties over masculinity played out in narratives of male-perpetrated child homicide.

Despite limited historical studies of male-perpetrated child homicide in this period, such cases regularly featured in the CCC, where the most serious crimes in London and its hinterland were tried. I have conducted a study of 306 homicide cases involving the death of a child drawn from a total of 1060 cases of homicide (murder and manslaughter) tried at the CCC and published in the *Central Criminal Court Sessions Paper* (*CCCSP*) between 1889 and 1913. This study indicates that men (named in 118 of these cases) were indicted in more than 38 per cent of all child homicide cases tried at the CCC in this period. This thesis argues that while child homicide was contemporaneously conceptualised as a 'female crime' and existing historiography has supported this concept, closer analysis reveals a more complex and diverse picture. Examination of these cases of male-perpetrated child homicide illuminates a new aspect of gendered parental paradigms during this period. In particular, this thesis challenges the historical assumption that the actions of women who killed children were uniformly viewed in terms of insanity, while men who killed children were viewed in terms of criminality.

Roehampton University, University of Surrey, 2008): 37–87; Ginger Frost, '"I am Master Here": Illegitimacy, Masculinity and Violence in Victorian England', in *The Politics of Domestic Authority in Britain since 1800*, ed. Lucy Delap, Ben Griffin, and Abigail Wills, (New York: Palgrave Macmillan, 2009), 27–43; Debra Powell, 'In Father's Hands: Imagining the Paternal Child Murderer', 'The Ogress, the Innocent, and the Madman: Narrative and Gender in Child Homicide Trials in New Zealand, 1870–1925' (PhD thesis, University of Waikato, 2013): 193–233; Jade Shepherd, 'Being a Father: The Depths of Despair', 'Victorian Madmen: Broadmoor, Masculinity and the Experiences of the Criminally Insane, 1863–1900' (PhD thesis, Queen Mary, University of London, 2013):170–208.

My study commences with the introduction of *The Prevention of Cruelty to, and Protection of, Children Act* and the establishment of the National Society for the Prevention of Cruelty to Children (NSPCC) in 1889. The *Children Act* (strengthened by amendments in 1908) played a significant role in the conceptualisation and prosecution of child homicide in this period. The NSPCC prosecuted the majority of child cruelty cases under this legislation. Police notified the NSPCC of suspected cases of child abuse and Treasury commonly referred criminal cases involving child cruelty to NSPCC prosecutors. George Behlmer observed that the NSPCC 'forged a symbiotic relationship with the police' from its inception and a number of government bodies subsidised NSPCC's legal expenses directly related to the prosecution of child abuse.[6] Thirty-one per cent of the total cases in my study involved the fatal neglect of a child; of these, neglect featured in over 70 per cent of joint indictments (where the mother was also indicted) and 20 per cent of male individual indictments. A majority of these cases were prosecuted by Mr Arthur Hutton and Mr Hall for the NSPCC.

I have chosen to end my thesis analysis at 1913 for methodological and conceptual reasons. The *CCCSP* forms the basis of my empirical research and it ceased publication in 1913. Attitudinal shifts towards child welfare in Britain occurred at this time in response to social, political and economic changes brought on by the Boer Wars and in anticipation of World War One. Between 1889 and 1913 bills related to child killing were repeatedly but unsuccessfully introduced in the House of Commons. At the same time a series of child welfare related acts introduced at this time sought to deal with a number of forms of child homicide. The health and fertility of the British population

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[6] George Behlmer, *Child Abuse and Moral Reform in England, 1870 – 1908* (Stanford: Stanford University Press, 1982), 218. See also Lionel Rose, *The Erosion of Childhood: Child Oppression in Britain, 1860-1918* (London: Routledge, 1991), esp. 93-94.

became more explicitly matters of national importance. Fears of national degeneration caused by urbanisation were intensified by widespread perception of the inadequacies of Britain's military forces in the Boer Wars, despite Britain's ultimate defeat of the Boer Republics. Concerns over the physical and moral condition of British recruits drawn from its urban centres led government officials and philanthropic bodies to focus nation-building efforts on the children of England's urban poor. As Anna Davin observes, children were considered crucial to the maintenance and growth of the empire. In particular, the children of London's poor were re-conceptualised as 'the future of the country and the Empire' and the 'citizens of tomorrow'.[7] Such nationalistic concerns about child welfare centred on the children of London's labouring poor and found expression in representations of fathers who killed their children in the CCC and in the press.

The Empirical and Theoretical Focus on Working-Class Masculinity and Fatherhood.

A focus on working-class masculinity and fatherhood was developed in this thesis in response to empirical data showing the majority of men accused of killing a child under the age of fourteen years old in the CCC between 1889 and 1913 were working-class Londoners. Figure 1 on page 11 presents an overlay of all the cases included in this study (excluding cases involving driving accidents) on Charles Booth's 'Map Shewing Degrees of Poverty in London'.[8] It shows that the majority of incidents of male-

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[7] J. L. Garvin (1905) cited in Anna Davin 'Imperialism and Motherhood', in *Tensions of Empire: Colonial Cultures in a Bourgeois World*, ed. Frederick Cooper and Ann Laura Stoler, (Berkley: University of California Press, 1997), 88.

[8] Charles Booth, 'Map Shewing Degrees of Poverty in London in Areas with About 20,000 Inhabitants in Each Compiled From Information Collected in 1889–1890', 'Maps of London Poverty. Districts and Streets', *Life and Labour in London*, First Series. Poverty, vol. 5, [rev. ed] (Augustus M. Kelly Publishers:

perpetrated child homicide tried at the CCC occurred in central London. Moreover, acts of child homicide were typically perpetrated by men, aged between their early twenties and late forties, living in areas of London with the highest concentration of poverty. A large number of cases clustered around Regent's Park, Whitechapel High Street and Canning Town.[9]

On a conceptual level, my focus on class and gender as primary categories of analysis illuminates the multiple subject positions through which individuals were understood and evaluated.[10] Following Carr, I recast relational concepts of class and gender in terms of relativity and flux.[11] Class and gender are understood as analytical categories and cultural referents to complex dynamics of relations and processes in a constant state of contest, debate and adaption. Within these complex dynamics neither class nor gender refer to homogeneous groups or obligatory bonds of solidarity. Rather, as Bock maintains, both class and gender are important context-specific and context-dependent categories and realities of social relations between and within social groups.[12] This approach informs the premise that working-class masculine identities were produced,

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New York. 1902/1969). Manslaughter indictments involving driving accidents are not represented on the map.

[9] Appendix A shows the majority of men tried for child homicide in this study were identified as labourers and semi-skilled tradesmen, appendix E identifies the key age groups of offenders and appendix B indicates these men lived relatively short distance from London's key industrial areas where they were most likely to gain employment. See Appendices on pages 252–257 of this thesis.

[10] Race and religion, while relevant to this study, are not taken as primary categories of analysis. Religious identity is examined in a select group of cases involving men whose offences were directly attributed to their religious belief and practice. Apart from within these particular cases, men's religious beliefs are rarely the subject of discourse within legal or social commentary on male-perpetrated child homicide. Similarly, the racial identity of men accused of killing children is notoriously difficult to establish with consistency and accuracy. I explore the interplay of race, class and gender in cases in which reference was made to men's race in the construction of the individual and his crime.

[11] Edward Hallett Carr, *What is history?* (Basingstoke: Palgrave Macmillan, 2010).

[12] Gisela Bock, 'Women's History and Gender History: Aspects of an International Debate,' *Gender and History* 1, no. 1 (1989): 18.

adapted and reformed through fraternal, paternal and sexual relations within and across class-based cultural boundaries.

My methodology has been shaped by recent scholarship exploring the historical variety and variability of working-class identities and gender relations in late nineteenth- and early twentieth-century London. These histories 'from below' have explored how people experienced their economic and political power (or lack of it) in various social, cultural and institutional contexts.[13] Historians have interrogated how ideas about class and gender were mobilised in representations of filicidal women (primarily working-class) in legal, cultural, medical and literary discourses.

Historical studies of women who killed children have been particularly successful in demonstrating how gendered concepts of criminality worked to constitute normative gender expectations as well as antithetical models of gendered behaviour. These investigations of highly unusual behaviour have illuminated how different behaviours are normalised, criminalised or pathologised within cultural contexts. However, Paula Fass (with others) has warned that historical knowledge can be obscured by pursuit of the exceptional.[14] Fass asserts that a focus on individuals whose experiences are extra-ordinary relative to the elusive 'norm' has led to a skewed understanding of history.[15]

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[13] My understanding of history 'from below' has been shaped by E.P Thompson's *The Making of the English Working Class* (London: V. Gollancz, 1964) and more recently by contributors to online symposium *The Future of History from Below: An Online Symposium,* ed. Mark Hailwood and Brodie Waddell (2013), (https://manyheadedmonster.wordpress.com/) and (https://manyheadedmonster.wordpress.com/), accessed 3rd January, 2016. See, for example, Selina Todd, 'History from Below: Modern British Scholarship', *The Future of History from Below: An Online Symposium,* ed. Mark Hailwood and Brodie Waddell (2013), (https://manyheadedmonster.wordpress.com/history-from-below/) and Tim Hitchcock 'Sources, Empathy and Politics in History from Below', (https://manyheadedmonster.wordpress.com/voices-of-the-people/), accessed 15th December, 2015.

[14] Paula Fass, 'Cultural History/Social History: Some Reflections on a Continuing Dialogue,' *Journal of Social History* 37, no. 1 (2003): 39-46.

[15] Ibid, 43.

From another perspective, Dominick LaCapra has identified the need to interrogate the privileged position of 'extreme or limit' traumatic events in history over 'less dramatic yet equally debilitating phenomena (such as poverty)'.[16]

Recent scholarship on working-class masculinities and fatherhood has questioned pervasive stereotypes of Victorian and Edwardian working-class fathers as tyrannical, uncaring or indifferent to their children. Julie-Marie Strange's study counters modern British scholarship that takes antithetical and exceptionally bad models of fatherhood as primary sources in analysis of working-class paternal relations.[17] Strange persuasively argues that the majority of working-class fathers in England were loving and attentive fathers and worked hard to provide for their family, yet have been largely absent from histories of working-class family life. Jade Shepherd's study of paternal filicide shows a significant portion of men found criminally insane after killing their children were not considered 'bad' fathers. Similarly, I have found that men who killed their children were not uniformly characterised as unkind or abusive fathers by family members, their community, the press or the Court. Diverse historical understandings of paternal filicide, produced by institutionally generated material, suggest that the collection, analysis and interpretation of archival data may be as or more important than the nature of the sources themselves.

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[16] Dominick LaCapra, *History and Its Limits: Human, Animal, Violence* (Ithaca: Cornell University Press, 2009), 38.

[17] Julie-Marie Strange, *Fatherhood and the British Working-Class, 1865–1914* (Cambridge: Cambridge University Press, 2015).

Sourcing the Dataset

My dataset of 306 child homicide cases is derived from a search of all digitalised cases published in the *CCCSP* accessed via *The Proceedings of the Old Bailey* online, supplemented by a keyword search of the *British Newspaper Archives*. I searched *The Proceedings of the Old Bailey* database by offence, conducting an electronic keyword search of 'killing' in all subcategories within the time period January 1889 to December 1913. I further refined the search by restricting the sample to cases involving a victim less than fourteen years of age and a defendant tried on a capital indictment for murder or manslaughter, regardless of outcome. Male, female and joint indictments were selected, individual and joint indictments separated and individual indictments were further differentiated by sex and primary offence on the indictment (murder or manslaughter). This search was supplemented with a keyword search of the *British Newspaper Archives* electronic database of over 527 national and regional newspapers across Britain. I conducted several searches using the terms 'Central Criminal Court', 'Old Bailey', 'child', 'baby', 'man', 'father' and 'killed' with filters restricting hits to articles published between 1889 and 1913.

Few discrepancies in the data derived from *The Proceedings of the Old Bailey* and the *British Newspaper Archives* were observed. Both electronic archives employed similar methods to transform hard copy into searchable electronic text. The *British Newspaper Archives* scanned newspapers and ran the digital copies through an optical character recognition (OCR) process to create searchable electronic text. *The Proceedings of the Old Bailey* team manually typed *CCCSP* from 1834 to 1913 and compared the typed transcript to a transcript created using OCR software. Original page image files accompany the digitalised text to enable the researcher to cross-reference the digital transcript. The small number of errors in the recording of the defendants' names and

details of cases were in the original documents and not related to the digitalisation process. These errors were identified and remedied through cross-referencing *CCCSP* and newspaper data with CCC Calendar of Indictments (CRIM 4) and Home Office Calendar of Prisoners (HO 140). I used standard historical practice to verify data through agreement of the greatest number of sources.

The constitution of my dataset is reflected in the following table:

Table 7. Male and Female Indictments for Homicides against Children under Fourteen Years Old Tried at the CCC, 1889 – 1913.

		Manslaughter	Murder	Total
Individual	Male	30	46	76
	Female	63	120	183
Joint	Male only	1	-	1
	Female only	2	2	4
	Both sexes	36	6	42
TOTAL		132	174	306

My study provides a comprehensive representative sample of all cases resulting in an indictment for murder or manslaughter tried at the CCC and published in the *CCCSP* between 1889 and 1913 that involved the death of a child less than fourteen years of age. I include those cases that were brought into the Court on a murder or manslaughter indictment, regardless of whether or not the indictment resulted in a conviction on the original indictment or any other indictment related to the alleged offence.[18] I examine cases originally presented in Court on a true bill for murder or manslaughter, but subsequently changed to a lesser offence or not pursued after the defendant was found unfit to plead or due to insufficient evidence.

My study does not examine cases of child homicide in any juridical context other than the CCC or cases that were not tried as homicide – even if they appear to clearly be examples of child homicide. However, many cases involving the death of a child were not pursued beyond initial police investigations or appearances at a local police court. For example, in 1890 Henry Garrod was remanded at Thames Police-Court for the

[18] If, for example, an individual was indicted for and acquitted of the murder of a child, but found guilty on a separate indictment for neglect regarding the same offence (causing the death of the child) I have included the case in my study. However if the case was only tried as a misdemeanour offence, regardless of whether or not the victim had died as a result of the offence, the case would not be included in the study.

brutal murder of his seven-year-old daughter, but 'was removed to a lunatic asylum under an order from the Home Secretary' before facing trial.[19] Of the cases that did make it to the CCC, a significant portion were prosecuted as misdemeanours on a variety of charges ranging from concealment of birth, abandonment and exposure, breaking the peace, neglect, kidnapping and sexual offences.[20]

My decision not to include these cases in my study is two-fold. Firstly, restricting the scope of the study to cases defined through the criminal process as cases of homicide provides an opportunity to examine nuances in the conceptualisation and treatment of defendants. For instance, the inventory of conditions (mental, physical, social, economic) called upon to understand, explain, define and assess culpability and guilt in cases of homicide differed to those applied to misdemeanour offences. Secondly, the institutional context in which the cases in my study were prosecuted is an important feature of the cases themselves. How and where criminal cases were prosecuted informed how the cases were constructed and perceived within the juridical system and by the public. London's most serious and sensational cases were tried at the CCC and attracted intense (if fleeting) public interest. The high level of public exposure child homicide cases tried at the CCC received was strengthened by regular crime reports dedicated to proceedings of the Central Criminal Court in popular London

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[19] 'The Murder of a Daughter. The Accused Sent to a Lunatic Asylum,' *York Herald*, 7th April, 1890, accessed 7th April, 2016, British Newspaper Archives.

[20] Clive Emsley provides an excellent discussion of the difficulties of quantifying levels of violent crime and in late-nineteenth- and early twentieth-century England in *Hard Men: The English and Violence since 1750* (London: Hambledon and London, 2005), 1–15. Emsley observes that statistics of violent crime were skewed by under-reporting of violence against children (cases known to the NSPCC, but not reported to police) and relatively low prosecution rates for sexual violence against women and children (*Hard Men*, 26 –29).

newspapers.[21] It is fair to say that the visibility of the accused and their alleged crimes contributed to popular conceptualisations of child homicide as a particular type of crime perpetrated by a particular type of person.

The pervasive stereotype of child homicide as a specifically female crime associated with motherhood is not surprising given that mothers were indicted for the murder of their children in far greater numbers than fathers. Similarly, the widespread association between fatherhood and male-perpetrated child homicide correlated with a majority of trials for male-perpetrated child homicide that involved fathers accused of killing their children. While parents constituted the majority of those indicted for child homicide, more men than women were indicted for killing children to whom they were biologically unrelated. Two of thirty-six cases of male-perpetrated child homicide for which the victim's father was not named on the indictment involved a biologically-related offender (one was the child's uncle, the other the child's cousin).The majority of men charged with causing the death of a child to whom they were not biologically related had accidentally killed a child while driving in an allegedly reckless manner.

Although they have not been the focus of this study, it is apparent that the motivations of men who deliberately harmed and killed other people's children were diverse. Edgar Edwards brutally murdered a child and her parents during a robbery. George Henry Woodart shoved corks down the throat of the ten-month-old baby his wife was babysitting. William John Cronin fatally attacked a baby with a spade because the victim's father broke strike action amongst Regent Canal's dock workers in 1897. The offences of a small number of men indicted on felony charges for causing the death

[21] Between 1889 and 1913 *Daily News, Financial Times, Reynold's Newspaper, The Standard, Lloyd's Illustrated Newspaper, Morning Post, Times* and *Illustrated Police News* ran regular reports on CCC Sessions and followed the more sensational trials in series of articles.

of an unrelated child were suspected to be sexually motivated. George Robertson was executed for the rape and murder of four-year-old Mary Kenealy in 1899. In 1909 Frederick Burgess was found criminally insane after he confessed to the rape and murder of five-year-old Annie Lydia Fletcher. Two years later Walter Perry was sentenced to twelve years imprisonment for the manslaughter and alleged rape of five-year-old Edith Neale.[22]

Terminology

Concerns about methodological precision have been important elements of recent scholarship focussed on child homicide. These concerns centre on how academics have approached the conceptualisation and definition of child killing as distinct phenomena perpetrated against a distinct type of person. Particularities about the nature of child killing generally relate to the deceased's age, the degree of malice or aforethought attributed to the killing and the number of victims in an individual attack. A range of terms is used in the existing literature to describe and define the killing of children, emerging both as descriptive terms and categories of analysis. Studies have shown that the age of the victim and the relationship between the victim and the perpetrator were key factors in the typology of child homicide and central to conceptualisations of child homicide in medical, psychiatric, social science and legal discourses.[23] Specificity in the

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[22] The prosecution alleged Perry kidnapped, raped and abandoned Edith in a field where she died of exposure. Her body was too badly decomposed to reveal signs of sexual abuse, but Perry's prior conviction for kidnapping and indecently assaulting a six-year-old child in 1906 was implicated in his sentencing.

[23] Phillip Resnick, 'Murder of the Newborn: A Psychiatric Review of Neonaticide,' *American Journal of Psychiatry* 126 no.10 (1970), 73–82; Mark Jackson, *New-Born Child Murder: Women, Illegitimacy and the Courts* (Manchester: Manchester University Press, 1996); Ginger Frost, 'Unprovoked and Unexcused: Women and Illegitimate Child Murder in England, 1860–1930', paper presented at Berkshire Conference of Women Historians, June 2011).

scope and meaning of terms used in relation to child killing is required to advance current understandings of the cultural nuances of language used to talk about child killing in different historical contexts.

There has been a tendency to use child murder and infanticide as interchangeable terms in the historiography of child homicide in late Victorian and Edwardian Britain.[24] Without careful explication of the manner in which these terms are understood and used the reader may be unclear as to what the research actually refers. The term infanticide carries meanings that are both historically specific and conceptually vague. For example, women suspected of deliberately killing their newborn infants were tried on a range of felony and misdemeanour indictments. Infanticide, therefore, referred to a range of child homicide offences, some of which resulted in a criminal conviction for murder. The need to clearly identify the purpose and contextual meaning of the terms 'infanticide' and 'child murder' becomes particularly evident when these terms are applied as a point of gender differentiation. Attempts 'to clarify the distinction between responses to paternal child murder and maternal infanticide' through the strategic use of terms child murder and infanticide are therefore inherently problematic.[25]

Contemporary commentators expressed equal frustration with the ambiguity of terms used to describe and define the killing of children. References to infanticide in mid-nineteenth-century and twentieth-century newspapers generally used the term broadly to denote the murder of children up to and even over the age of three. This term was applied to the killing of children by both men and women and regardless of whether the crime was perpetrated by the victim's parent or carer or someone

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[24] See, for example, Jade Shepherd's use of the terms paternal child murder and paternal infanticide in 'One of the Best Fathers until He Went out of His Mind' on pages 18 and 33.

[25] Gregory, 'Most Revolting Murder by a Father', 88, n.8.

unknown to the victim. The legal definition of infanticide as the killing of a 'newly born' infant by its mother under the Infanticide Act in 1922 failed to adequately clarify the meaning of the term for the courts. The vagueness and inconsistency of infanticide as a medico-legal construct was widely criticised in British legal and medical journals. In particular, commentators equivocated over the supposed general consensus on the definition of a 'newly born' infant upon which the Act hinged.[26]

An additional concern raised by the conflation of infanticide with newborn child murder or child murder in general is that the term infanticide was used to describe the murder of young children by both deliberate and direct, and indirect, means in a range of non-statutory contexts from the eighteenth-century.[27] Thus, while historians may use the term to describe newborn child murder, contemporary commentators generally used the term to describe the killing of babies and toddlers in ways that may not have necessarily implied murder.

Attempts to clarify the issue through the development of more precise terminology have encountered similar problems. Phillip Resnick's development of the terms neonaticide and filicide to distinguish the killing of infants less than one-day-old and older children according to 'two distinct types of child murder', usually 'lumped together' under the umbrella term 'infanticide' serves as a case in point.[28] However, in

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[26] D. Seaborne Davies, 'Child-Killing in English Law. Part II,' *The Modern Law Review* 1 no.4 (1938), 269-287.

[27] Jackson, *New-born Child Murder*, 5 –11.

[28] Natalie K. Isser and Lita Linzer Schwartz, *Child Homicide: Parents Who Kill*. (Baca Raton: CRC Press, 2006), 2. To further clarify Isser and Schwartz's contention, the term filicide has been in use at least as far back as the nineteenth century, while neonaticide is a specifically late twentieth century construction developed by Phillip Resnick. While Resnick did not create the term filicide, he seems to be the first to explicitly define it in relation to neonaticide as the killing of a child over one year old by its parent. For examples of nineteenth-century references to filicide see 'Filicide' *Salisbury and Winchester Journal,* 17th August, 1850; 'Filicide and Suicide', *London Standard* 4th August, 1858; 'Filicide', *Elgin Courier* 12th October, 1866.

this conceptualisation there is a presumption that the acts described were acts of murder, even when they appear to be manslaughter. In his study of 'world literature on child murder from 1751 to 1968',[29] Resnick identifies 'in order of greatest frequency … suffocation, strangulation, head trauma, drowning, exposure, and stabbing [as] methods of neonaticide'.[30] One of the categories used to classify child murder by apparent motive is 'accidental' murder. Resnick's attempt to bring specificity to the term infanticide is undermined by the elusive nature of the crime he seeks to define. Mark Jackson has elucidated the dangers of uncritically accepting the guilt of women accused and convicted of newborn child murder.[31] In particular, Jackson challenges the implicit assumption that mothers who, to use Resnick's example, claimed to have accidently drowned their newborns in milk were lying.[32] As early as the eighteenth-century medical and legal authorities voiced concern that without witnesses, it was often exceedingly difficult to establish whether or not 'methods of neonaticide' were in fact means of accidental death. And certainly, 'accidental' murder is not in any sense 'murder', but is more accurately described as manslaughter or, euphemistically, as a 'suspicious death'. To avoid the unnecessary conflation of child killing with child murder, I only use the term murder when referring to a death prosecuted on a criminal indictment for murder. I use the term killing where no reference is made in the records to legal proceedings that would serve to conceptually define the death as murder.

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[29] Resnick, 'Murder of the Newborn', 58.

[30] Ibid, 59.

[31] Jackson, *New-Born Child Murder.*

[32] Ibid, 12.

In light of my concerns regarding the use of terms infanticide and child murder and in the context of my study, I use the term child homicide to reference a range of criminal offences conceptualised within particular cultural frameworks specific to England in the late nineteenth and early twentieth centuries. The term child homicide is used more commonly in criminological, sociological, psychiatric and medical literature than historical studies, although historians increasingly use child homicide as a key term or category of analysis.[33] This is largely due to a shift in historical focus from newborn child murder by mothers to the killing of older children, paternal filicide and the range of non-capital child homicide offences that have traditionally been overshadowed by infanticide in British child homicide historiography.[34] In line with this recent scholarship, and based on my understanding of contemporary English homicide law, I employ child homicide as an overarching category of analysis.

This thesis argues for the value of the term 'child homicide' to denote criminal acts of murder and manslaughter involving a child victim under fourteen years of age. The term 'child homicide' was used throughout the nineteenth century in newspapers across the British Isles, although it was not enshrined in a legislative or legal sense. Child homicide is a context-specific and context-dependant term that requires careful explication of its usage and adherence to its meaning within the historical context to which it is applied. The term 'child homicide' implies and denotes degrees of criminal intent ranging from wilful murder to culpable negligence. By using the term 'child homicide' I am committing to an engagement with concepts of criminal and malicious

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[33] For instance see Grey, 'Discourses of Infanticide'; Powell uses child homicide as a category of analysis in 'The Ogress, The Innocent, And the Madman'.

[34] Gregory makes a similar point on the use of infanticide and child murder as gendered rhetorical devices in 'Most Revolting Murder by a Father', 71–72.

intent and exploration of how these particular concepts were bound by contemporary concepts of class, gender and parenthood.

The use of defendant's first names is not common in historico-legal case study analysis. My analysis of paternal negligence in chapter two examines a number of cases in which married couples who shared a surname were tried on joint indictments and unrelated cases involving defendants of the same surname (i.e. Brown). For clarity I refer to defendants by their first name and to maintain consistency I have referred to defendants by their first name throughout the thesis.

Analytical Method.

The vast majority of the trials of men charged with homicide involving child victims were chronicled in the *CCCSP* for the purposes of jurisprudence, while newspapers recounted the substance of criminal proceedings at the CCC across Britain. The *CCCSP* was valued highly by successive Home Office Secretaries throughout the nineteenth-century and was consulted regularly by the Home Office, judges and police. Until full shorthand notes of trials became a statutory requirement under the Criminal Appeal Act of 1907 the *CCCSP* was considered a most accurate source of evidence and substantial account of courtroom proceedings. [35] The *CCCSP* is a valuable historical record of trial proceedings and is often the only source of material in cases that received little attention in the press and were not preserved in archived Home Office or Treasury files. However, it only provides a partial account of trial proceedings. Questions posed to

[35] The Home Office argued against attempts by the City of London to discontinue publication claiming that the *CCCSP* offered more substantial accounts of evidence than judge's notes and was referred to daily in consideration of legal issues.

witnesses by counsel and juridical comments during proceedings are rarely recorded and the case for the defence was generally significantly abridged. [36]

I have used *CCCSP* both as an evidentiary basis for statistical analysis and for discursive analysis of narratives of child homicide. To achieve both ends I have triangulated *CCCSP* data with newspaper and journal articles, manuscripts and a range of court and government generated archival material accessed at the National Archives (UK)[37] and electronic archives. Inter-textual analysis of a range of newspapers, government and court-generated material has captured multiple cultural perspectives on child homicide in Victorian London. Newspapers presented particular narratives of child homicide to the literate public, yet public perceptions of child homicide can also be inferred from witness testimony reproduced in *CCCSP*. Newspaper constructions of child homicide were targeted to a lay newspaper reading audience, while the edited transcript of the *CCCSP* was produced for consumption of the legal profession. The frequency with which newspaper clippings on cases appear in the Home Office case files examined in this study suggests that press reports were a common feature of juridical administration. The dialectical use of both the *CCCSP* and press reports to chronicle the progression of cases through the criminal justice system increases the value of both sources for historians seeking to examine the construction of cases within different discursive contexts.

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[36] George Walpole endeavoured to introduce greater accounts of the defence's evidence when he took over publication in 1906.

[37] Hereafter referred to as TNA.

Home Office and criminal files of the Director of Public Prosecutions provide a rich source of archival material.[38] I produced and collated digital images of the case files of men (and some women) within this study held by TNA. I have drawn intensively upon depositions taken at coroner's inquests, criminal hearings and medical reports submitted to Treasury by the Prison Medical Officer (PMO) and other medical experts called upon to assess prisoners' mental state. The use of depositions taken at various points of criminal proceedings has revealed tensions and inconsistencies within witness testimony given shortly after the death of a child and that provided in subsequent criminal depositions. I have examined depositions given at coroner's inquests in the days immediately after a child's death, depositions taken at criminal hearings once criminal charges for deaths were laid and notes taken of testimony presented at the subsequent criminal trials. Following a Home Office circular issued in September 1884 it became standard practice for coroners to supply the Director of Public Prosecutions with copies of depositions taken on inquisitions of murder and manslaughter.[39] Analysing witness depositions and statements of the accused in a range of juridical settings allows for fuller exploration of tensions over interpretation and application of concepts of provocation, culpability and insanity in cases of child homicide.

I have used a range of methods to collate, analyse, interpret and present digitalised and hard copy archival material. I have triangulated qualitative and quantitative data on prisoners' alleged offences, occupations, employment status, gender, stated residence,

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[38] Derrida's Freudian interrogation of 'archive fever' illuminates how the way material is archived determines what can be archives and how it is presented and received by consumers of archival content. In particular, the idea that the archival process is a mode of production as much as a means of preservation has informed my approach to archived material as simultaneously dynamic and pre-determined by its constitution. See Jacques Derrida, *Archive Fever: A Freudian Impression*, Religion and Postmodernism (Chicago: University of Chicago Press, 1996).

[39] Defendant's charged on coroner's inquisition with murder or manslaughter were not supplied with copies of depositions but could purchase copies for no more than three pence.

age, marital status, criminal history, relationship to the victim and parental or carer status. This information has been used quantitatively to provide a representative framework for closer qualitative analysis of individual cases. The presentation of data through a range of visual (graphs, maps, tables and drawings) and textual mediums (government and legal case files, newspapers, manuscripts and parliamentary debates) is grounded in a multifaceted and at times multidisciplinary approach.

I have employed various methodological approaches to research this complicated territory. Blogs of digital historian Tim Hitchcock (http://historyonics.blogspot.com.au) and archaeologist Peter Rauxloh (https://locatinglondonspast.wordpress.com) have provided inspiration to adapt geo-referencing methods to the scale and scope of this project. Data triangulation combining qualitative and quantitative sources has been used to fill the lacuna between scanty or absent institutional records and the substance of depositions and press reports. This methodological approach has been well trialled by historians of female-perpetrated child homicide in late nineteenth- and early twentieth-century England. The resonance between methodological approaches to existing modern British scholarship on female-perpetrated child homicide and this study is likewise evident in the adaptation of historical literary criticism to textual discourse on child homicide.

The difficulty of locating voices of the working classes through criminal files has presented methodological and analytical challenges. It is difficult to gauge the extent to which prisoners' recollections and omissions were strategically orientated towards typically successful defences to child homicide after retaining counsel. As Gill observes, 'we are continuously orienting to the interpretive context in which we find ourselves,

and constructing our discourse to fit that context'.[40] A prisoner's interpretation of the events leading to the death of a child filtered through multiple discursive nets — intimate family discussions, police interviews, coroner's inquests, meetings with defence counsel, criminal hearings and medical interviews — before presentation in criminal trials. Careful analysis of coroner's depositions and defendant writings submitted into evidence in conjunction with criminal depositions goes some way to locate displacements and transformations in working-class men's narratives of child homicide. Similarly, opinions expressed by witnesses, the Court and press reporters are examined for cultural biases that orientated them towards particular representations of defendants and their crimes. Representations of male-perpetrated child homicide presented in institutional contexts are understood as deeply embedded within the systems of values and ideology they appealed to and reinforced.

The Historiography of Child Homicide in Victorian and Edwardian England.

My analysis of empirical data on criminal trials of child homicide at the CCC between 1889 and 1913 is supported by the rich historiography of child homicide in Victorian and Edwardian England. The legal construction of child homicide has been the subject of sustained academic interest, particularly legislative responses to newborn child murder and especially within the context of England in the nineteenth- to early-twentieth centuries. Existing scholarship has interrogated the construction of maternal filicide through legislation and court proceedings in Britain during this period.[41] Key

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[40] Rosalind Gill, 'Discourse Analysis', 213.

[41] Anne-Marie Kilday and Katherine Watson, 'Infanticide, Religion and Community in the British Isles, 1720 – 1920,' *Family and Community History* 11 no. 2 (2008): 84–99; Tony Ward, 'The Sad Subject of Infanticide: Law, Medicine and Child Murder, 1860 – 1938,' *Social and Legal Studies* 8 no. 2 (1999):163–180; Deirdre Day-MacLeod, 'I Couldn't Kill it Any Other Way: Infanticide in Nineteenth-century

areas of interest to emerge from this extensive canon of literature include the relationship between illegitimacy and infanticide, medico-legal constructions of puerperal insanity and socio-economic motivations for child killing.

Key empirical studies of child homicide in Victorian and Edwardian Britain have shown that women committed child homicide in significantly greater numbers than men and that child homicide not perpetrated by the victim's mother was relatively rare.[42] The majority of child homicide victims were killed by their mothers during their

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Literature,' (PhD thesis, University of New York, 1996), accessed March 13, 2014, ProQuest Dissertations & Theses; Daniel Grey, '"Almost Unknown Amongst the Jews": Jewish Women and Infanticide in London 1890–1918,' *The London Journal* 37 no. 2 (July, 2012): 122–35; Grey, 'Discourses of Infanticide in England'; Aeron Hunt, 'Calculations and Concealments: Infanticide in Mid-Nineteenth Century Britain,' *Victorian Literature and Culture* 34 no. 1 (2006): 71–94; R. J Kellett, 'Infanticide and Child Destruction - the Historical, Legal and Pathological Aspects,' *Forensic Science International* 53 no.1 (1992): 1–28; Kirsten Johnson Kramar and William D. Watson, 'The Insanities of Reproduction: Medico-Legal Knowledge and the Development of Infanticide Law,' *Social & Legal Studies* 15 no.2 (2006): 237–255; Christine L. Krueger, 'Literary Defences and Medical Prosecutions: Representing Infanticide in Nineteenth-Century Britain,' *Victorian Studies* 40 no. 2 (1997): 271–294; Alicia Lea, 'Domestic service, theft and infanticide in Greater London, 1837–1901,' (MA thesis, University of Missouri-Kansas City, 2010); Hilary Marland, 'Images and Impulses: Representations of Puerperal Insanity and Infanticide in late Victorian England' in *Infanticide: Historical Perspectives on Child Murder and Concealment, 1550 – 2000,* ed. Mark Jackson (Hants, England: Ashgate Publishing, 2002):193 – 215; Hilary Marland, 'Getting Away with Murder? Puerperal Insanity, Infanticide and the Defence Plea' in *Infanticide: Historical Perspectives on Child Murder and Concealment, 1550–2000,* ed. Mark Jackson (Hants, England: Ashgate Publishing, 2002): 168–192; Tony Ward, 'Legislating for Human Nature: Legal Responses to Infanticide, 1860–1938' in *Infanticide: Historical Perspectives on Child Murder and Concealment, 1550–2000,* ed. Mark Jackson (Hants, England: Ashgate Publishing, 2002): 249–269; Daniel Grey, 'Women's Policy Networks and the Infanticide Act 1922,' *Twentieth Century British History* 21 no.4 (2010): 441–463; Anna Paul, *A License to Kill? Infanticide and the Law in Middle to Late Victorian England*, (PhD thesis, Oxford University, 2000); Leslie Ann Minot 'Vamping the Children: The Bloofer Lady, the London Minotaur and Child-Victimization in Late-Nineteenth-Century England,' in *Victorian Crime, Madness and Sensation*, eds. Andrew Maunder & Grace Moore (England: Ashgate Publishing, 2004): 197–207; Donna C Graves, '"-In a Frenzy while Raving Mad": Physicians and Parliamentarians Define Infanticide in Victorian England' in *Killing Infants: Studies in the Worldwide Practice of Infanticide,* eds. Brigette Bechtold and Donna C. Graves (New York: Edwin Mellen Press, 2006); Ann Higginbotham, '" Sin of the Age": Infanticide and Illegitimacy in Victorian London,' *Victorian Studies* 32 no. 3 (1989): 319–337; Ruth Ellen Homrighaus, 'Wolves in Women's Clothing: Baby-Farming and the British Medical Journal, 1860-1872,' *Journal of Family History* 26 no.3 (2001): 350–372; Catherine Hancock, '"It Was Bone of Her Bone, and Flesh of Her Flesh, and She Had Killed It": Three Versions of Destructive Maternity in Victorian Fiction,' *Literature Interpretation Theory* 15 no. 3 (2004): 299–320; Lionel Rose, *The Massacre of the Innocents: Infanticide in Britain, 1800–1939* (London: Routledge, 1986).

[42] George Behlmer. *Child Abuse and Moral Reform in England*; Lionel Rose, *The Massacre of the Innocents*; Conley, *Certain Other Countries*; Grey, 'Discourses of Infanticide in England 1880–1922'.

first weeks of life. Homicide trials of women biologically unrelated to child victims were almost exclusively comprised of primary carers nominated by mothers to care for their illegitimate children. English courts were averse to convicting women accused of killing their children on capital indictments and the courts regularly prosecuted infanticide as a misdemeanour offence to avoid imposing the death penalty. However women convicted of killing other people's children received far less sympathy within and outside of the courts and were punished with greater severity than mothers who killed their own children.[43]

Infanticide was cited as a pressing social issue in the late-Victorian period and its construction as a crime engaged wider societal anxieties regarding motherhood, feminine virtue and civilization. Historical studies of infanticide in Victorian Britain have consistently shown that young, unmarried domestic servants constituted the majority of offenders accused of killing their infants shortly after childbirth.[44]

Modern British scholarship has broadened its traditional focus on the majority of child killing offences perpetrated by single mothers to recognise the number of cases of child homicide involving married women. This move has expanded the field of analysis from largely medico-legal explanations of post-partum infanticide to the killing of older

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[43] Studies of late nineteenth- and early twentieth-century English criminal responses to female baby-farmers tried for killing other people's children have established this point particularly well. See Meg 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 (August 1994): 279; Ruth Ellen Homrighaus, '"Baby Farming: The Care of Illegitimate Children in England, 1860 – 1943,' (PhD thesis, University of North Carolina at Chapel Hill, 2003): 145; Daniel Grey, '"More Ignorant and Stupid than Wilfully Cruel": Homicide Trials and 'Baby-Farming' in England and Wales in the Wake of the Children Act of 1908', *Crimes and Misdemeanours* 3 no. 4 (2009): 5.

[44] See, for example, Rose, *Massacre of the Innocents*; Kellet, 'Infanticide and Child Destruction'; Kramar and Watson, 'The Insanities of Reproduction'; Behlmer, *Child Abuse and Moral Reform*; Grey, 'Discourses of Infanticide'; Higginbotham, 'Sin of the Age'; Ward, 'Legislating for Human Nature'; Marland, *Dangerous Motherhood*; Graves, '-In a Frenzy While Raving Mad'; Margaret L. Arnot, 'Gender in focus: infanticide in England 1840–1880' (PhD thesis, University of Essex, 1994); Kilday, *A History of Infanticide in Britain, c. 1600 to the Present*, (Basingstoke: Palgrave MacMillan, 2013); McDonagh, *Child Murder and British Culture, 1720–1900* (Cambridge: Cambridge University Press, 2003).

children through maternal negligence and the cultural practice of baby-farming. This thesis relates existing historical understandings of motherhood and parenting to the study of male-perpetrated child homicide. Comparative analysis of men and women indicted for the death of a child reveals a highly complex gender system at work in constructions of men and women indicted for the deaths of children. It demonstrates the extent to which assessments of guilt and responsibility were underpinned by cultural assumptions of class and gender and the contingent nature of these assumptions in relation to both masculinity and femininity.

Trials of child homicide involving male and female defendants bring to the fore the perils of raising children in the sprawling metropolis of London and its surrounds. The cases explored here provide insights into the particular challenges working-class fathers faced in London at the turn of the twentieth century. Men discussed in this thesis were most often represented as extreme examples of working-class masculinity and fatherhood. These men, and the crimes they committed, were prosecuted within contemporary models of masculinity where working-class men were both stoic and weak, respectable and brutish, hardworking and indigent. Characterisations of the men of London's lower classes as violent thugs and drink addled loafers coincided with expressions of admiration for the respectable poor who fought valiantly against the tide of poverty.

Reading between the Lines: Men in Women's Narratives of Child Homicide.

The historiography of maternal filicide clearly suggests that child homicide was a crime committed by socio-economically vulnerable women labouring under significant emotional and physical duress. In late nineteenth-century Britain, the largest group of women tried for child homicide related offences were young, unmarried domestic

servants. International studies show young unmarried women constituted the vast majority of prisoners indicted for the death of illegitimate infants throughout the British Empire and indeed the Western World in the late nineteenth-century.[45] These women most commonly cited socio-economic concerns as their motivation and were popularly constructed as victims of male seduction and abandonment[46]. Historians agree that the stereotype of the socially isolated and economically vulnerable unwed mother driven to kill by fear and childbirth induced 'frenzy' dominated nineteenth-century courtroom narratives of infanticide in England and abroad.[47]

Studies of newborn child homicide in late Victorian England reveal cultural understandings of unmarried women's socio-economic vulnerability as a central strand in legal and medical explanations for maternal filicide. Historians generally concede that socio-economic explanations of infanticide coexisted with lay bio-medical interpretations of infanticide and both theories contributed to how such cases of child homicide were prosecuted in the courts.[48] Tony Ward demonstrates that by the late

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[45] Jan Kociumbas, 'Azaria's Antecedents: Stereotyping Infanticide in late Nineteenth-Century Australia,' *Gender & History,* 13 no. 1(2001): 138–160; Powell, 'The Ogress, The Innocent and the Madman'; Kirsten Kramar, *Unwilling Mothers, Unwanted Babies: Infanticide in Canada* (Ontario: University of British Columbia Press, 2006); Simone Caron, '"Killed by Its Mother": Infanticide in Providence County, Rhode Island, 1870 to 1938,' *Journal of Social History* 44 no.1 (2010): 213–237; Prinisha Badassy, 'A Severed Umbilicus: Infanticide and the Concealment of Birth in Natal, 1860–1935' (PhD thesis, University of KwaZulu-Natal, 2011).

[46] Rose, *Massacre of the Innocents*; Brigitte Bechtold and Donna Cooper Graves, "The Ties that Bind": Infanticide, Gender, and Society', *History Compass* 8 no. 7 (2010): 704–717; Lea, 'Domestic service, theft and infanticide in Greater London'.

[47] Krueger, 'Literary Defences and Medical Prosecutions'; Jonathan Andrews, 'The Boundaries of Her Majesty's Pleasure: Discharging Child-Murderers from Broadmoor and Perth Criminal Lunatic Department, c. 1860–1920' in *Infanticide: Historical Perspectives on Child Murder and Concealment, 1550 – 2000,* ed. Mark Jackson (England: Ashgate Publishing, 2002): 216–248; Marland, 'Images and Impulses'; Marland, 'Getting Away with Murder?'; Hilary Marland, *Dangerous Motherhood: Insanity and Childbirth in Victorian England* (Basingstoke: Palgrave Macmillan, 2004); Ward, 'Legislating for human nature'; Kramar, and Watson, 'The Insanities of Reproduction'; Graves, '"- in a Frenzy while Raving Mad"'.

[48] Tony Ward convincingly argues that medical explanations of infanticide were in fact lay interpretations of infanticide that drew upon commonly held beliefs about gender, reproduction, childbirth and insanity.

nineteenth-century, conflations of reproductive insanity, infanticide and young inexperienced first time mothers were strikingly at odds with contemporary medical understandings of puerperal insanity. Psychiatric specialists primary concern was poor mothers of several children, who killed babies months after childbirth while suffering psychosis or melancholic episodes bought on by the strains of multiple births, lactation, lack of rest and, often, malnutrition. [49] Notably, Kramar and Watson observe that the emphasis on exhaustion resulting from lactation in the aetiology of infanticide, which grew in popularity in late nineteenth-century psychological medicine, signified an even greater focus on socio-economic factors in theories of infanticide. [50]

Existing scholarship has pointed to the extent to which men were implicated in courtroom narratives of female-perpetrated child homicide. Yet despite clear correlations between illegitimacy and newborn child killing established in existing literature, there has been limited historical research into how concepts of fatherhood played out in instances of maternal filicide and social responses.

Historians have interrogated the ways in which contemporary narratives of female-perpetrated child homicide drew on socio-economic explanations for female criminality. In contrast, research into male-perpetrated child homicide has made relatively little headway in this area. This thesis draws on scholarship analysing legal responses to maternal filicide to establish a context and interpretive framework for my work on

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See Tony Ward 'Psychiatry and Criminal Responsibility in England, 1843–1939,' (PhD thesis, De MontFort University, 1996): esp. 165 - 192.

[49] Ward, 'The Sad Subject of Infanticide', 166. See also Sarah Hatters Friedman, James Cavney and Phillip Resnick's discussion of current research that suggests 'younger mothers who kill their child during the first day of life have significantly lower rates of mental illness than older mothers who kill older children' in 'Mothers who Kill: Evolutionary Underpinnings and Infanticide Law,' *Behavioural Science and the Law*, 30 (2012): 586.

[50] Kramar and Watson, 'The Insanities of Reproduction', 246.

male-perpetrated child homicide. The application of historical methods used to examine gendered responses to maternal filicide facilitates greater understanding of the continuities and differences in late Victorian and Edwardian responses to male- and female-perpetrated child homicide.

His Story: Narratives of Male-Perpetrated Child Homicide.

A growing number of historical studies of child homicide approach the subject of masculinity, either as part of a broader project or as a distinct area of investigation.[51] Studies of male-perpetrated child homicide have shown that the victims in men's trials for child homicides were predominantly the defendant's own children. Historical and criminological research suggests that legal responses to men who killed children followed distinct, but not entirely consistent patterns. However, what those patterns were and what they tell us about the conception and meaning of paternal filicide remains subject to considerable debate.

The idea that men and women who kill children are conceptualised and dealt with differently by the courts is a common feature of historical and contemporary studies of child killing. It has been suggested that mothers who kill their children were

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[51] See Guarnieri, *A Case of Child Murder*; Meg Arnot, 'Gender in Focus: Infanticide in England 1840-1880' (PhD thesis, University of Essex, 1994); Ward, 'Psychiatry and Criminal Responsibility in England, 165 - 193; Ward, 'The Sad Subject of Infanticide'; Ward, 'Legislating for Human Nature'; Ginger Frost, 'I am master here', 27 - 23. Recent studies that have acknowledged the male presence in cases of infanticide include Grey, 'Discourses of Infanticide in England' and Daniel Grey, 'Women's Policy Networks and the Infanticide Act 1922', 441-463; Kilday and Watson, 'Infanticide, Religion and Community in the British Isles'; Guarnieri, 'Men Committing Female Crime', 41-53; Farrell, '"The fellow said it was not harm and only tricks"', 990-1004; Sara G. West, Susan Hatters Friedman, and Phillip J. Resnick, 'Fathers who Kill their Children: An Analysis of the Literature,' *Journal of Forensic Sciences* 54 no. 2 (2009): 463-468; Joanne M. Ferraro, *Nefarious Crimes, Contested Justice: Illicit Sex and Infanticide in the Republic of Venice, 1557-1789* (Baltimore: Johns Hopkins University Press, 2008); Debra Powell, 'The Ogress, The Innocent, And The Madman'; Jade Shepherd, 'One of the Best Fathers until He Went Out of His Mind', 17-35.

increasingly considered mad or sad as the nineteenth century progressed, while fathers who kill their children were more often conceptualised as bad.[52]

Criminological studies of child killing and the courts throughout the twentieth- and twenty-first century have similarly concluded

> the criminal justice system responds very differently to men and women who kill their children at all stages of the legal process, in accordance with the view that 'men are bad and normal, women are mad and abnormal.[53]

More specifically, Wilczynski has argued that women who kill children

> are less likely than men to be prosecuted; they also predominately use 'psychiatric' pleas and receive psychiatric or non-custodial sentences. Men, however, tend to use 'normal' pleas and receive prison sentences.[54]

This conclusion parallels Wiener's finding that the increasing and disproportionate 'psychiatrizing tendency' to institutionalise rather than imprison 'deviant' women was 'slower to affect deviant males' and corresponded with 'hardening attitudes towards violent men'. [55] Godfrey, Farrell and Karstedt's study of juridical outcomes of violent misdemeanour offences tried in English courts between 1880 and 1920 lends further weight to this argument. Their findings suggest that local magistrates directed their

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[52] On the medicalisation of laws related to women's violent crimes, see Katherine O'Donovan, 'The Medicalisation of Infanticide', *Criminal Law Review* (1984): 262; Lucia Zedner, *Women, Crime and Custody in Victorian England (Oxford:* Clarendon Press, 1991); Lucia Zedner, 'Women, Crime, and Penal Responses: A Historical Account,' *Crime and Justice* (1991): 307-362; Carol Smart, "Disruptive Bodies and Unruly Sex: The Regulation of Reproduction and Sexuality in the Nineteenth Century" in *Regulating Womanhood: Historical Essays on Marriage, Motherhood and Sexuality* ed. Carol Smart (London: Routledge, 1992): 9 - 32; Jill Newton Ainsley, '"Some Mysterious Agency": Women Violent Crime and the Insanity Acquittal in the Victorian Courtroom' *Canadian Journal of History* 35 (2000): 37–55.

[53] Ania Wilczynski, 'Mad or bad?' *British Journal of Criminology* 37, no. 3(1997): 419.

[54] Ibid.

[55] Martin Wiener, *Men of Blood: Violence, Manliness, and Criminal Justice in Victorian England* (Cambridge: Cambridge University Press, 2004), 123. See also footnote on page 38 where Wiener cites Barry Godfrey and Stephen Farrell's finding (in 2003 unpublished paper) that 'even after taking the specific circumstances and characteristics of offences into account, as compared with women, men suffered disproportionately harsher penalties'.

efforts in 'civilizing' lower-class communities at 'dangerous masculinities', resulting in more convictions and harsher punishments for men than women who committed similar assaults.[56]

Gregory and Ainsley suggest that men who killed children were constructed more like savage brutes than desperate or insane and were treated unsympathetically by British courts in the eighteenth- and nineteenth-centuries.[57] Similarly Ainsley, Chadwick and Frost have found fathers who killed their children were punished more severely by Victorian English courts than mothers who did the same.[58]

Recent research by Carolyn Conley, Daniel Grey and Jade Shepherd suggests a greater correlation between legal responses to men and women accused of child homicide than has previously been supposed. Shepherd maintains that while

> childless men, bad fathers and neglectful husbands, were convicted and sometimes hanged for child murder, …if it could be shown that infanticidal men had previously fulfilled their duties as husbands and father, they tended to be considered insane.[59]

Daniel Grey found despite a

> substantial amount of evidence accumulated by historians that men were usually treated more harshly than women by the courts ….juries could… be unexpectedly sympathetic to potentially insane men who had killed their children.[60]

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[56] Barry S. Godfrey, Stephen Farrall, and Susanne Karstedt, 'Explaining Gendered Sentencing Patterns for Violent Men and Women in the Late-Victorian and Edwardian Period,' *British Journal of Criminology* 45, no. 5 (2005): 696.

[57] Gregory, 'Most Revolting Murder by a Father'; Ainsley, 'Some Mysterious Agency'. Ainsley maintains that the differences between male and female defendants found criminally insane were far greater than similarities and she resists comparison of the 18 per cent of men in her sample successfully pleaded insanity when charged with killing a child with women in her study who did the same (ft. 24, 44).

[58] Ainsley, 'Some Mysterious Agency', 39; Roger Chadwick, *Bureaucratic Mercy: The Home Office and the Treatment of Capital Cases in Victorian Britain* (New York: Garland Publishing, 1992), 310 - 311; Frost, 'I am Master Here', 30 - 31. Frost acknowledges her conclusions are context-specific and does not generalise her findings to all cases of paternal filicide.

[59] Shepherd, 'One of the Best Fathers until He Went Out of His Mind,' 35.

[60] Grey, 'Discourses of Infanticide in England 1880-1922', 256.

Like Shepherd, Grey observed juries' responses to fathers who utilised the insanity defence in trials of child homicide 'mimicked their treatment of women who also utilised this defence'.[61] Both Shepherd and Conley challenge the assumption that only maternal filicide was conceived as 'unnatural' and only women 'regularly and successfully' utilised insanity defences on indictments for killing their children.[62]

Other research suggests that complicating factors could outweigh issues of gender alone in determinations of insanity in individual cases. Conley's comprehensive study of gender and homicide in Victorian Britain shows that

> in English homicide trials not involving spouses or minor children, female defendants were no more likely to be found insane than were male killers. On the other hand, Scottish women were almost twice as likely to be found insane as men in the same circumstances. But in both countries fewer than 10 percent of women accused of killing someone other than a spouse or minor child were found insane.[63]

Powell's study of trials for child murder in New Zealand from 1862 – 1924 'complicates the case for a simple gender dichotomy, suggesting that there may have been deeper processes at work when jurors had to assess the sanity of murdering parents'.[64]

The extent to which concepts of insanity were successfully applied in men's defence strategies has been a sticking point in research on British male-perpetrated child homicide in the late nineteenth and early twentieth centuries. Wilson's broad sample of 570 cases of male-perpetrated child homicide reported in English newspapers between 1860 and 1900 affirms that the meanings ascribed to male filicidal behaviour in the

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[61] Grey, 'Discourses of Infanticide', 256.

[62] Shepherd, 'One of the Best Fathers until He Went Out of his Mind', 18.

[63] Conley, *Certain other Countries*, 84.

[64] Powell, 'The Ogress, The Innocent, And The Madman', 199.

context of insanity-based defences were highly gendered and drew heavily upon dominant ideologies concerning masculinity.[65]

Smaller-scale studies have highlighted tensions concerning the equation of respectable masculinity and violence with insanity evident in interpretations of insanity defences of fathers who killed their children within the courts and in the press. Shepherd, for example, shows that late nineteenth-century courts did interpret fathers' rejection of paternal duty as evidence of insanity.[66] Others, such as Chadwick and Frost, conclude that the courts were 'uncompromising' and 'most severe' in sanctions against men who killed their own children because their rejection of paternal obligations destabilised Victorian domestic ideals of patriarchal family unit.[67] This seeming contradiction can be explained by differences in the approaches taken by these historians. Shepherd bases her findings primarily on a sample of 60 men found insane on indictments for child homicide and committed to Broadmoor Asylum between 1869 and 1900. Frost's sample was comprised of 51 men indicted for violence against or neglect of their illegitimate children on charges ranging from murder to neglect from 1850 – 1905. Shepherd's sample is predisposed towards insanity, while Frost's sample comprises men who fathered illegitimate children. As Frost observes of the men in her study, 'already immoral, these men became irredeemable once they added murderous violence to their list of sins'. [68]

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[65] Wilson, 'Mad, Sad, or Bad?', 182.
[66] See Shepherd's 'One of the Best Fathers' and 'Victorian Madmen'.

[67] Roger Chadwick, *Bureaucratic Mercy*, 310 - 311; Frost, 'I am Master Here', 30 - 31.

[68] Frost, 'I am Master Here', 31.

Conley identified growing discontent amongst jurors and the wider public that men's wicked deeds were increasingly mitigated by rulings of insanity, even in homicide cases involving a history of violence and little sign of insanity. [69] Conley attributed these frustrations to the perceived incongruity between the lack of will and control implied by the insanity defence and Victorian ideals of masculine fortitude. However, while strength of will and self-control were strongly associated with Victorian manliness, Conley points out that the records simply do not support historians' assumption that Victorians equated insanity with femaleness. Conley found that while female homicide defendants in general were more likely to be found insane than male homicide defendants, 60 per cent of male murderers were found insane. [70] Similarly, Conley found that in England while 23 per cent of women tried for the murder of their child were found insane, so too were 18 per cent of fathers. [71] This trend towards relatively proportionate insanity rulings was reflected in both Irish and Scottish courts. These findings led Conley to conclude 'the likelihood of an insanity verdict for a defendant accused of killing his or her child was not highly influenced by gender'.[72] This thesis maintains that although the likelihood of an insanity verdict in cases of child homicide was not highly influenced by gender, constructions and interpretations of criminal insanity in cases of child homicide were highly gendered and culturally specific.

My examination of the mobilisation of late nineteenth- and early twentieth-century concepts of working-class masculinity and fatherhood in CCC trials of child homicide is

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[69] Conley, *Certain Other Countries*, 21.

[70] Conley, *Certain Other Countries*, 22.

[71] Ibid.

[72] Ibid.

organised thematically by the nature and severity of the offence. It begins with analysis of how concepts of masculinity and paternity were engaged in assessment of men's moral culpability as provocateurs in cases of female-perpetrated child homicide. Analysis of the expectations and assumptions of paternal rights and responsibilities amongst London's working classes is continued in chapter two, where I focus on cases of child homicide involving allegations of paternal negligence. Chapter three examines juridical and cultural responses to male-perpetrated domestic violence through cases of child homicide in which children were killed as a result of or in conjunction to men's violence against their domestic partners. Chapter four analyses how concepts of gender were mobilised in juridical responses to cases in which men were alleged to have been driven to kill their children by the provocation of women. The final two chapters address how concepts of masculinity and fatherhood were engaged in the construction and assessment of men's criminal responsibility in the most serious and sensational cases of child homicide tried at the CCC in this period.

Chapter One

'Any Honest Man with a Spark of Pluck ....'
Men's Roles in Women's Stories of Child Homicide

This chapter examines the mobilisation of late Victorian and Edwardian ideas about masculinity and fatherhood in the legal defences of women tried for child homicide. An explicit focus on the construction of men's roles within cases of child homicide reveals patterns of expectations for courtship and marriage held by working-class Londoners. Analysis of these trial accounts reflect tensions over men's breaches of gendered codes of conduct and responses to such 'unmanly' conduct through the testimony of working-class witnesses and rulings of the (largely) middle-class judiciary. The cases were drawn from a dataset of 120 indictments for murder and 63 indictments for manslaughter involving mothers accused of killing their children tried at the CCC between 1889 and 1913. My selection was further narrowed by the amount of qualitative data available to establish the context and narrative of women's defences to allegations of child homicide. I excluded cases cited in the *CCCSP* with no indication of how and why the defendant killed the victim, and where no further explanatory details could be found in newspapers, archived Home Office files or criminal records. I also excluded cases in which the mental state of the defendant alone, and not the conduct of the defendant's husband or lover, was considered the chief mitigating factor in establishing the defendant's culpability. These decisions form the basis of an analytical framework directed towards my explicit focus on the construction of men's roles within cases of female-perpetrated child homicide.

The eight cases selected for analysis highlight the variability and complexity of socio-sexual dynamics in constructions of men's culpability in women's defences. Some cases serve as countertypes to the popular image of male seduction and abandonment by showing alternate ways in which men were cast as provocateurs in narratives of maternal filicide. In the majority of these cases, the accused women were conceptualised 'as much sinned against as sinning' and each case offers an account of how men's sins played out through criminal proceedings.[73]

Provocation and Partial Defences to Maternal Filicide.

Public outcry over the killing of unwanted children and babies by poor mothers and fears about the dark spectre of infanticide persisted throughout the late nineteenth-century. Yet the courts generally treated women who killed their children, especially unwed mothers, leniently and even sympathetically. The English expressed horror when confronted with news of the many child corpses found in London's lanes, parks and waterways, but were not oblivious to the economic realities of the poor women most often prosecuted for killing their children. Knowledge of women's low wages, particularly in domestic service, and the incompatibility of maintaining employment and caring for a newborn infant was widespread. The difficulty in getting financial support from fathers who refused to provide for their children provided compelling

[73]The term 'more sinned against than sinning' was repeatedly used to describe women who killed their children allegedly as a response to men's conduct. References to women accused of child homicide as 'more sinned against than sinning' appeared in newspapers and parliamentary debates on infanticide. For example, in 1908, Lord Alverstone qualified his opinion that the death penalty should stand in cases of infanticide by stating that 'nobody felt more than he did that in these cases the woman was often very much more sinned against than sinning' (Lord Alverstone. HL Debate, 4th November, 1908. *Children Bill*, vol. 195, col. 1179, accessed 28th February, 2014, Hansard Millbank). Mary Grover, found guilty at the CCC of exposing her five day old baby, was described in the *Leeds Times* as 'more sinned against than sinning' ('Mary Grover's Misfortune. More Sinned Against than Sinning,' *Leeds Times*, 16th August, 1893, accessed 20th May, 2013, British Newspaper Archives).

grounds for leniency in cases involving poor women. An increasing reluctance in nineteenth-century English courts to convict poor women accused of killing their babies on capital indictments was fostered by growing humanitarian sentiment and the role of feminism in making infanticide a political issue.

The association of infant mortality with illegitimacy was a key feature of ongoing debates in Britain from the last half of the nineteenth-century to the early twentieth-century, when infant mortality rates sharply declined.[74] High levels of child mortality were invariably blamed on working-class mothers. The state responded to and reinforced these stereotypes by targeting working-class mothers in child and infant welfare legislation and initiatives. Similarly, repeated attempts to push through a law on infanticide between 1880 and 1913 reinforced the popular conflation of infanticide with illegitimacy and working-class women.[75] Social and legislative responses to extra-marital paternity in nineteenth-century Britain highlight concerns about additional financial burdens on tax-payers as the state took on the role of the 'father substitute' in the absence of a willing or able father.[76] Increasingly, men who failed to take financial responsibility for their children faced social and legal censure as mothers (married and unmarried) looked to the courts to compel fathers to maintain their children.

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[74] Meg Arnot, 'Infant Death, Child Care and the State, 271-271; Lara Marks, *Model Mothers: Jewish Mothers and Maternity Provision in East London, 1870-1939* (Oxford: Clarendon Press, 1994); Gail Reekie, *Measuring Immorality: Social Inquiry and the Problem of Illegitimacy* (Cambridge: Cambridge University Press, 1998); Charles Webster, ed., *Biology, Medicine and Society 1840-1940* (Cambridge: Cambridge University Press, 2003); Eilidh Garrett, ed., *Infant Mortality: A Continuing Social Problem?* (England: Ashgate Publishing, 2006); Grey, 'Discourses of Infanticide in England'.

[75] See Grey, 'Discourses of Infanticide in England', esp. chapter two (pp. 88–143).

[76] Conley, *Certain Other Countries*; Anna Clark 'Irish Orphans and the Politics of Domestic Authority' in *The Politics of Domestic Authority in Britain since 1800* eds., Ben Griffin, Lucy DeLap, and Abigail Wills (Hampshire, Palgrave Macmillan, 2009): 61–84; Megan Doolittle 'Fatherhood and Family Shame: Masculinity, Welfare and the Workhouse in Late Nineteenth Century England' in *The Politics of Domestic Authority in Britain since 1800* eds., Ben Griffin, Lucy DeLap, and Abigail Wills (Hampshire, Palgrave Macmillan, 2009): 84–111.

How Victorian authorities sought to deal with the 'problem' of seduced and abandoned unwed mothers killing their infants through legislation and social reform has received considerable attention.[77] Thorn and McDonagh have highlighted the construction of absent fathers who seduced then abandoned young women as the 'real offenders' within British courts, parliament and press.[78] Wiener similarly observed the

> nineteenth century popularity of the scenarios of bad men seducing and abandoning naïve women encouraged magistrates, judges, and juries to look for an evil man behind the poor unmarried girl discovered with a dead newborn.[79]

Certainly, legislators and juridical authorities spoke loudly and at length about these 'bad' men and ways to hold them to account. Yet I have found little evidence in the existing literature or contemporary material to suggest that searches were actually undertaken to find these 'evil' men. Once the corpse of an illegitimate infant was traced to an unwed mother, unless evidence directly implicated the father in the victim's death, little effort was made to hold men to criminal account beyond an official censure by the courts.[80]

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[77] I have provided a brief overview of the historiography of female-perpetrated child homicide in Victorian England in the introductory chapter. Scholarship that specifically examines late nineteenth- and early twentieth century English legal, political and social responses to mothers killing their illegitimate infants includes Ann Higginbotham, 'The Unmarried Mother and her Child in Victorian London, 1834 – 1914,' (PhD thesis, Indiana University, 1985); Grey, 'Discourses of Infanticide'; Kramar and Watson, 'The Insanities of Reproduction'; Krueger, 'Literary Defences and Medical Prosecutions'; Marland, 'Images and Impulses'; Marland, 'Getting Away with Murder?'; Ward, 'The Sad Subject of Infanticide'; Ward, 'Legislating for Human Nature'; Higginbotham, 'Sin of the Age'; Bechtold and Cooper, 'The Ties that Bind'; Samantha Williams, 'The Experience of Pregnancy and Childbirth for Unmarried Mothers in London, 1760–1866,' *Women's History Review* 20 no. 1 (2011): 67–86.

[78] Thorn, *Writing British Infanticide: Child-Murder, Gender, and Print, 1722–1859* (Newark: University of Delaware Press, 2003); McDonagh, *Child Murder and British Culture.* See also Frost, *Promises Broken*; Higginbotham, 'The Unmarried Mother and Her Child'.

[79] Wiener, *Men of Blood*, 124.

[80] This is supported in various cultural contexts by the findings of Conley, *Certain other Countries;* Joanne Ferraro, *Nefarious Crimes, Contested Justice*; Grey, 'Discourses of Infanticide'; Powell, 'The Ogress, The Innocent, And The Madman'.

Albert Smith's unmanly rejection of his paternal obligations and responsibilities was censured by the Court during the trial of his fiancée for murdering their baby. While Albert figured as the 'real offender' in courtroom narratives of the crime, no punishment was sought to remedy the moral offence of Albert's seduction and abandonment of his young working-class fiancée, Louisa Lunn. The Court heard when Louisa told Albert she was pregnant four days prior to the birth he had denied paternity and encouraged Louisa to do what other girls in her situation did and 'get out of it the best way she could'.[81] Albert did not explicitly deny fathering Louisa's baby again, but he refused to co-operate with police inquiries into the paternity of Louisa's baby. Albert's attempts to evade paternal responsibility underpinned the defence's representation of Louisa as a desperate young woman, betrayed by a man to whom she had been 'so faithful and true'.[82] This was reinforced by evidence of a police inquiry into Louisa's 'previous history' that found she was 'a very respectable girl' of 'an excellent character'.[83]

The court convicted Louisa on the basis of her confession to killing her baby, but on a lesser charge of manslaughter. The court's perception that Louisa's actions were provoked by the unmanly conduct of her fiancé was reflected in the strong recommendation to mercy presented by the jury and the Common Sergeant's ruling that Louisa be discharged upon her own recognizance.[84] Louisa's lenient prosecution and

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[81] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 01 March 2016), March 1904, trial of Louisa Lunn (t19040321-332). Louisa Lunn's mother provided a lengthy account of Albert's moral culpability for her daughter's crime on the grounds of his unmanly conduct in her testimony at the coroner's inquest. See Sarah Ann Lunn, 1st February, 1904, deposition, coroner's inquest (female child of Louisa Lunn), CRIM 1/89/4, TNA.

[82] *Old Bailey Proceedings Online* March 1904, trial of Louisa Lunn (t19040321-332).

[83] Ibid.

[84] The sentencing provision that Louisa entered a home for two years upon leaving the Court was characteristic of the Court's desire to provide 'fallen women' with means of moral reformation and to reduce the likelihood of women re-offending. There is some evidence to suggest that the

sentencing accords with late nineteenth- and early twentieth-century prosecution patterns for maternal filicide in which women were regularly indicted for murder, but prosecuted on lesser charges to circumvent the death penalty. Court recourse to alternatives to a capital indictment in cases of maternal filicide exercised the punitive and reformative functions of the English juridical system.

Throughout the nineteenth-century the balance of punishment hinged on three often competing aims of retribution, deterrence and reformation. By the end of the nineteenth-century greater weight was attributed to the power of reformative justice to transform prisoners into productive members of society. This emphasis on reform was reflected in the formation of the Gladstone Committee in 1895 and the subsequent parliamentary debates surrounding the enactment of the Prison Act of 1898.

The basis of the Gladstone Committee report 'was a fuller application of the reformatory methods to the prison system of the country'.[85] The Committee's report to Parliament recommended that

> the system should be more elastic, more capable of being adapted to the special case of individual prisoners; that certain discipline and treatment should be more effectually designed to maintain, stimulate, or awaken the higher susceptibilities of prisoners, to develop their moral instincts, to train them in orderly and industrial habits, and, whenever possible, to turn them out of prison better men and women, both physically and morally, than when they came in.[86]

The Secretary of State for the Home Office, Sir Matthew White Ridley, identified the primary objective of the reforms enacted in the 1898 Prison Act as 'the creation of

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institutionalisation of women convicted of killing their illegitimate newborn infants throughout their prime child-bearing years was intended in some cases to prevent recidivism.

[85] Sir Herbert Gladstone, HC Debate, March 24, 1898, 'Prisons Bill,' vol. 55 col. 858, accessed February 28, 2014, Hansard Millbank.

[86] Gladstone, 'Prisons Bill,' vol. 55 col. 858.

powers for applying differential treatment or classification … to our prison population'.[87] Ridley's ultimate goal was a wholly differential system for the 'treatment of … criminals, the maintenance of discipline, and the protection of society'.[88] This desire for greater flexibility in the sentencing and treatment of prisoners was driven by a perceived lack of 'power to award adequately severe treatment to those who are really criminals, and to mitigate the treatment for those who are not really criminals in our prison population'.[89]

This construction of young mothers who killed their illegitimate babies after their lovers refused paternal responsibilities as 'not really criminals' extended to newspaper coverage of coroner's inquests and criminal trials. Louisa's violent filicide was sympathetically reported as an effort to protect 'her young man' from the consequences of fathering an illegitimate child.[90] Under the by-line 'Strangled her Baby to Screen the Father' the court reporter recorded the anguish of Louisa's sobbing mother as she told the court, sobbing, 'she thought the young man, whose name was Alfred Smith, should share the blame with her daughter'.[91] The public identification of Alfred as the victim's father and the alleged cause of Louisa's conduct, despite Alfred's refusals to confirm paternity, is indicative of a wider social belief that men should share a measure of the ignominy suffered by women they seduced and abandoned.

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[87] Sir Matthew White Ridley, HC Debate, March 24, 1898, 'Prisons Bill,' vol. 55 col 835, accessed February 6, 2013, Hansard Millbank.

[88] Ridley, 'Prisons Bill,' vol. 55 col. 835.

[89] Ibid.

[90] 'Strangled Her Baby to Screen the Father,' *Dundee Evening Telegraph,* 3rd February, 1904, accessed 23rd January, 2013, British Newspaper Archives.

[91] Ibid.

Alfred's response to Louisa's announcement of their unplanned pregnancy and the Court's response to Louisa's desperate measures to 'get out of it as best she could' highlight contradictions and tensions in regard to cultural expectations of fatherhood. Men's rejection of the obligations of fatherhood conflicted with both Victorian codes of chivalrous manhood and socio-political imperatives that required men to take financial responsibility for their children, lest the burden fall to the state. Substantial amendments of maintenance laws related to illegitimate children in the late nineteenth century resulted in increasing numbers of men being compelled by the courts to contribute to supporting the maintenance of their illegitimate offspring. However Alfred's reaction reflects the co-existing pervasive cultural assumption that extramarital pregnancy and illegitimate children were ultimately the mother's responsibility.

Men's denials of paternity and refusal to maintain illegitimate children figured in insanity defences of women who attributed the extreme mental duress under which they killed their children to men's irresponsible and even abusive conduct. At her trial for the murder of her 20-month-old daughter, Nellie Violet Kirk, Ada Kirk alleged that she killed her daughter because her uncle, Frederick Kirk, laughed when she told him she was again pregnant with his child. While Frederick Kirk admitted to an ongoing sexual affair with his niece, he denied the child was his and pointed out to the court that Ada had previously summoned another man for child support, but had 'lost the day as she could not prove it'.[92]

The Court's ruling of criminal insanity was based upon medical evidence that Ada suffered from acute melancholia at the time of the trial and when she committed the

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[92] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 06 April 2016), December 1902, trial of Ada Kirk, (t19021215-130), accessed 11th April, 2016.

murder. The diagnosis was supported by evidence of her family history of insanity, physical and mental deterioration attributed to 'living badly'. The homicidal act itself and Ada's efforts to produce a miscarriage were understood as both symptoms and consequence of mental instability. While Ada's culpability was ostensibly mitigated by her reduced mental state, the court proceedings at Ada's trial focussed on Frederick Kirk's conduct and establishing the extent of his moral culpability for the crime. Despite Frederick's repeated denials and Ada's failed paternity suit against another man, the Court accepted he was the likely father of her children.

The defence counsel argued that Frederick provoked Ada by mocking her when she informed him of the pregnancy and denying paternity despite admitting to having 'relations' with Ada around the time each child was conceived. Frederick denied laughing at her when she told him she was almost eight months pregnant with his child. When asked why Ada would share this information with him, he responded

> I suppose she told me because she thought I was the father of the deceased child – I have had relations with her, but I am not the father of the deceased child – she told me of her condition I did not laugh at her I told her to let it take its course.[93]

Frederick confessed that he 'first had connection with her about two years ago' and that the first child was born less than a year later. Despite the Court's incredulity, Frederick was obdurate: 'I still say I was not its father'.[94]

Frederick's equivocation about maintenance was interpreted as evidence that he accepted some degree of responsibility for the children. However the nature of the relationship made it difficult to infer whether Frederick occasionally bought things for

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[93] *Old Bailey Proceedings*, December 1902, Ada Kirk, (t19021215-130).

[94] Ibid.

Nellie as a generous great-Uncle or as a miserly father. When Ada's mother discovered Nellie was the result of Ada's extra-marital and incestuous relationship with her uncle she turned Ada and her newborn baby out of their home. Ada took lodgings near Frederick and sent for him. Frederick alleged that

> she was earning her living as a laundress—I have never given her anything towards her support—she never asked me for anything…. I did not know what she paid for her lodgings—[all] she told me she had to pay is a week for the keep of the child…. I have only bought the baby a pound of biscuits now and again….She asked me for a few halfpence now and again, and I gave them to her –…[regarding the second pregnancy] I had not made any allowance for her yet—she said she had great difficulty in making both ends meet—I was going to help her.[95]

The press attributed Frederick's moral culpability for Ada's crime to his refusal to accept paternity and fulfil his paternal obligations. Of the 38 press reports on Ada's case, one-third referred to the child's father allegedly provoking the murder by laughing at Ada when she told him she was 'in trouble again'.[96] The majority of press reports emphasised Ada's family history of insanity and that the father had contributed nothing to the child's maintenance. Only one article alleged that there did not seem to be any motivation for the crime, 'excepting, perhaps, that the child was a burden to her'.[97] An article published in the *Coventry Evening Telegraph* was singular in its explicit observation that Nellie's alleged father was her mother's uncle; and even here reference to incest was secondary to the courts findings that Ada's 'killed the child under great

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[95] *Old Bailey Proceedings*, December 1902, Ada Kirk, (t19021215-130.

[96] 'The Battersea Tragedy,' *London Daily News*, 13th November, 1902, accessed 23rd January, 2013, British Newspaper Archives. See also 'The Battersea Child Murder. Tragic Results of an Ill-Timed Jest,' *Derby Daily Telegraph*, 12th November, 1902, accessed 23rd January, 2013, British Newspaper Archives.

[97] 'A Mother's Confession,' *Nottingham Evening Post*, 10th November, 1902, accessed 23rd January, 2013, British Newspaper Archives.

provocation'.[98] Similarly, Nellie's illegitimacy and disputed paternity was overshadowed by references to the father's callousness, both in terms of his failure to provide for his daughter and his indifference to Ada's considerable financial troubles and obvious distress. While Ada was found criminally insane, it appears her word carried more weight than that of her irresponsible and 'callous' uncle.[99]

Juridical responses examined in the cases of Ada Kirk and Louisa Lunn demonstrate the ways women's culpability for killing their illegitimate babies could be mitigated by the assigned moral culpability of men who refused to accept paternity of and maintain illegitimate children. The unmanly conduct of the victims' fathers, and Ada and Louisa's socio-economic marginalisation, were key factors in the court's assessment and treatment of their cases. However, women's fears of the consequences of men's failure to provide were not accorded arbitrary weight outside of the individual cases themselves. A father's refusal to provide for his family, legitimate or otherwise, was not necessarily mitigating where a mother argued she killed her child because she feared she could not afford to raise it. Nor were single women's fears that their lovers would abandon them to raise an illegitimate baby alone considered sufficient provocation for child homicide.

Florence Clark's case shows the exculpatory weight of women's fears of the consequences of illegitimate motherhood was relative to the extent the alleged father breached expectations of paternal responsibility. Florence Clark, a twenty-four-year-old domestic servant was arrested by police upon her employer's suspicions that she had killed her baby after giving birth alone and in secret. Those acquainted with Florence

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[98] 'Because her Uncle Laughed at Her,' *Coventry Evening Telegraph*, 13th November, 1902, accessed 23rd January, 2013, British Newspaper Archives.

[99] *Old Bailey Proceedings Online*, December 1902, Ada Kirk (t19021215-130).

had questioned whether she was pregnant in the months prior to the birth, but Florence had passed off weight gain and other symptoms as illness. Florence continued to maintain she had never been pregnant even after the victim's body was found wrapped in her skirt and a medical examination clearly found signs that Florence had recently given birth.

Florence's boyfriend, Walter Barker, expressed a vague recollection Florence told him she was pregnant eight months prior to the murder. They did not speak of it again until Florence broached the subject when she was seven months pregnant. Walter did not divulge the contents of the conversation, but alleged that since she did not bring it up again he had assumed she had miscarried. Walter told the court of his surprise at learning that Florence had given birth to and murdered his baby only hours after meeting with him.[100]

Walter explained the only reason he had not married Florence earlier was because he had been out of work for two months of that year and could not afford to support a family. Walter accepted paternity and declared his willingness to marry Florence.[101] The court accepted Walter's explanation for delaying marriage to his pregnant girlfriend demonstrating cultural understanding of the barriers to fatherhood presented by London's volatile labour market. It was commonly understood that unemployment could be a barrier to marriage for young working-class couples and sometimes resulted in the birth of illegitimate children prior to marriage. In her study of domestic economics in working-class London households, Maud Pember Reeves observed the

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[100] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 06 April 2016), May 1897, trial of Florence Clark (24) (t18970503-380).

[101] Walter did follow through on his, however tragically belated, promise to marry Florence and they married following Florence's release from prison in 1898.

custom that 'the moment a man's money approaches a figure which seems to him a possible one he marries'. [102] However, the moment a young man achieved a level of financial security to (barely) sustain a wife and child could be delayed by periods of unemployment, fluctuations in wages and seasonal demand for labour.

Florence and Walter were not alone in their predicament. In *Promises Broken*, Frost attributes the birth of illegitimate children and broken engagements to the long wait experienced by young working class couples seeking to save enough money to set up a household and marriage postponements caused by unemployment, illness or deaths in the family.[103] The birth of illegitimate children was undesirable, but certainly not uncommon in working-class London courtships, and it was not unusual for the couple to marry later as a matter of course. In this context, it is perhaps unsurprising that Walter was not held accountable for Florence's extreme reaction to an unfortunate, but not entirely uncommon predicament for young working-class women.

Walter's belated offer of marriage severely undermined Florence's defence. With an unemployed but willing husband-to-be waiting for her, defence counsel was unable to represent Florence as a desperate victim of seduction. Florence's refusal to confess to murder or even to claim the victim as her own presented an unlikely defence, but one that made a lesser charge of concealment of birth a more appealing option for the prosecution. *Reynold's Newspaper* reported

> The jury, after some deliberation, found the prisoner "Guilty" of concealing the birth of the child. Mr Justice Grantham sentenced her to eighteen months'

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[102] Maud Pember Reeves, *About a Pound a Week* (London: G. Bell, 1914), 146.

[103] Ginger Frost, *Promises broken: Courtship, Class, and Gender in Victorian England*, (Charlottesville: University of Virginia Press, 1995), 62 –63.

> hard labour, remarking that the case was a very bad one, as the prisoner had no excuse for her conduct. [104]

While Florence was only convicted on the lesser charge of concealment of birth, she received a relatively harsh sentence of 18 months hard labour. [105] Clark's reduced charge combined with a severe sentence is typical of the Court's treatment of cases of maternal filicide. The sentence reflected the Court's condemnation of the offence and serve as a warning to others, while still avoiding the death penalty.

'An Unhappy Union Leads to Infanticide'.

The Court's frustration with irresponsible and unchivalrous male conduct was intensified in cases involving idle husbands whose absence, figurative or literal, from the family unit placed their family in precarious social and financial circumstances. Alfred Turner married his wife, Ada, one month before the birth of their first child, but his wife and child remained in her father's home until he could afford to provide his family with a home of their own. Envisioning her future with two children out to care, no home of her own and a perpetually unemployed husband, Ada Turner cut the throat of her second child immediately after giving birth.

At the inquest into his daughter's death, Alfred testified at length about his relationship with Ada, curiously positioning himself as both central to and on the periphery of her domestic arrangements. Alfred testified

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[104] 'Concealment of Birth – Sentence', *Reynold's Newspaper,* 9th May, 1897, accessed 23rd January, 2013, British Newspaper Archives.

[105] Hard labour involved daily repetitive, physically demanding and essentially pointless labour, having no purpose beyond that discipline and punishment. In 1897, Mr L. Atherly-Jones complained to the House of Commons that 'prison discipline is more severe in this country than it is in any other civilised European nation… a sentence of two years' hard labour is a sentence which no judge, in my judgement and in the judgement of more capable persons than myself, should inflict upon a fellow-creature' (Mr L. Atherly-Jones, HC Debate, 24th March, 1898, 'Prison Bill', vol. 55 col 848, accessed 11th April, 2016, Hansard Millbank).

> I am a riverside labourer. I am the husband of Ada Sophia Turner. We were married 1st August, 1892, her first child having been born on the 20th of June, 1892. We have never had a home. She has continued to live with her parents. We used to meet at times, but I did not go into her father's house, as I was forbidden the house shortly after the marriage. She used to come to see me at my mother's at times. I did not allow her anything. I have been ill and out of work. I asked her if she wanted anything, but she said she did not, as she got all she required at home. [106]

However, somewhat inconsistently, Alfred then stated he

> used to pay 5 s. a week for the support of my first child. There was a month owing when the second child was born. My wife had been pressing me for payment of the arrears, but I was ill and unable to pay it.[107]

Alfred's equivocation in response to Ada's expectations and demands for child support are indicative of his struggle to reconcile his paternal identity with his failure to assume the role of the family provider. Alfred's inability to meet the basic demands of the children's maintenance displaced his paternal authority. Ada occupied a similarly ambiguous subjective position as a wife living separately from her husband and maintained by her elderly father and as a mother who was unable to provide neither family home nor maternal care for her child. Ada's ambiguous feminine status is reflected in the attending doctor's assumption that Ada was a single woman who had 'got into trouble again', despite being her family's doctor for at least four years.[108]

Like Walter Barker in Florence Clarke's case, Alfred's recollections of the pregnancy in question were vague. According to Alfred, Ada told him she was pregnant with his second child five or six months before the birth. Alfred did not recollect any further discussion of the matter and was unaware of 'the possibility of her being confined so

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[106] Alfred William Turner, 25th November, 1893, deposition, coroner's inquest (female child of Alfred William Turner), CRIM 1/40/4, TNA.

[107] Ibid.

[108] Lauchlan Mitchell Dunlop, 25th November, 1893, coroner's inquest, CRIM 1/40/4.

soon' during her visit to his house a week before the birth. Alfred testified that during this visit he told Turner he could not work because he was ill and 'she started crying when she found how I was'.[109] Alfred acknowledged his 'wife worried very much because I have been out of work and could not find her a home'.[110]

The *Manchester Courier* and *Reynold's Newspaper* reported the following exchange:

> The Coroner: What effort did you make to get a home? - Witness: I did my best. - The Coroner: You have not; you have done simply nothing. - A Juryman: Any honest man with a spark of pluck would have gone and claimed his wife[111].
> Another Juryman: If it hadn't been for you this poor young woman would not have been in her present position. (Several Jurymen: Hear hear.)[112]
> The Coroner, in summing up, alluded to the painful nature of the case, and especially the conditions under which the husband and wife were living. No doubt the facts of the case preyed on her mind. The evidence clearly pointed that the case was one of murder. The state of mind of Mrs Turner and her relatives was not to be considered by a Coroner's jury, but that was for a higher Court to consider. He (the Coroner) was of the opinion that Mrs Turner had been taken advantage of by a lazy husband. (The Jury: Hear, hear).[113]

Coroner Wynne E Baxter's open censure of Alfred Turner indicates that both he and the jury drew a direct correlation between Alfred's inadequacies as a husband and father and Ada's homicidal behaviour. Newspapers too causatively linked the Turners' domestic troubles with their child's murder, running such headlines as 'An Unhappy Union leads to Infanticide'.[114] Alfred's admission that he sometimes earned £2 a week

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[109] Alfred Turner, 25th November, 1893, coroner's inquest, CRIM 1/40/4.

[110] Ibid.

[111] 'A Poplar Tragedy. Verdict of Wilful Murder', *Manchester Courier and Lancashire General Advertiser,* 27th November, 1893, accessed 6th May, 2013, British Newspaper Archives.

[112] 'Yesterday's Inquests. Poplar Tragedy Verdict of Wilful Murder', *Reynold's Newspaper*, 26th November, 1893, accessed 6th May, 2013, British Newspaper Archives.

[113] Ibid.

[114] 'An Unhappy Union leads to Infanticide', *Daily Gazette for Middlesbrough,* 20th January, 1894, accessed 6th May, 2013, British Newspaper Archives.

and had been employed for all but 17 weeks in the previous year was reported as evidence that he was unwilling, rather than unable, to contribute more than a few shillings in child support.

Alfred and Ada did not correspond while she was in Broadmoor Asylum and the family knew nothing of Alfred's whereabouts. Ada's family persistently petitioned Home Office for her release, which was finally granted in 1906. Ada remained in her sister's home, discharged into the care of her brother-in-law, until at least 1914, when periodical reports to the Home Office ceased.

Ada Turner's case points to an implicit understanding that some cases of maternal filicide were a tragic consequence of male failure to achieve respectable working-class masculinity. The Court interpreted the filicidal behaviour of Louisa Lunn, Ada Kirk and Ada Turner as a response to men's transgression of socio-cultural codes of gender relations. By attributing men moral culpability for women's criminal behaviour the Court reinforced and justified social structures that required working-class women's socio-economic dependence on men. As Angus McLaren noted in relation to criminal trials against men accused of bigamy and facilitating abortion,

> Judges and juries explicitly asserted that it was their task to defend both the law and a largely unwritten code of legal chivalry according to which virtuous women were to be protected from evil men.[115]

These cases suggest that women accused of maternal filicide were conceptualised more in terms of their vulnerability than lack of virtue. The men who were held morally responsible for these women's offences were perceived less as evil than lacking in manful character. The degree of hostility expressed against them by the Court and in the

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[115] Angus McLaren, *The Trials of Masculinity: Policing Sexual Boundaries, 1870-1930* (Chicago: University of Chicago Press, 1999), 59-60.

press indicates that such unmanly behaviour was considered dangerous because it threatened the stability of the family unit and social body.

The correlation and condemnation of unmanly behaviour leading to maternal filicide is evident in the Court's treatment of Lily Coleman who was charged with murdering her nineteen-month-old baby. At the 1904 trial of his wife, Lily, William Coleman was formally censured by Justice Darling for causing his wife to become insane and provoking her to kill their child. Justice Darling requested William stand while he admonished him 'for his ill treatment of the accused, telling him that unless he gave up his drunken ways he would find himself in a still more unpleasant position, if that were possible'.[116] Justice Darling 'said he was not only expressing his own opinion, but he thought of the jury also, when he said it was greatly owing to his (the husband's) conduct that his wife became insane'.[117] In his defence, William somewhat redundantly replied 'I am willing to take her back – she knows that'.[118]

William's neglect and desertion of his family was cited as key factors in Lily's reduced mental state. The Colemans had been separated for four months prior to the murder. The first month – October - Lily spent in hospital with 'internal inflammation' and recuperating at her mother's home while William purportedly looked for work, leaving the two eldest children with acquaintances for eight days. By November, when William saw Mr William Lowman, relieving officer for Edmonton, Lily had been in the workhouse for a fortnight, and his two eldest children, aged three- and five-years-old,

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[116] 'Unhappily Married: Mania and Child Murder', *Portsmouth Evening News*, 20th April, 1904, accessed 30th July, 2013, British Newspaper Archives.

[117] 'Insanity Proved and Detained. Strong Words to Husband', *Hull Daily Mail,* 19th April, 1904, accessed 30th July, 2013, British Newspaper Archives.

[118] 'Unhappily Married', *Portsmouth Evening News*, 20th April, 1904.

had been removed to the Chase Farm School Orphanage. William alleged that he asked if he could recover his family, but was told that he could not take possession of his wife and children as there was a warrant out for his arrest for neglecting his family. Refusing to hand himself into police, William was arrested two months later and charged with neglecting his wife and children at Tottenham Police Court.

Two weeks after his appearance at Tottenham Police Court, William received a letter from his wife and he went to the workhouse to see her. She told him the children were at an orphanage and she couldn't leave the workhouse unless he took the children out. William alleged he 'asked her if she would come back to me. She said she would rather go into service'.[119] It was then arranged that Lily would take their youngest child, William George Coleman, and William would take the two elder children.

While Lily Coleman strongly asserted her preference to struggle to support her family as a single mother than suffer the abuses of a drunken, neglectful husband the challenge of supporting three young children on her own proved too great. Lily and William remained living separately, though in close proximity, until they reconciled two days before Lily drowned their son. William testified Lily had asked him to take her back two days before his son's murder. William allegedly agreed, but cautioned her that he had no money or home and could only maintain them if the weather was well enough for him to find work. It is hardly surprising that Lily found little comfort in her marital reunion or optimism for their future prospects under such strained financial conditions.

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[119] William Cross Coleman, 24th March, 1904, deposition, coroner's inquest (William George Coleman), CRIM 1/90/3, TNA.

News reports represented Lily's case as both a 'sad story of want' and of a husband's neglect of his duties as a husband and father.[120] The *Portsmouth Evening News* reported that at the time Lily threw her son in the River Lea,

> the prisoner was in a very depressed state of mind, and seemed to have lost all hope. She complained of the nagging conduct of her husband, and said she was going to drown herself. The Recorder, when charging the grand jury, described the husband as a thoroughly bad and worthless man.[121]

Similarly, leading with the title "Drove his Wife Insane", *Manchester Courier* surmised

> the evidence showed that she had been ill treated by her husband, who had threatened her with violence on the morning she threw her child in the river Lea, and that she had been semi-starved for four years.[122]

Although William emphatically denied threatening to beat his wife or ever physically assaulting her, it appears the press and the Court's accepted witness testimony that Lily had repeatedly complained of his abuse as evidence of the fact. The testimony of medical experts reinforced the correlation between the spousal abuse and neglect Lily suffered during her marriage, her 'weakened' mental state and homicidal behaviour. Simon Frazer (medical officer of Edmonton Parish) reported that Lily repeatedly complained of her husband's ill treatment when he attended her after her confinement in 1902. In November 1902 he

> saw the state of the home and the terrible state the prisoner was in – she seemed to me to be very much distressed and melancholy – she would not raise her eyes off the ground or speak to me – she was not properly fed – that would affect her mind …. She always appeared to be in fear, which would be

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[120] 'Child's Body Recovered', *Sutherland Daily Echo and Shipping Gazette*, 22nd March, 1904, accessed 30th July, 2013, British Newspaper Archives.

[121] 'Unhappily Married. Mania and Child Murder', *Portsmouth Evening News,* 20th April, 1904, accessed 30th July, 2013, British Newspaper Archives.

[122] 'Drove his Wife Insane', *Manchester Courier and Lancashire General Advertiser*, 23rd April, 1904, accessed 30th July, 2013, British Newspaper Archives.

> a very natural result of the treatment of her husband... Such treatment would tend to weaken and unhinge her mind.[123]

The Medical Officer of Holloway, George Griffiths, concurred with Frazer's assessment that Lily was naturally feebleminded, being 'a long way below the average intelligence', and that want of food coupled with her painful medical condition could 'unhinge' her mind.[124] Griffiths indirectly attributed Lily's mental condition to her husband's mistreatment. He testified that Lily 'spoke of the general circumstances which led up to her having done what she had done—she said she was in very great trouble, and was ill treated by her husband'.[125] Frazer and Griffiths' medical testimony reflects the variability with which spousal provocation was interpreted in assessment of women's criminal responsibility. Medical experts could explicitly link husbands' ill treatment with their wives' insanity or more equivocally bind men's mistreatment of their wives to 'general circumstances' culminating in the 'unhinging' of a woman's mind.

The Court's willingness to accept the long term effects of marital violence and neglect as mitigation in women's trials for the murder of their children reflects a widespread knowledge of violence in working-class marriages and increasing debate over the inequities of marriage. Such stereotypes were supported by disproportionately high visibility of serious marital assaults and wife killings perpetrated by working-class men in the courts and press. Middle-class commentators identified a particular type of working-class man who brutalised his wife (and sometimes children) as a slum-

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[123] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.0, 22 January 2014), April 1904, trial of Lily Coleman (t19040418-352).

[124] Ibid.

[125] *Old Bailey Proceedings Online*, April 1904, trial of Lily Coleman.

dwelling, drunken savage.[126] Representations of brutal husbands as particularly vicious members of urban working-classes were reinforced in class politics of the Women's Suffrage and Socialist Movements.[127] Aitken's argues that late Victorian 'English feminists used tales of working-class brutes who beat and maimed their wives to demand the vote for educated and propertied women'.[128] Poor women, it was argued, needed educated and enfranchised middle – and upper –class women to protect them from their brutish husbands.[129] Prominent Socialists, such as Frederick Engels, acknowledged a residual 'brutality towards women' existed amongst proletarian men whilst claiming 'there is no basis of any kind of male supremacy … in the proletarian household'.[130]

Tensions over the legality of men's subjugation of their wives were expressed in arguments presented in *R v Jackson* (1891). Appeals to ancient British Law that allowed for men's physical chastisement and constraint of their wives by Jackson's counsel were denounced by members of the Queen's Bench as archaic and uncivilised.[131] Such legal precedence recognised limits to men's authority over the wives and the rights of women

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[126] Charles Booth, William Booth, Charles Dickens, Margaret Harkness, Jack London, Kingsley Fairbridge, Arthur Morrison, Octavia Hill, Andrew Mearns, George Sims and Henry King were amongst a number of late-Victorian and Edwardian commentators on wife-beating in London's slums.

[127] See for example, Margaret Harkness' representations of wife-beating in London's East End (*In Darkest London,* Cambridge: Black Apollo Press, 1889/2009).

[128] Jo Aitkens, "The Horrors of Matrimony among the Masses": Feminist Representations of Wife Beating in England and Australia, 1870–1914', *Journal of Women's History* 19, no.4 (2007): 107.

[129] Eleanor Marx, Edward Aveling and Annie Besant were amongst late nineteenth-century Socialist Feminists who argued all women should be granted the vote.

[130] Frederick Engels, *Origins of the Family, Private Property, and the State*, (Chicago: Charles Kerr: 1884/1909), 87.

[131] *R v Jackson*, 1 QBD (1891): 671 - 686.

to leave unhappy marriages, but did not acknowledge the social and economic barriers that prevented many women from doing so.

Poor women with multiple young children were often forced to remain with an abusive husband or leave and struggle to raise children and earn a wage on their own. Divorce was prohibitively expensive for most of the working classes.[132] The 1895 *Summary Jurisdiction (Married Women) Act* provided some respite for abused wives. The Act empowered courts to grant separation orders to women on grounds of persistent cruelty or wilful neglect to provide reasonable maintenance. The 1905 Licensing Act further empowered courts to grant separation if either spouse was a habitual drunkard.

Whether women were granted legal separation or simply fled violent husbands, many relied on family support systems to maintain themselves and their children. The shame and despair experienced by Ruth Augusta Perrett when she became pregnant to her estranged 'bad drunken husband' drove her to conceal the birth and subsequently kill the baby. Ruth alleged she could not further burden her poor and aged parents, who had taken her and her older two children in after her husband had deserted them. Ruth testified that while living with her husband, he was

> very violent to me at times; he ….threatened me with a loaded revolver, two years ago he turned me out into the streets at eleven at night, in my nightdress with my baby.[133]

Ruth's story successfully evoked the sympathy for jury and satisfied the Court's estimation of the degree of provocation that could compel a 'good' woman to such

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[132] Behlmer, *Friends of the Family: The English Home and Its Guardians, 1850* –1940, Stanford: Stanford University Press, 190.

[133] Inspector Edward Badcock, 26th June, 1906, deposition, coroner's inquest (male child of Perrett), CRIM 1/103/4, TNA.

desperate measures. She was convicted on the lesser charge of concealment of birth, with a strong recommendation to mercy, and sentenced to four months imprisonment, including one month served awaiting trial.

The Exculpatory Weight of Performative Femininity in Juridical Assessments of Women's Criminal Culpability.

The salience of gender performativity in juridical assessments of women's criminal culpability is reflected in Lord James of Hereford's address to the House of Lords on the sentencing of maternal filicide, or more specifically, infanticide. Lord James stressed the importance of the courts holding power to sentence women accused of killing their children, as opposed to the Home Secretary, because

> the Judge and the jury had a great advantage, for in these cases much depended upon the appearance and demeanour of the accused. That which might represent one thing in a brazen woman represented another in a fragile broken down woman.[134]

The lenient sentencing of Lucy Elizabeth Strong demonstrates the evidentiary weight of women's performances of passive femininity during trials of child homicide. In 1904 Lucy was charged with the murder of her 18-month-old daughter after dropping her out of a two-storey window during a heated dispute with her husband. Lucy alleged she dangled her daughter out of the window to scare her husband, but lost her grip as her daughter struggled against her. Her daughter died as a result of the injuries sustained in the fall.

The Court heard Lucy had endured physical and emotional abuse throughout her ten-year marriage to Benjamin Strong. Witnesses characterised Benjamin as a cruel

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[134] Lord James of Hereford, HL Debate, 18th May, 1909, 'Child Murder (Record of Sentence of Death) Bill. Third Reading', vol. 1 col 957-65, accessed 28th February, 2014, Hansard Millbank.

husband and neglectful father, often buying liquor with money needed for food and rent. The Strongs' neighbour testified that to her

> knowledge [Lucy] and the children have been kept very short of food - the husband is a lamplighter - I have seen him drunk when I know the prisoner and the children were short of food - I have heard him say that the children did not belong to him, and he has mentioned the names of those they did belong to - they have had six, but only two are alive.[135]

Lucy's eight-year-old son Philip was present when the incident occurred. He confirmed that his father was drunk on the night in question, had denied he was the victim's father and refused to let Philip give any his mother or sister any of the food he had bought back for dinner. In contrast to his portrayal of his father as drunken, neglectful and unreasonable, Philip characterised his mother as respectable, sober woman who was loving and affectionate to her children. According to *London Daily News* Lucy appeared 'diminutive' and worn,

> looking older than her stated age, 38 years. Dressed in faded black clothes with a bonnet, and wearing spectacles, she sat rocking herself in the dock and crying.[136]

No doubt Lucy's ragged vulnerability and obvious remorse elicited the Court's sympathy and a compassionate ruling. Moreover Lucy's narrative of domestic abuse resonated with contemporary understandings that men's alcohol consumption fuelled marital violence amongst working-class Londoners and popular images of London's wife-beaters as drunken brutes.[137]

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[135] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 06 April 2016), February 1904, trial of Lucy Elizabeth Strong (t19040208-199), accessed 7th April, 2016.

[136] 'Hoxton Sensation. Baby's Dreadful Death', *London Daily News*, 9th December, 1904, accessed 14th September, 2014.

[137] See, for example, Montagu Williams, *Round London: Down East and Up West* (1894); Arthur Morrison's *Tales of Mean Streets* (1894) and *A Child of the Jago* (1896).

Lucy was convicted of manslaughter, but released on a recognisance. She was provided temporary respite from her husband in a home provided by the Court Missionary, while her surviving son remained in foster care. Benjamin Strong was severely censored by the presiding judge and promised reformation. Lucy's sentence received a mixed response in the press. Some articles highlighted the compelling grounds for provocation presented in Strong's defence, while other reports expressed consternation at the leniency of Lucy's sentence. Headlines such as 'A Mother's Crime Condoned' and 'Unhappy Mother. Leniently Dealt with for Manslaughter of Children' reflect cultural tensions between increasing intolerance towards parental violence against children and sympathy for abused and neglected wives.

The Court's refusal to extend clemency to Ada Chard Williams further demonstrates the centrality of gender to concepts of criminal culpability. In 1900 twenty-four year old Ada Chard Williams was convicted of the murder of Selina Ellen Jones and became the last woman hanged at Newgate Prison. Ada Williams was one of five women tried for the murder of a child to whom they were biologically unrelated at the CCC between 1889 and 1913.[138] All four women tried in cases involving suspected baby-farmers were executed. Williams was the only woman to be tried on a joint indictment with her husband, William Chard Williams.[139]

Women charged with killing other people's children were far more likely to be convicted on a capital indictment and executed. These women had no recourse to the most successful defences to child homicide that drew upon quasi bio-medical

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[138] Sarah Hannah Calendar and Elizabeth Jane Frost were indicted for the murder of children they were biologically related to, but not as mothers. Mary Eleanor Pearcey was convicted of murdering her lover's wife and his daughter.

[139] Baby-farmers Annie Walters and Amelia Sach were jointly tried and convicted of murder in 1903.

explanations of the 'unhinging' effects of reproduction on women's mental state. Nor could these women position themselves as hapless victims of male seduction and abandonment or attribute their offences to the provocations of cruel husband. The actions of women who wilfully killed children purely for economic gain were perceived as all the more perverse and threatening because these women subverted the assumption that women perpetrated crimes under the coercion of active male agents.

Perceptions of William Williams' lesser culpability for the murder of Selina Jones were based on constructions of his wife as more violent and impulsive than her meek and diminutive husband.[140] Selina Jones was three years old when her mother responded to an advertisement placed by Ada's husband offering to adopt a healthy baby for a minimal sum. Despite promising 'every care and comfort' would be provided, neighbours at testified at Ada's trial to seeing her beat, abuse and neglect the child. William was seen at home every day during the time Selina was in the Williams' care. The Court heard that on one occasion a neighbour

> Heard Mr Williams say to Mrs Williams, "Don't do that," and Mrs Williams said, "You mind your own damned business, or I will serve you the same" – Mrs Williams came out into the garden, and told me that Lily[141] had dirtied the floor, and she had beaten her with a stick for doing so, and left her lying in it, and Mr Williams had taken the child up to the bath-room, and changed its linen and bathed it, and that he had taken the stick from her.[142]

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[140] Ballinger draws similar conclusions in her discussion of the Williams' case, arguing that the extent to which Ada subverted ideals of Victorian womanhood overshadowed concerns over her husband's involvement in Selena's murder. See Anette Ballinger, *Dead Woman Walking: Executed Women in England and Wales, 1900-1955* (Dartmouth: Ashgate, 2000), 66-81.

[141] The Williams' told neighbours Selina's name was Lily.

[142] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 26 June 2015), February 1900, trial of William Chard Williams and Ada Chard Williams (t190000212-185), accessed 7th April 7, 2016.

The neighbour heard the child 'crying continually' until the 26th of September, when she observed to Ada Williams that Selina was 'unusually quiet'.[143] Ada told the witness that Selina's mother had taken her home and it was 'a damn good job it has gone; now I feel in heaven'.[144] The following morning a waterman saw 'a brown paper parcel in the water tied up with string' and drawing it closer 'saw a child's foot sticking out of the parcel'.[145] Police investigations revealed the body was that of Selina Jones; beaten then strangled to death, her body contorted and bound with blind cord before being thrown into the Thames.

While evading arrest, Ada wrote to Scotland Yard to exonerate her husband from any responsibility for the victim's death or for the baby-farming operation conducted in his presence. According to Ada, her husband was

> not to blame in any way whatever, he has always looked upon the whole matter with the greatest abhorrence, but only gave way to me because he was, through illness, out of employment; he never, however, once touched any of the money I made by these means.[146]

However, Home Office correspondence suggests they had little doubt William Chard Williams 'took his far share in baby-farming transactions, calling for letters, assisted in the hiring of room for night in Southerton Road, Hammersmith'.[147] There was some speculation that William may have composed the exculpatory letter himself.[148]

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[143] Ibid.

[144] *Old Bailey Proceedings Online*, February 1900, trial of William Chard Williams and Ada Chard Williams.

[145] Ibid.

[146] Ibid.

[147] 'CM', 4th March, 1900, Home Office Memorandum, HO 144/280/A61654, TNA.

[148] Ibid.

A Home Office Memorandum acknowledged that aside from witness testimony recounting Ada's cruel treatment of the victim, there was

> nothing to show that the woman committed the murder rather than her husband except the letter written by her to the Police – and it is question [sic] whether this was or was not written under his influence or coercion. From what H.O has heard from outside courses [sic] (Governor of Prison & c.), it would appear that the woman is hot-tempered, violent and hysterical; the man meek and small, and so the probabilities are in favour of the murder having been committed by the woman, while the tying up knots & c. were probably done by the man. But it can be fairly said that it is more than a probability that this is the true explanation…[149]

The official (just four days prior to Ada's execution) questioned whether it would be

> safe to hang the woman when we are absolutely in the dark as to whether it was her hand that actually committed the murder, and when possibly at the last minute the husband might come forward and say "I did it", and it would be impossible to prove he was not speaking the truth.[150]

William did write to the State Secretary to 'humbly and solemnly appeal to [Sir Matthew White Ridley's] well known clemency', but no confession regarding his role in the sordid affair was forthcoming.[151] He alleged that Ada was innocent of murder and had become embroiled in the 'trafficking of children … through extreme poverty'.[152] It was not bad character, but 'her youth and her inexperience [that] brought her into this fatal position'.[153] However by this stage the Williams had been linked to the deaths of a number of children put out to care; neither Ada's alleged poverty nor her youthful inexperience was likely to exculpate her alleged crimes.

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[149] 'CM', 4th March, 1900, Home Office Memorandum, HO 144/280/A61654, TNA.

[150] Ibid.

[151] William Chard Williams, 4th, March, 1900, letter to Home Secretary Sir M. W Ridley, HO 144/280/A61654, TNA.

[152] Ibid.

[153] Ibid.

Sir Kenhelm Digby addressed questions of the legal implications of William's presence and possible participation as an accessory after the fact with reference to the legal presumption of a husband's authority over his wife. Digby observed that

> In some cases of criminal acts committed by married women the mere fact of the presence of the husband at the time of the commission of a crime of his wife is regarded as prima facie evidence that the crime was considered under his coercion, and unless this is disproved by affirmative evidence amounts to a defence in point of law.[154]

However, Digby conceded that treason and murder were exceptions to the general rule laid down in common law and he was unaware of 'any case in which the presence of the husband has been held to be a defence in the case of murder committed by the wife'.[155] He concluded that the 'presumption arising from the presence and authority of the husband ought to weigh in favour of the exercise of the prerogative of mercy' in cases in which murder had been shown to be the joint act of husband and wife. Digby further urged officials to consider the strong evidence that William had disposed of Jones's body and those of some twenty-five other dead children whose bodies were found tied in a remarkably similar fashion.

Reading through all the correspondence over the Williams' case in the Home Office files, it appears that the legal department could see the possibility of merciful consideration given the presence of Ada's husband and likely participation as an accessory after the fact. However, it was repeatedly stated that such grounds for mercy could not be applied in this case because William was 'weak' and his wife 'violent and

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[154] Sir K. Digby, 4th March, 1900, report to Home Office, HO 144/280/A61654, TNA. Sir K. Digby was a respected lawyer and served as Permanent Under-Secretary of State at the Home Office from 1895 to 1903.

[155] Ibid.

defiant'.[156] The presence of the husband could only be used as a mitigating factor in the wife's defence if the husband and wife conformed to conventional gender roles.

Ada Chard Williams was found guilty of Selena Jones murder and hanged at Newgate Prison on the 6th of March, 1900. Newspapers observed Ada had maintained a 'callous' demeanour throughout proceedings against her and 'showed no signs of fear' as she walked unassisted to the scaffold.[157] One month later William Chard Williams was convicted on fraud charges unrelated to Selena Jones' death and was sentenced to 20 months hard labour.[158]

Conclusions

Explanations of maternal filicide in English courts at the turn of the twentieth-century drew largely upon socio-economic explanations for female criminality. The Court engaged with cultural understandings of working-class men's fiscal obligations and responsibilities to their wives and their legitimate and illegitimate children to determine grounds for mitigation. Male unemployment and accusations of men's unwillingness to work featured heavily in women's accounts of the circumstances that drove them to kill their children. Allusions to men's improvidence were interwoven with allegations of husbands' ill-treatment of their wives and refusal to accept paternal obligations and responsibilities. Men's refusal to accept paternity of their children exposed women to loss of reputation, loss of employment and sole responsibility for

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[156] 'CM', 4th March, 1900, Home Office Memorandum, HO 144/280/A61654.

[157] See, for example, 'Execution at Newgate', *Nottingham Evening Post*, 6th March, 1900, accessed 15th August, 2014, British Newspaper Archives.

[158] During his wife's detainment William ran a scam whereby he would receive furniture under false pretences, pawn the unpaid goods and pocket the money.

illegitimate children. Married women whose husbands were unable or unwilling to provide for their children were forced to shoulder the burden of maintaining legitimate children alone or impose upon the often strained financial resources of their immediate family. Inevitably women who could not maintain themselves or their children alone required state relief.

Women who killed their children after being deserted by their husbands or leaving an abusive spouse focussed gendered cultural anxieties on the absence of fathers from the family unit. The correlation between family breakdown and child homicide was driven by concerns about Victorian economic structures and sexual mores that further marginalised poor single women who bore full responsibility for the maintenance of their children.

While women who killed their children were considered criminals in the sense that they had committed crimes against the person, their crimes were most often mitigated by the deeply held belief that their criminality was predicated on the conduct of an active male agent. The tendency to conceptualise women's criminal culpability as an effect of male provocation reflects contemporary understandings of gender that naturalised women's subordination to men.

Chapter Two

'The Children of the Lost'[159]

Criminal Trials of Fatal Paternal Negligence

Over 40 per cent of the 118 cases of male-perpetrated child homicide cases tried at the CCC between 1889 and 1913 involved men charged with paternal negligence. The nine cases analysed in this chapter are representative of those child homicide cases involving allegations of paternal negligence. Through these cases I examine the tensions produced by variable interpretations of parental negligence in the broader community and the Court. Cultural anxiety over child neglect amongst England's urban poor generated heated and sustained debate in the press and parliament over the difference between 'wilful' negligence and negligence based on parental ignorance and/or poverty. At the same time, disputes between the accused parents and neighbours who reported alleged parental neglect to the NSPCC show that concepts of paternal negligence amongst London's poor were as hotly debated by the working-classes themselves.

This chapter examines how contested interpretations of paternal negligence played out in witness testimony and juridical rulings. I analyse how paternal negligence was interpreted as the result of wilful ignorance and male drunkenness. Moreover, I consider how women were implicated in representations of paternal negligence through discussions of their paid employment and how 'wifely deference' could mitigate women's culpability for parental negligence. In line with my methodology, this chapter focuses on cases of fatal child neglect that were tried on a felony indictment for murder

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[159] General William Booth, *In Darkest England and the Way Out* (Charles Knight and Co.: London, 1890/1970).

or manslaughter.[160] Wilson's study of male-perpetrated child homicide suggests a higher proportion of men received harsher sentences than women on joint indictments for homicidal child negligence than Grey and Arnot found in their respective studies focussed on maternal infanticide.[161] Such contradictory findings concerning the relative juridical treatment of men and women charged with fatally neglecting a child can be attributed largely to differing methodological approaches and variations in the scope of these studies.[162]

Many cases of alleged paternal negligence resulting in the death of a child were dealt with as misdemeanour offences. Often children died while their fathers awaited trial for endangering their lives through neglect. William George Day, for example, was charged at the North London Police Court with neglecting his three-year-old daughter, Jessie, in 1891. Jessie died while her father awaited trial, but the prosecution proceeded on the charge of neglect rather than upgrade the charge to manslaughter.[163] William was allegedly a drunkard who left his daughter without food or drink for long periods. His wife died when Jessie was ten-months-old and William left her in the care of her older siblings during his shifts as a nightwatchman and while he frequented neighbouring

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[160] I do however include cases that were tried as both felony and misdemeanour offences, resulting in a conviction on a secondary charge of neglect.

[161] Wilson, 'Mad, Sad, or Bad?': 268-274; Grey, 'Discourses of Infanticide': 262-315; Arnot, 'Gender in Focus': 201-244.

[162] Despite disagreement between these studies over the proportion of men who received harsher sentences than their female co-accused on indictments for fatal child neglect, Wilson, Grey and Arnot all confirm a strong correlation between gender roles and the attribution of criminal culpability in these cases and that women were attributed greater culpability when their male co-accused were believed to have fulfilled obligations of provision.

[163] A clause regarding subsequent charges in the event a child dies as a result of neglect for which parents have already been indicted was inserted in the 1894 *Children Act.* The clause made clear that parents already charged with neglecting a child could be charged with manslaughter if that child subsequently died as a result of that neglect as the death constituted a new fact of the case.

public bars.[164] An older daughter, who kept house for her father, alleged that '[w]hen father got drunk he used to spend his money, and then there was nothing for the child'.[165] William countered with a claim that 'I have always given my daughter money to lay out, but she spent it feeding herself'.[166] Evidence that William had insured his daughter's life for £3 was presented as motivation for systematic and deliberate neglect. William was duly convicted and received a relatively harsh sentence of eight months hard labour. William Day's case indicates little substantive difference between paternal negligence tried as felony or as misdemeanour offences. The extent of the neglect described in the Day case was comparable to that in manslaughter cases and William's reputation as a drunkard certainly did not position him as a more sympathetic defendant. William received a much harsher sentence than all but one of the four fathers convicted of manslaughter on the basis of paternal negligence in this study.[167]

Fathers charged with child neglect in this period were specifically tried under the *Prevention of Cruelty to, and Protection of, Children Act* of 1889, *Prevention of Cruelty to Children Act* of 1894, the *Children's Act* of 1908 and more generally, *Offences Against the*

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[164] When William learnt at the trial that his daughter had subsequently died as a result of starvation, he 'fell down in a faint' and was 'carried out of court unconscious' ('Scene in a Police-Court', *Manchester Courier and Lancashire General Advertiser*, 5th September, 1891, accessed 15th March, 2015, British Newspaper Archives). The *York Herald* questioned whether his dramatic response was driven by 'fear or regret' ('Was it Fear or Regret?', *York Herald*, 1st September, 1891, accessed 15th March, 2015, British Newspaper Archives).

[165] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 25 September 2015), September 1891, trial of William George Day (t18910914-713).

[166] Ibid.

[167] James Cook, a member of the Peculiar People, was sentenced to nine months hard labour for the manslaughter of his daughter. Cook's case was considered particularly serious as this was not the first of Cook's children to die after medical intervention. Moreover Cook and his wife had been previously convicted for manslaughter eight years earlier for refusing medical aid to their children and received a relatively light sentence.

Person Act of 1861. The 1894 *Prevention of Cruelty to Children Act* defined the scope of criminal child negligence as

> …any person over sixteen years of age who, having the custody[168], charge or care of a child under the age of sixteen years, wilfully assaults, ill-treats, neglects, abandons or exposes, such child, or causes or procures such child to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause such child unnecessary suffering, or injury to its health.[169]

The Act reflected common cultural expectations about gender and parental responsibility. The expectation that men should be primary economic providers was encoded in the Act and influenced how a mother's culpability was determined. According to the Act

> A person who undertakes the duty of supplying an infant with food and clothing and is provided by the father with the means of doing so, is guilty of murder if he wilfully neglects so to provide it, and in consequence of such neglect the child dies[170]; and where such father is conscious that the food is withheld, and does not interfere, he is guilty of manslaughter.[171]

A woman's criminal culpability for the neglect of her children hinged upon the father's ability and willingness to provide for the family. However there was clearly cultural awareness of personal and social barriers to men's ability to fulfil this role and concerns over the effects of male unemployment and low wages on family dynamics and child welfare.

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[168] *Prima Facie*, the father is entitled to custody of his children unless he is considered by the courts unfit to do so, in which case guardianship would be granted to the mother.

[169] Sir William Clarke, *The Law Relating to Children. A Short Treatise on the Personal Status of Children, and the Statutes that Have Been Enacted for their Protection, including the Complete Text of the Prevention of Cruelty to Children Act, 1894: with Notes and Forms,* (London: Stevens and Sons, 1894), accessed 23rd September, 2015, Making of Modern Law Books, Gale. 2015. Gale, Cengage Learning.

[170] The use of a masculine pronoun belies the fact that in all but the most exceptional of domestic arrangements, mothers were responsible for supplying children with food and clothing.

[171] Clarke, *The Law Relating to Children,* 29.

Contemporary commentators on the condition of London's poor at the turn of the twentieth-century repeatedly identified men's underemployment and unemployment as a primary cause of poverty. The Salvation Army's General William Booth contemplated the

> pathetic figure … of the strong, able worker crying plaintively in the midst of our palaces and churches, not for charity, but for working, asking only to be allowed the privilege of perpetual hard labour, that thereby he may earn wherewith to fill his empty belly and silence the cry of his children for food. Crying for it and not getting it, seeking for labour as lost treasure and finding it not, until at last all spirit and vigour worn out in the weary quest, the once willing worker becomes a broken-down drudge, sodden with wretchedness and despairing of all help in this world or in that which is to come.[172]

The social reformer Charles Booth observed the precariousness of an individual's position within London's working classes was

> ever present as a danger… For the wife and family it will depend on the health, or habits, or character of the man. He drinks or he falls ill; he loses his job; some other man takes his place. His employment becomes irregular and he and they fall into class C, happy if they stop there and do not drop as low as B. Or it may be the woman who drags her family down... What chance for a man to maintain respectability and hold up his head among his neighbours if he has a drunken wife at home, who sells the furniture and pawns his clothes? What possibility of being beforehand and prepared to meet the waves of fortune? Or it may be that trade shrinks, so that for a while one man in ten or perhaps one in seven is not wanted. Some must be thrown out of work. Thus we see that the "common lot of humanity," even though not much is amiss in itself, is cursed by insecurity against which it is not easy for any prudence to guard.[173]

Charles Booth highlighted that working-class masculinity was defined by a man's ability to work as much as it was by his willingness to work. The majority of London's working-class men depended on physical attributes of strength, dexterity and speed to perform jobs involving skilled and semi-skilled manual labour. Unskilled men, those who had not

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[172] Booth, *In Darkest England and the Way Out*, 32.

[173] Charles Booth, *Life and Labour of the People in London. First Series: Poverty. I: East, Central and South London,* revised ed., (London: MacMillan and Company, 1889/1902), 161.

learnt a trade, depended even more on their physical attributes to gain and retain employment. For these men, injury or illness could easily precipitate family descent into abject poverty and men's corresponding loss of social status.

The loss of social status and respect that accompanied unemployment was compounded when men turned to the parish for assistance when they could no longer provide food, shelter or medical care for their family. East Londoner Emmie Durham described the humiliation experienced by her irregularly employed father when he applied for medical relief for his sick daughter:

> And my father went over Bancroft Road, Board of Guardians over there, he went over there for the doctor. And it was like going before a judge and jury he said for a doctor. They asked him all the ins and outs, so anyway he got the doctor in the finish and the Relieving Officer says to my father, "Next time you come over here put your new suit on." My father said, "If I had a new suit," he said, "I'd pawn it," he said, "and I'd pay for a doctor for my child, I wouldn't come to the likes of you".[174]

That some poor Londoners gambled their children's wellbeing to avoid the shame and degradation imposed upon recipients is evident from the prosecution of parents for failing to apply for parochial relief. Of course, intrusions into family affairs and the disrepute attached to allegations of neglect were intensified in the event that a child died without application made for charitable relief. Those men who refused to submit to the indignity of charity faced the greater ignominy of criminal trials when their children died from starvation.

Men's resistance to investigations by philanthropic child-saving agencies had more pragmatic basis than simply conserving paternal authority and masculine pride. Charles Stewart Russell defended his refusal to co-operate with the NSPCC investigation into his

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[174] Paul Thompson, *The Edwardians*, 163.

son's death because he had already lost business due to the 'disgrace' and feared to lose more as a result of the investigation.[175] Criminal proceedings could certainly negatively impact upon men's employment. Despite Justice Jelf expressing a desire to punish Antony Greener for neglecting his daughter without compromising his employment, a police officer stated that Antony's employers 'did not intend to reinstate him'.[176]

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[175] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 14 October 2015), February 1893, trial of Charles Stewart Russell Elizabeth Hannah Russell, (t18930206-271).

[176] 'Poor Little Consumptive. A Girl's Life and Death', *London Daily News*, 31st October, 1902, accessed 18th November, 2015, British Newspaper Archives.

The Implications of Class and Gender in Interpretations of Child Neglect.

Many cases involving neglect at the CCC during this period were prosecuted on behalf of the NSPCC.[177] Parish officers, philanthropic agents and NSPCC officers served as key witnesses in criminal proceedings against men accused of paternal negligence. Neighbours and landlords regularly appeared as witnesses for the prosecution. They were uniquely positioned to provide commentary upon men's reputation in the community, their domestic arrangements and interactions with their children in the 'privacy' of the family home. Privacy, as evidenced by the detailed knowledge neighbours often had of each other's domestic affairs, was unlikely in the cramped multi-tenanted dwellings commonly inhabited by London's working classes.

A number of neighbours testified at coroner's inquests and criminal trials to tipping off NSPCC officers to child cruelty. The willingness of London's poor to engage the services of the NSPCC suggested by such testimony resonates with Frost's finding that

> parents resented the interference, but their neighbours often gave the NSPCC tips about cruel treatment. As with charity, the poor used middle-class institutions as one way to cope with problem families.[178]

Jane Dadson, for example, testified in the criminal trial of her neighbours, Antony Greener and Hannah Eleanor Frost for the neglect of Antony's six year old daughter, Edith.[179] Jane had written an anonymous letter to the NSPCC that 'said there was a little child shut up in an attic like a little walking corpse'.[180] Jane wrote another letter to the

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[177] In 1889 the London Society for the Prevention of Cruelty to Children nationalised and was renamed The National Society for the Prevention of Cruelty for Children (NSPCC).

[178] Ginger Frost, *Victorian Childhoods*, 153.

[179] The original indictment for manslaughter was not pursued at trial.

[180] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 14 October 2015), October 1902, trial of Antony Greener; Eleanor Hannah Frost (t19021020-776).

NSPCC after the child died. Lizzie Christina Wright lived on the same street and had also observed Edith's emaciated condition. Although she had offered Edith food, she 'made no complaints to the authorities'. [181] However, Lizzie did provide information against her neighbours when approached by NSPCC officer Charles Ross, who launched an investigation based on allegations made in Jane's letters.

Antony Greener and Eleanor Frost were indicted for murder on a coroner's warrant, but charges were reduced to misdemeanour neglect. Mr Hutton and Mr Leycester, who prosecuted the case on behalf of the NSPCC, alleged Edith's death resulted from inadequate hygiene, poor nutrition and a lack of medical care. Witnesses testified to Eleanor's mistreatment and neglect of her step-daughter. However, allegations of neglect against Antony were more tenuous.[182] Jane Dadson provided damning evidence against Eleanor, but conceded she had 'known Greener always as a steady man—he was employed at a brewery—he went out at 6 a.m. and returned about eight or nine o'clock'.[183] Lizzie Wright alleged she had seen Eleanor take food from Edith and beat her, but she 'did not mention it to Greener; I never spoke to him in my life'. Inspector Ross was somewhat more forthright in his criticism of Antony's failure to intervene in his child's best interests. Ross deposed when he requested to see Edith following news of her death Antony

> showed her to me—the bed and bedding where she slept were filthily dirty and covered with vermin, and mice were on the sheets—I called his attention to that, and he said, "I know the house is buggy".[184]

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[181] *Old Bailey Proceedings Online,* October 1902, Antony Greener; Eleanor Hannah Frost (t19021020-776).

[182] Frost has pointed up Eleanor's status as Edith's step-mother in explanation of the lack of sympathy for Eleanor as a recently delivered mother of nine living in abject poverty. See Frost, 'Motherhood on Trial', 149.

[183] Ibid.

[184] Ibid.

When Ross questioned why he had not called for a doctor, Greener alleged

> the child has been consumptive from birth; the mother died from consumption; I did not call in a doctor because I knew it was no use; I took the child out of the Norwood school sixteen or seventeen months ago, and she was fed the same as the other children ….she was consumptive, and all the children are so more or less.[185]

Defence counsel did not deny that Antony and Eleanor's negligence of their parental responsibilities contributed to Edith's death. However they argued that this neglect was not wilful, but was an effect of their ignorance, poverty and personal misfortune. Some credence was lent to this defence by the attending doctor who conceded under cross-examination that 'poor people in their position are very ignorant of disease'; such ignorance could have led Antony and Eleanor to conclude that Edith's condition was beyond medical help.[186] However, the doctor maintained that Edith's emaciation and illness was largely due to 'dirt, and irregular feeding and unkindness' and her need for medical attention 'would be apparent to the father and mother and everybody'.[187]

Appearing for the defence, Mr Hughes pinned hopes of Antony and Eleanor's acquittal on legal precedence mitigating culpability for neglect on grounds of intent. Mr Hughes referred to distinctions in common law between 'neglect' and 'wilful neglect' drawn in the case of Peculiar People member Thomas George Senior.[188] Justice Willis instructed the jury in Senior's 1898 criminal trial for manslaughter that

> there could be no doubt that what the prisoner did in withholding medical aid and medicine was deliberately, and, therefore, wilfully done. It was for them to say whether such conduct, though done from a motive which is not

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[185] *Old Bailey Proceedings Online,* October 1902, Antony Greener; Eleanor Hannah Frost (t19021020-776).

[186] Ibid.

[187] Ibid.

[188] *R v Senior*, 1 QBD (1899), 290. Thomas Senior's case is discussed in greater detail later in this chapter.

> impugned, amounted to neglect of the child so as seriously to injure its health. Neglect, he said, is not a word of art. It is an ordinary word of the English language, and he could give them no further direction as to what its meaning is in the statute. In order to come to the conclusion that there had been neglect they must be of opinion that medical aid and medicine were reasonably necessary for the child's preservation, and within the prisoner's means.[189]

Justice Jelf echoed Justice Willis' sentiments in his ruling that 'wilfulness' was 'itself a necessary ingredient in 'negligence' and found both parents guilty of manslaughter.[190] Eleanor received four months' hard labour for neglecting to provide adequate care and nourishment, while Antony served one month hard labour for wilful ignorance of Edith's neglect and for failing to provide his daughter adequate medical attention. Antony's sentence demonstrates the Court's frustration with men's wilful ignorance of the neglect of their children and reflects cultural expectations that paternal responsibility for children's welfare extended beyond economic provision.

Tensions over the fine line between 'wilful neglect', parental ignorance and the harsh realities of raising children for London's poor were not lost upon judges or juries in cases involving allegations of paternal negligence. Behlmer and Frost observe that interpretations of ill-treatment and of wilful neglect not only varied between the society and its clients but amongst NSPCC branches and between the NSCC and the courts. [191] Frost observed that 'many of the inspectors were obsessed with dirt and vermin [and] were likely to see dirt, vermin, or running sores as neglect, and they overemphasized this in some of their cases'.[192] Frost's conclusion echoes the sentiments of Justice

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[189] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 14 October 2015), November 1898, trial of Thomas George Senior (t18981121-48).

[190] *Old Bailey Proceedings Online*, October 1902, Antony Greener and Eleanor Hannah Frost, (t19021020-776).

[191] George Behlmer, *Child Abuse and Moral Reform*; Frost, *Victorian Childhoods*.

[192] Frost, *Victorian Childhoods,* 153.

Bigham who, in summing up one case of culpable neglect, suggested that jury regard the evidence presented by the NSPCC 'with very great care, with the object of seeing whether or not it was exaggerated'.[193] Moreover, Bigham pointedly observed that NSPCC officers were 'always here to support the prosecution'.[194] A month earlier Bigham had directed the jury to acquit another case prosecuted by the NSPCC on the basis that 'the evidence was of a very flimsy nature'.[195]

Juridical Responses to Religion-Based Child Neglect.

Mothers charged on an individual indictment for the manslaughter of their children due to negligence in the CCC had an almost 50 per cent chance of being acquitted of all charges or convicted of a lesser offence.[196] Men brought up on individual indictments for the manslaughter of their children due to negligence were statistically more likely to

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[193] 'A Child's Death. Parents Acquitted', *Sheffield Evening Telegraph,* 27th November, 1902, accessed 19th July, 2015, British Newspaper Archives.

[194] 'A Judge and the N.S.P.C.C. Remarkable Comments,' *Framlingham Weekly News*, 29th November, 1902 accessed 19th July, 2015, British Newspaper Archives. Treasury regularly deferred cases involving culpable neglect of children to the NSPCC legal department for prosecution. Harlow and Rawlings outline the strong prosecutory role taken by the NSPCC since its inception in *Pressure through Law* (Routledge: London and New York, 1992): 25–29.

[195] 'An Acquittal,' *London Daily News*, 31st October, 1902, accessed 19th July, 2015, British Newspaper Archives. The case referred to was that of Edward John Hewitt.

[196] Only two mothers were convicted on an individual indictment for the manslaughter of her child on the basis of wilful negligence not attributed to intent to conceal the child's birth. Edith Kersley was indicted for the murder of her two year old daughter, but convicted on a lesser charge of manslaughter. A single mother to three children, Edith confessed that she carried her daughter to a field and left her in a hole in a hedge because she was unable to stop her crying. She told the Court she had not intended for her daughter to die in the field from exposure, but had thought someone would find her there. The absence of the father to maintain any of her three children and her reputation as a hard-working woman served to mitigate the severity of her offence and the jury gave a strong recommendation to mercy. Justice Darling sentenced Edith to 15 months in the second division. Eliza Hudson was sentenced to seven years imprisonment for the manslaughter of her two-year-old son after the Court heard evidence of Eliza's horrifying abuse and systematic neglect of her son. The Court was unmoved by her attempt to frame her abusive behaviour as a consequence of a failed marriage to a bad husband, particularly as her children were maintained by another man with whom she had taken up lodgings.

be convicted of manslaughter (44 per cent) than to be acquitted of all charges (22 per cent) or convicted of a lesser offence (33 per cent). The increased likelihood that a father bought up on an individual indictment for child neglect would be convicted of manslaughter in comparison to a mother similarly charged can be partly attributed to the nature of the offences within the sample. The four fathers convicted of manslaughter in my sample were all members of the Peculiar People, an evangelistic religious sect whose membership was largely drawn from London's working classes. While these men were socially and economically disadvantaged, the fact that their negligence was religiously motivated precluded exculpation on socio-economic grounds. All four men confessed to deliberately denying their dying children medical assistance without expressing remorse, leaving the Court little choice but to convict. However, the men's reputation as otherwise loving, attentive and respectable fathers served to mitigate the severity of their sentences.

Peculiar People drew upon faith healing, rather than medical intervention to relieve or cure illness and disease.[197] All four men were charged on a coroner's warrant following inquest findings that their children's deaths could have been prevented if medical assistance had been provided. While the culpability of mothers who failed to render medical assistance to their dying children was occasionally tried on joint indictments, only fathers were tried on individual indictments for religiously-based medical neglect. The greater culpability of fathers for medical negligence was underpinned by cultural expectations of men's paternal authority over wife and children and the gendering of parental responsibility.

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[197] For more detailed accounts of the Peculiar People in London see Mark Sorrell, *The Peculiar People* (Exeter: Paternoster Press, 1979) and Shawn Francis Peters, *When Prayer Fails: Faith Healing, Children, and the Law* (Oxford: Oxford University Press, 2008).

The legal principle of coverture held that a woman's rights and obligations were subsumed by those of her husband upon marriage. Coverture does not appear to have been explicitly applied as an exculpatory defence in cases of child neglect examined in this study. However, women's criminal responsibility was mitigated by the belief otherwise respectable women who neglected their maternal duties did so in accordance with their husbands' wishes. Alfred Clark, for example, testified at his trial for the manslaughter of his son that his wife acted 'with his sanction' when she called an Elder of the Peculiar People to lay hands upon her son, rather than a medical doctor.[198] Both parents were found guilty of manslaughter, but Alfred Clark was sentenced to a term of imprisonment twice as long as his wife. Frederick Norman maintained that he and his wife were 'quite as one as to [their] treatment of [their] child', who died pneumonia without any medical aide.[199] Both parents were found not guilty of manslaughter, but convicted on a lesser charge of neglect. Despite Frederick and Eleanor accepting joint responsibility for their decision not to call in medical aid or administer medicine, Frederick was sentenced to a greater term of imprisonment.

Thomas George Senior was brought up on manslaughter charges in 1897 and 1898 for failing to render medical aid resulting in the deaths of James Senior and Tansley Senior. His wife was not implicated in the deaths of either child, although the Court heard that she shared her husband's religious beliefs. The press reported on a meeting of the Peculiar People in Chelmsford to discuss the grounds of an appeal addressed to the Home Secretary. The Peculiar People based their appeal against Thomas Senior's sentence of four months' hard labour on the foundations of late nineteenth-century

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[198] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 30 September 2015), April 1902, trial of Alfred Clark and Sarah Clark (t19020407-337).

[199] Ibid.

English masculinity – citizenship, character, sobriety and industriousness. Elder Heddle told the Court

> …. that Senior did not kill the child. It was well nourished and cared for… The elder also pointed out that Senior was a faithful husband, a sober citizen, and an industrious workman, bearing a good character.[200]

Courts were not unsympathetic to the Peculiar People's defence that these men were good fathers who did not abuse, ill-treat or neglect their children in any way except by rejecting medical aid. However, judges repeatedly mandated that men's religious freedoms must be curtailed to enact cultural expectations of paternal duties as encoded within the 'laws of the land'.

While trials of parents jointly indicted for religiously motivated child neglect routinely resulted in split decisions imposing relatively harsher sentences for fathers, these cases were exceptions to the general rule. The majority of successful prosecutions of fatal neglect resulted in split decisions in which fathers were acquitted or received a lighter sentence than their wives. In these cases men's culpability was mitigated by evidence of good character and the extent to which paternal obligations to provide maintenance were met. However, close examination of depositions and press coverage of trials shows that fathers were regularly censured by the Court for their lack of paternal attentiveness and concern for their children. Court frustration with fathers who rejected parental responsibility beyond providing maintenance income suggests cultural expectations of fatherhood extended beyond financial provision. Commentators like General Booth expressed concern over the encroachment of long work hours on men's time with their family and questioned

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[200] 'The Peculiar People. The Recent Conviction of Senior – Meeting at Chelmsford,' *Essex Standard*, 7th January, 1899, accessed 29th January, 2015, British Newspaper Archives.

> what time have they for discharging the daily duties of parentage to their little ones? How can a man who is on his omnibus from fourteen to sixteen hours a day have time to be a father to his children in any sense of the word? He has hardly a chance to see them except when they are asleep…. In the country darkness restores the labouring father to his little ones. In the town gas and electric light enables the employer to rob the children of the whole of the father's waking hours, and in some cases he takes the mother's also. Under some of the conditions of modern industry, children are not so much born into a home as they are spawned into the world like fish, with the results which we see.
>
> The decline of natural affection follows inevitably from the subsituation [sic] of the fish relationship for that of the human. A father who never dandles his child on his knee cannot have a very keen sense of the responsibilities of paternity. In the rush and pressure of our competitive City life, thousands of men have not time to be fathers. Sires yes, fathers no.[201]

The view that late nineteenth-century working-class fathers were expected to be actively involved in their children's lives is further evidenced by the Court's censure of fathers who denied knowledge of child neglect occurring in their midst.

Court's Scepticism of Fathers' Claims to Ignorance in Defence of Child Neglect.

Juries repeatedly responded with open scepticism when men denied knowledge of neglect their children suffered prior to death despite sharing cramped family lodgings. However, the Court's incredulousness rarely extended beyond a strong expression of censure against the father. Men who based their defence around cultural expectations of a male breadwinner and female caregiver justified their ignorance as a result of long hours of employment.[202] John Brown, for example, argued that it was unreasonable to expect him to fulfil his duty to provide an income for his family and monitor his wife to ensure she tended to her motherly duties. Brown told the Court that although he had

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[201] Booth, *In Darkest London*, 64.

[202] Wilson and Frost have similarly noted that men's absence from the home for the purposes of employment usually offered protection from criminal culpability. See Wilson, 'Mad, Sad, or Bad?', 271 – 272; Frost, 'Motherhood on Trial', 152.

been out of work of late, when he was at work he was away all day, and pointed out that it was his wife who looked after the children. For his part he had bought food for the baby and ensured it had medical attention. Brown alleged his wife was a raging alcoholic and his wife averred she had never touched a drop of whisky until she was heart-broken by her husband's brutality. The coroner's jury charged them both with manslaughter.[203]

Lighterman George Reuben Price argued that he could not be held accountable for the death of his unnamed and unregistered three-month-old son due to starvation as he provided his wife ample money for household provisions. The Coroner, jury and medical witnesses expressed shock and disgust at the baby's skeletal condition. Witnesses characterised George's wife as a frequent drinker and pointed to the previous death of eight or nine of their eleven or twelve children (neither parent could remember exactly how many children they had) as evidence of her maternal negligence. Despite his wife's dubious mothering capabilities, George insisted 'I trusted my wife all these years, and though that she would look after it'.[204]

The heated exchange between George and jurors on the coroner's panel reflects the hostility directed at George for not intervening in his wife's mismanagement of the household as much as it was towards his wife.

> The Coroner: When did you first notice the child's emaciated condition?
> Witness: Not at all. I always considered it well cared for.
> A juror: This child could not have wasted away in a week nor yet in a month. Why didn't you call in a doctor?
> Witness: Am I to neglect my work?

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[203] The grand jury failed to find a true bill and the case was dismissed.

[204] 'Plaistow Starvation Case,' *Lloyd's Weekly Newspaper*, 8th September, 1895, accessed 7th April, 2016, British Newspaper Archives.

> The Juror: Your child's life is far more valuable than your work. [Hear, hear.][205]

The coroner's jury swiftly returned a unanimous verdict of manslaughter against both parents. George was charged at the committal hearing 'for causing the child to be so neglected as to cause it bodily harm and injury to its health and the female for causing its death and also neglecting it'.[206] The Mayor explained

> The case against you is not quite the same as that against your wife. But, as a father, you have got your responsibilities. You are committed to trial for neglecting the child.[207]

Although the coroner's jury found that George's failure to provide medical attention to his son constituted manslaughter, the jury at his criminal trial found George not guilty. Elizabeth was sentenced to four years penal servitude.

The Court's willingness to accept men's unlikely defence that they were ignorant of the gross negligence of children and putrid conditions within their own homes is consistent across this period. Several years after George's trial at the CCC, Thomas Brown was acquitted of culpable negligence in the same court. Thomas' thirteen-month-old daughter Florence died of starvation, accelerated by neglect and pneumonia. The prosecution, led by Mr Hutton on behalf of the NSPCC, argued that the child's mother kept her in a 'shockingly dirty and neglected condition' and failed to feed her

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[205] 'A Shocking Story. Verdict of Manslaughter at Plaistow. "Sheer Starvation",' *Chelmsford Chronicle.* 6th September, 1895, accessed 7th April, 2016, British Newspaper Archives.

[206] 'Plaistow Starvation Case,' *Lloyd's Weekly Newspaper*, 8th September, 1895, accessed 7th April, 2016, British Newspaper Archives.

[207] Ibid.

properly.[208] As for the child's father, Hutton left it 'for the jury to say how far he was responsible in this matter … he must have known the condition of the child'.[209]

The prosecution presented strong evidence of the neglected state of the Browns' children and home. Physician John Bate testified the Browns' home 'was very filthy. It nearly made me sick, and I had to go out of doors'.[210] Thomas Brown's sister testified that his wife was 'very dirty at times' and only the older children who could tend to their own hygiene were clean.[211] When she stayed with her brother, she washed, fed and medicated Florence and her condition improved. When the baby was left in his mother's care her condition deteriorated.

Thomas alleged he 'did not see anything specially [sic] wrong' with Florence before she died.[212] He could not confirm the prosecution's claim that the baby was left alone downstairs all night, but he did 'know it died in a cradle' as he 'generally saw it there'.[213] Thomas defended his alleged ignorance of the neglect by arguing that he worked from midnight to mid-afternoon to provide ample income for his wife to keep the house. The Court heard Thomas had complained to the NSPCC officer investigating his daughter's death,

> My wife always seemed upset. I have done my best …. I am not to blame for this. When I cleaned the cradle out about three weeks ago I advised my wife

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[208] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 07 April 2016), November 1902, trial of Thomas Brown; Alice Elizabeth Brown (t19021117-43).

[209] Ibid.

[210] *Old Bailey Proceedings Online*, November 1902, trial of Thomas Brown; Alice Elizabeth Brown (t19021117-43).

[211] Ibid.

[212] Ibid.

[213] Ibid.

> to take the child to the doctor; I said she would get us into trouble. There were maggots and dirt in the cradle.[214]

In his statement before the magistrate Thomas suggested his paternal authority was so undermined by 'bad women' that he could not be held accountable for the state of his household.

> I got Mrs Woods, my sister, to look after the child; my wife takes up the tongs and knife to me and says, 'Don't you interfere with my work'. They are all bad women. I am afraid to speak to her. I often have to do the washing myself. My wife used to sit in a melancholy state, with her face down and dirty, and little Alf used to run about naked. Five years ago I worked for Mr Harris. One day I came home from work, and my wife sold my home and left the child in the street.[215]

Defence counsel attributed Alice's neglectful mothering to mental illness. Thomas testified that his wife had been 'put away … because of her head' four times.[216] Character witnesses testified to Thomas' solid reputation as a hard-working and respectable man. Justice Bigham was unusually candid in his obvious support for the defence, and lent credence to Alice Brown's claim that she had done all she could for her daughter, by stating 'that the child was radically wrong'.[217]

The jury's decision to acquit the Browns of all charges further suggests the reluctance of the court to return a verdict that would punish the poor for circumstances beyond their control.[218] This was particularly true in cases involving respectable men of good

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[214] Ibid.

[215] *Old Bailey Proceedings Online*, November 1902, trial of Thomas Brown; Alice Elizabeth Brown (t19021117-43).

[216] Ibid.

[217] 'A Judge and the N.S.P.C.C. Remarkable Comments,' *Framlingham Weekly News*, 29th November, 1902, accessed 7th April, 2016, British Newspaper Archives.

[218] Justice Bigham's suggestion that the NSPCC may have exaggerated allegations of neglect discussed earlier (page 91) was made in Thomas and Alice Brown's trial. Justice Bigham's assessment of Florence's medical condition does not appear to refer to physical disability or known congenital disease as much as constitutional weakness. It was commonly acknowledged in late-Victorian and Edwardian London, and

character whose misfortunes could be attributed to external causes, rather than individual failings.

Men whose negligence was attributed to personal failings such as drunkenness were roundly criticised in the press and the court. Alcohol consumption amongst London's poor and the devastating effects of parental drunkenness on children's welfare was as topical amongst commentators as the alleged ignorance of London's poor on matters of child welfare. Historians have observed a cultural tendency towards greater criticism of maternal negligence, particularly when it was attributed to excessive drinking, than of drunken fathers who neglected their paternal duties.[219] Trials of child homicide involving charges of parental negligence affirm the negative associations between child mortality and parental intemperance. Men's alcohol consumption when unemployed and unable to provide basic food and housing for their

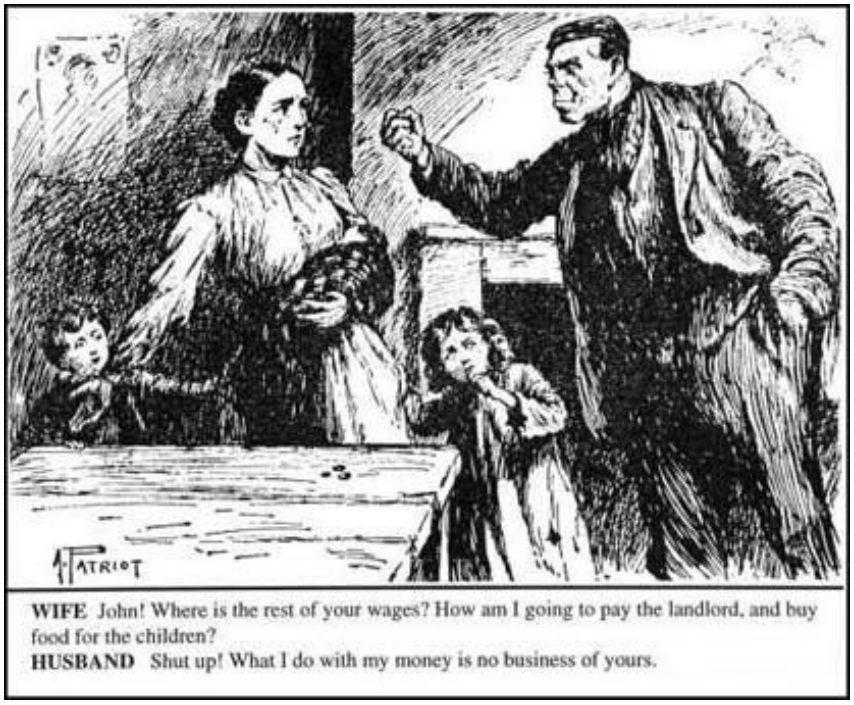

Figure 8. *Cartoon Depicting a Working-Class Father who has Spent Much of his Wage in the Pub. Image by 'A. Patriot', published by the Women's Freedom League in The Vote, February 1911.*

especially amongst London's poor, that many sickly babies 'just died' in spite of their parent's care and medical attendance to their needs.

[219] See, for example, Ross, *Love and Toil: Motherhood in Outcast London, 1870-1918* (New York: Oxford University Press, 1993); Behlmer, *Child Abuse and Moral Reform*; Frost, *Victorian Childhoods*.

children was a common theme in trials of child homicide involving paternal negligence. Characterisations of drunkard fathers who gambled or spent in drink the family income were common in the popular press and political propaganda. The cartoon in figure 3, for example, appeared in *The Vote* published by the Women's Freedom League in February of 1911. In this cartoon the father who has withheld much of his wage from his wife appears aggressively overbearing and brutish. His wife shields their cowering children from their father who appears indifferent to the effect of his actions upon his children.

The critical characterisations in the case of Frederick Miller reflects the strength of community opinion against men whose drunken habits were directly associated with fatal neglect of their children. The prosecution in the manslaughter case against Frederick and Margaret Miller alleged that both parents had given way to drunkenness and neglected their family, resulting in their one-year-old daughter's death. The Millers' neighbours, along with the Divisional Surgeon of Police and an NSPCC inspector, agreed that it would be plainly obvious to anyone living in the two rooms the family occupied that Dorothy was sick, hungry, filthy and in dire need of medical attention. However, Frederick Miller argued that his wife was fully culpable for their daughter's neglect as child care was her responsibility. Margaret Miller's culpability was mitigated by evidence that Frederick failed to provide Margaret with means to maintain the family and spent the little money he made at the pub.

The Millers' landlord, Elizabeth Smith, was particularly scathing in her characterisation of Frederick as an indigent, drunken, violent lout. Elizabeth claimed he did not work regularly and sometimes would stay in bed rather than go to work. She had 'seen him drunk on pay days; nearly every week—he never brought his money

home—the woman had to go to the bar to fetch it'.[220] Elizabeth gave money to Margaret on one occasion after Frederick had beaten her and refused her money to buy food for the children. According to Elizabeth she had confronted Frederick and threatened to take control of his finances as he appeared too ill-equipped and irresponsible to manage his paternal obligations himself. Elizabeth alleged she repeatedly warned Frederick

> If you earn money, as I have heard you do, more than you give to the *missus,* I shall go to the relieving officer and ask him to make you bring it home and give it to me for the children"—sometimes he has answered me, and sometimes he has simply laughed.[221]

The alleged confrontations between Elizabeth and Frederick over his ineptitudes as a father speak to the complex dynamics of everyday gender relations between men and women occupying different social positions within London's working classes. The significance of class distinctions between the rough and the respectable appear here as the basis upon which Elizabeth openly questioned Frederick's paternal authority. Elizabeth's sense of entitlement to interfere with Frederick's domestic affairs stemmed from her elevated status as a respectable woman and her superior financial position (or rather that of her husband).

Frederick's dismissive response to Elizabeth's threats is unsurprising given the difficulty for a woman to compel officials to intervene in her own husband's financial affairs, let alone in those of a vulnerable neighbourhood woman. However, the very fact that Elizabeth felt empowered enough to challenge Frederick in the first place highlights the fragility of working-class men's claims to domestic authority. Such claims were

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[220] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 07 April 2016), April 1901, trial of Frederick William Miller; Margaret Ann Miller (t19010422-356).

[221] *Old Bailey Proceedings Online,* April 1901, Frederick William Miller; Margaret Ann Miller (t19010422-356).

further undermined when their wives became the family's primary provider. For the thousands of London's casual labourers, daily uncertainty 'as to whether a job will last two or twenty-four hours' and dramatic alternations between periods of work and leisure were 'not favourable conditions to thrift, temperance, and good management'.[222] Many women took on laundry work or in home sweated labour to make ends meet in periods of male under- or unemployment. Charles Booth lamented that a good wife's

> straining, by miserably paid work, to meet the bare necessities of existence …can and frequently does … weakens the already disheartened energies of the husband, and with the inevitable neglect of children and home tends to drag the whole family down into the lower ranks of casuals.[223]

General William Booth agreed that 'the home is largely destroyed where the mother follows the father into the factory, and where the hours of labour are so long that they have no time to see their children'.[224]

Ambivalence towards poor women's employment is reflected in Thomas Wright's consternation about 'wife labour' despite recognising the importance of women's earnings to London's poor families. According to Wright,

> In civilised lands it is generally accounted a shameful thing for a man to live upon his wife's earnings, to allow – much more to force – her to work while he idles. In every grade of society, from the highest down to and including the poorly paid unskilled labourer class, such a man is held in contempt. It is true that in the latter class husband and wife have often both to work – to work for hire, that is; for that the woman should work as well as manage in the home department is of course understood. If people in this rank of life have a family – and, as a rule, they do have a family – some greater or lesser degree of wife labour will in many instances became an absolute condition of existence with the household, seeing that unless wife as well as husband works neither can the family at large eat. But while the situation upon this

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[222] Charles Booth, *Life and Labour of the People in London. First Series: Poverty. IV: The Trades of East London Connected with Poverty,* rev. ed. (London: MacMillan and Company. 1889/1902), 27.

[223] Booth, *Life and Labour of the People in London. The Trades of East London Connected with Poverty,* 27.

[224] Booth, *In Darkest England and the Way Out*, 64.

> point is accepted, it is lamented, and upon chivalrous as well as more material grounds….[225]

Juridical and social responses to the manslaughter case of Ernest Alfred and Ellen Brown reflect cultural concerns over the detrimental effects of maternal employment on the family unit.[226] Ernest Alfred Brown had been out of work all through the winter of 1909. Loath to enter the workhouse, but in desperate need of income to maintain herself, her husband and three-year-old and seven-month-old sons, Ellen Brown worked as a waitress in a city restaurant. After paying for transport from Walworth to London, rent and the children's crèche fees, Ellen was left with just over four shillings a week for household expenses. Three-year-old Alfred and seven-month-old William simply wasted away and died, starved and exhausted. Defence counsel argued that the parents were 'thoroughly respectable people, and it was clear that their neglect of the two children … was in consequence of an inability to support them, and repugnance to going into the workhouse'.[227]

The coroner's jury found that Walworth crèche shared responsibility for the children's wasted condition as the children had been in the crèche for the three months prior to their death. While the jury found no evidence of wilful neglect, the foreman added that they thought 'the mother might have been cleaner'.[228] The jury's censure of Ellen Brown stands in stark contrast to the lack of commentary upon the Browns' decision to use their limited resources to pay for childcare while Albert remained

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[225] The Riverside Visitor [Thomas Wright], *The Pinch of Poverty: Sufferings and Heroisms of the London Poor* (London: Ibister, 1892), 41 –42.

[226] Frost has similarly notes ambivalence towards working-class mothers who delegated their children's care to undertake paid work outside of the home. See Frost, 'Motherhood on Trial', 152).
[227] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 07 April 2016), April 1909, trial of Ernest Alfred Brown (t19090420-15).

[228] 'How the Poor Live. Ten pence a Week for a Family of Four. Inquest Revelations,' *Sheffield Evening Telegraph*, 16th March, 1909, accessed 7th April, 2016.

unemployed. This silence is not easily interpreted. It could be read as an example of the enforced artificiality of the sexual division of labour within many poor London households or as cultural awareness of the all-consuming nature of job-seeking for London's masses of under- and unemployed men. Most likely, the jury's lack of response to this allocation of the family's resources can be attributed to the expectation that Ernest would be occupied attempting to regain his position as the primary breadwinner. This expectation reinforced the underlying assumption of a natural order in which a father satisfied the family's economic needs and a mother maintained the family through care and nurture. However, the silence serves as mute recognition that while maternal employment deviated from the ideal sexual division of labour, it was a cultural norm amongst London's working classes.

Paternal Refusal of Parochial Relief.

In summing up the Brown case Mr Justice Jelf commented

> that in this country there was no reason why anyone should starve, as there were the parish and other charitable agencies which could be applied to. He thought, however, that in this case the neglect had arisen more from the prisoners' misfortune than from their fault, and he would release them on their own recognisances [of] £5 to come up for judgement if called upon.[229]

Conflicting ideas about parental rights and responsibilities could be a source of ambivalence and frustration when attempts to rescue children from the clutches of poverty were thwarted by fathers who asserted their parental prerogative. Charles Stewart Russell and his wife were bought up on charges of manslaughter following the death of their five-year-old son, Edgar Stewart Russell, who died of starvation allegedly

[229] *Old Bailey Proceedings Online*, April 1909, Ernest Alfred Brown, (t19090420-15).

as a result of his parents' refusal to accept welfare assistance. Charles was trained as a wood turner, but had not had any work 'since the other side of Christmas' and conceded his 'work fluctuated very much'.[230] The family of nine were evicted when they fell into arrears. The Russells' landlord, Charles Collison, allowed the children to shelter in his shed, but sent for the relieving officer when he noticed how malnourished and 'rather dickey' the youngest children appeared.[231] Charles Collison and Fanny Kitchener, the wife of the local postmaster who offered to assist the homeless family, became key witnesses in the NSPCC's prosecution of the Russells on a lesser charge of neglect.

Tensions between the Russells and Fanny Kitchener over their reluctance to accept charity or interventions that may result in the separation of their family and her child rescuing efforts were evident in court transcripts of the trial. Fanny told the court of her frustrated attempts to provide assistance for the children. She repeatedly advised the Russells to go to the workhouse and offered to buy groceries and pay for the children's medical care. On each occasion, however, the Russells refused. The defence maintained the child died of organic disease and presented the Russells' surviving children to support their parents' denial they had ever neglected their children. Charles insisted that he had no need for parochial relief as he had plenty of friends upon whom he could call upon for assistance. The local postmaster typically occupied a well-respected position in the middling ranks of Victorian London's working classes. Fanny's pointed criticisms of the conditions in which the Russells lived were suggestive of the cultural distance between individuals positioned at opposite ends of the spectrum of working-class experience.

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[230] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 28 July 2015), February 1893, trial of Charles Stewart Russell; Elizabeth Hannah Russell (t18930206-271).

[231] Ibid.

According to Fanny,

> I told her she ought to have advice for the little boy Edgar, and I asked if there was a nurse in the house, and if I should buy them something—the man said, "Oh, no, we have got plenty"—I took the little girl out, and bought some coals, meat, and medicated beef for Edgar—the male prisoner asked if I would have a glass of stout—I said, "Certainly not, your children want something"—the front room was tidy, but the back room was very untidy and dirty….. I saw some bread you were going to make into a pudding, which was not fit for a dog to eat.[232]

Poor mothers' ignorance of hygiene, particularly the importance of proper hygiene and nutrition in preventing and treating many childhood diseases, was commonly asserted in prosecutions of culpable parental neglect. While mothers were largely held responsible for their children's unhygienic living conditions and inadequate nutrition, witnesses were highly critical of fathers' apathetic and wilful ignorance of the neglected state of their homes and children.

The courts often had difficulty in distinguishing between the wilful ignorance of malicious parents and the widespread ignorance of hygiene and nutrition associated with London's poor by contemporary commentators. While NSPCC Inspectors often attributed the presence of vermin in their clients homes to a 'want of cleanliness', those accused argued dirt and vermin were inevitable features of London's slum-housing.[233] While NSPCC and medical witnesses' testimony was highly critical of parental failure to attend to children's hygiene, nutrition and medical care, they generally conceded that such parental neglect stemmed from ignorance rather than malice. NSPCC Officer Ross, for example, acknowledged 'in some cases I expect to find the poor, ignorant about

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[232] *Old Bailey Proceedings Online*, February 1893, Charles Steward Russell; Elizabeth Hannah Russell (t18930206-271).

[233] *Old Bailey Proceedings Online*, February 1893, Charles Steward Russell; Elizabeth Hannah Russell (t18930206-271).

diseases'.[234] The attending physician, Dr William Hook, similarly informed the court 'poor people in their position are very ignorant of disease, and when organic disease is put before them they take it as helpless, that nothing more can be done'.[235]

Frustration with poor parents perceived to have compromised their children's health to avoid parochial relief was similarly expressed in the case of Walter Gammon. The Gammon case is representative of the majority of cases of culpable neglect in which men were acquitted of all charges. The court's tendency to either acquit or convict men on a lesser charge of neglect reflects an unwillingness to punish poor men whose children's death could be attributed more to socio-economic circumstance than wilful neglect. On the other hand, the case clearly shows antagonism against poor men who refused parochial relief at their children's peril.

Walter Gammon was brought before a crowded court on a coroner's warrant for the murder of his four-month-old daughter, Constance May Gammon. The Coroner's court attributed Constance's death to Walter's failure to seek parochial relief when he could not otherwise provide her appropriate food or medical care. Mr Matthews, appearing for the prosecution, offered no evidence in support of the coroner's commitment after the Grand Jury had thrown out bills against Walter for manslaughter and of having neglecting his child in a manner likely to cause her unnecessary suffering. Mr Justice Jelf said that 'for the life of him he could not see how the accused could be properly charged with murder, and, the lesser charges having been disposed of, the prosecution had taken

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[234] *Old Bailey Proceedings Online,* October 1902, Antony Greener Eleanor Hannah Frost (t19021020-776).

[235] Ibid.

a very proper course'.[236] The jury found Walter not guilty and he was promptly discharged.

Although Walter's criminal culpability for his child's death was swiftly rejected by the court, perceptions of Walter's moral culpability were clearly evident in witness testimony provided during the inquest into his daughter's death and in press reports on the case. Walter's political identity as a Socialist was at the fore of press reports with such headlines as 'The Socialist's Child. Alleged Sacrifice for a Vote. A Charge of Manslaughter', 'Lost his Child Rather Than His Vote' and 'Life for a Vote. Socialist Sent to Trial'. *Dundee Courier* was one of several newspapers to report Walter

> refused to obtain parish relief in order to retain the franchise. Mrs Gammon said prisoner neglected his home in the interests of Socialism. She wished to have separation from him when the case was over, as she was in fear of him.[237]

Florence Gammon clearly blamed her husband for their child's death. She deflected questions of her own culpability with reference to how she had maintained her maternal obligations despite her husband's negligence. Florence rejected medical explanations for her daughter's death and maintained 'that the child died from want of

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[236] 'Socialist and his Child. Murder Charged Dismissed', *Derby Daily Telegraph*, 18th October, 1905, accessed 16th July, 2015, British Newspaper Archives.

[237] 'Socialist Charged with Manslaughter. Refused Poor Relief to Keep his Vote,' *Dundee Courier*, 1st September, 1905, accessed 15th July, 2015, British Newspaper Archives. Walter's defence had appealed to the Bench that his case had been unduly 'prejudiced outside the walls of that court' by headlines in leading newspapers, such as the *Mirror*'s 'Murderous Socialism' and 'A Life for a Vote' (*Daily Mail* and *Evening News* [London]). Guardian of the Poor of the Edmonton Union, Hazell Barnes, told the Court the 'proceedings as a whole [were] calculated to prejudice [Walter].' (*Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 07 April 2016), October 1905, trial of Walter Joseph Gammon (t19051016-731)). Ill-feeling towards Socialism amongst Court officials and a personal grudge between members of the Coroner's office and the attending doctor were identified by defence as prejudicial factors contributing to the coroner's jury's ruling against Walter. Controversy surrounded the irregular practice of excluding the attending doctor from the post mortem, allegations the post-mortem results were leaked to the coroner's jury and that the jury was stacked with shopkeepers and others known to be antipathetic towards Socialists. Conflicting medical testimony in regards to Constance's cause of death and conflicting testimony regarding Walter's character were no doubt heightened by such political antagonisms.

nourishment because I was insufficiently nourished myself'.[238] She denied ever neglecting her children, stating 'I kept my children clean and tidy as far as my ability allowed me to. I changed the nappies repeatedly before the child's death…. To the best of my ability I have been a … thrifty housewife.'[239] In comparison Florence alleged her husband was 'not a thrifty man. He spent money on flowers and in every other way except on his home'.[240]

Florence complained her husband took the 'lion's share' of the food, while she gave 'what food there was in the house ... [to] the bigger ones and go without myself'.[241] Ross identified men's access to greater portions of nutritionally superior food to the rest of the family as a 'feature of working-class London domestic life'.[242] The disproportionate allocation of the family's nutritional resources to the male breadwinner indicated men's 'higher status and the housewife's sense that she has to propitiate the wage earner(s)'.[243] This allocation was often upheld even when a father was not earning a wage. Not all poor women were willing to sacrifice their children's nutritional needs without reaping the fruits of men's labour. Florence's bitter resentment of Walter's superior meals supports Ross' observation that 'the man's loss of work also brought with it the decline of his domestic status'.[244]

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[238] Florence Gammon, 31st August, 1905, deposition, *R v Gammon*, CRIM 1/99/8, TNA.

[239] Ibid.

[240] Ibid.

[241] *Old Bailey Proceedings Online* October 1905, Walter Joseph Gammon (t19051016-731).

[242] Ross, *Love and Toil*, 33.

[243] Ibid.

[244] Ibid, 34.

The decline of Walter's domestic status as a result of his failure to provide for his family is further evidenced by the loss of control over the family resources. Florence alleged her husband had given a loaf of bread to a Socialist comrade instead of feeding his starving wife and children.[245] Florence repudiated this earlier allegation made at her daughter's inquest, but maintained 'that my husband has improperly spent his earnings'.[246] The press however had already reported as fact that Walter, 'an active Socialist in the district', gave 'a loaf of bread to a comrade while his own children were in want'.[247] The article concluded with a neighbour's testimony that Florence once pointed to flowers Walter had planted in the garden and said to her children, 'This is your breakfast, dears'.[248] The scandal created by this particular allegation in the press shows how a father's political, religious and economic marginalisation was intensified by allegations of paternal negligence.

The evidentiary weight attributed to Florence's allegations of her husband's cruelty reflects the extent to which a man's identity as a good father was conditional upon fulfilment of his obligations as a husband, as well as a father. It was Florence's contention that her malnutrition diminished the quantity and quality of her breast milk and caused her breastfed daughter to starve. Florence testified that she sometimes only had one meal of bread and butter to eat all day, 'sometimes a little fish …no meat at all in some weeks …. And my husband gave me no money except a penny or two pence

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[245] Florence Gammon, 22nd August, 1905, deposition, coroner's inquest (Constance May Gammon), CRIM 1/99/8, TNA.

[246] Florence Gammon, 31st August, 1905, *R v Gammon*, CRIM 1/99/8.

[247] 'Life for a Vote', *Daily Mail* [London], 24th August, 1905, accessed 6th August 6, 2015, Daily Mail Historical Archive.

[248] Ibid.

daily'.[249] Defence counsel suggested that Walter denied Florence spending money and bought household provisions himself because Florence had a drinking problem.

Florence vehemently denied the allegations and told the court Walter had once bragged to her that he could drink 32 half-pints of beer. Neither accusation was substantiated by other witness testimony. Character witnesses testified that they had never 'seen him spending his money on drink or in any wasteful way' and were not aware of 'anyway in which he may have spent his wages improperly'.[250] Nor had Walter been seen 'under the influence of drink' and or have 'the reputation of being a drunkard'.[251] Nevertheless several newspapers repeated Florence's allegation against her husband.

Florence's scandalous allegation that they were so poor she was insufficiently clad to be seen in public was corroborated by several witnesses and repeated in many press reports. According to Florence

> my only personal clothing was an old skirt, a pair of boots and an old coat of my husband's. I could not go out with decency. I spoke to the defendant on 2 or 3 occasions about the child's ailing condition. I told him that unless a doctor saw the child I expected there would be trouble.[252]

Coroner's Officer George Lagdon corroborated Florence's testimony that when he visited the one small back room the family of six occupied, she was so poorly clothed as to be 'almost naked'.[253] At that time Walter had been out of work for 27 weeks and they

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[249] Florence Gammon, 31st August, 1905, *R v Gammon*, CRIM 1/99/8.

[250] Albert Maron, 31st August, 1905, deposition, *R v Gammon*, CRIM 1/99/8, TNA.

[251] Albert Maron, 31st August, 1905, *R v Gammon*, CRIM 1/99/8.

[252] Florence Gammon, 31st August, 1905, *R v Gammon*, CRIM 1/99/8.

[253] George Lagdon, 22nd August, 1905, deposition, coroner's inquest (Constance May Gammon), CRIM 1/99/8, TNA.

owed 10 weeks rent. They had sold most of their belongings and Florence had pawned all the clothes they could spare for food that week. Florence and Walter slept on chairs and the children slept huddled together on a mattress without sheets or blankets. The children appeared thin, pale and hungry. Florence had nothing but dry bread and dripping to feed them. NSPCC Inspector William James Andrews alleged Florence had complained of her husband's refusal to send the children to the workhouse or apply for parish relief for fear of disenfranchisement.[254] She could not apply for assistance without her husband's permission and she feared Walter would react violently if she sent for the Relieving Officer herself. NSPCC Inspector Andrews and Relieving Officer Lowman lent some credence to Florence's allegations of Walter's violence. Inspector Andrews reported a conversation in which Florence told him Walter had come home the previous day 'smelling strongly of drink and struck her with his fist on her forehead'.[255] Lowman deposed that Walter had applied for Medical Relief once for his daughter and applied one other time for treatment of injuries Florence had sustained when Walter had beaten her. Florence rejected defence counsel's suggestion that she wanted her husband to hang and denied resentment of her husband's politics. She told the court that she did not object to her husband's politics, but that he had neglected his family and had treated her cruelly.

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[254] NSPCC Inspector William James Andrews, 22nd August, 1905, deposition, coroner's inquest (Constance May Gammon), CRIM 1/99/8, TNA.

[255] William James Andrews, 22nd August, 1905, coroner's inquest, CRIM 1/99/8.

Under cross-examination by defence counsel Florence confessed she was not aware that medical relief did not disqualify recipients from voting. Apparently, neither did Walter.[256] Walter conceded,

> On account of being out of work I have not been in a position to obtain much food for myself and wife and family as I should have done and I did not apply for Parish Relief as I did not wish to be disfranchised and generally I met with some friend or friends who assist me, and probably get as much as if I had applied for Parish Relief.[257]

In a statement taken by Deputy Coroner Thomas Charles following his daughter's death, Walter claimed he

> thought the [baby] very thin I did not know whether it was likely to get any thinner. I received the message from Dr Burns as to calling in Parochial Relief if the child got worse…. I knew my wife needed more food. It is not true that there were any need of my wife's fear of personal assault. On the morning of the 17th [the] child had a fit. I went to see a friend to get money to pay for Dr. Burns… and then went to the Relieving Officer – saw him at 9.15. I returned home about 10 p.m. I was going out with [the] Barrell organ to earn some money and so did not return I did not think the child so near death … I could have got food for the children if I had thought of it.[258]

Walter admitted that he had earned almost £14 in the four months prior to his daughter's death, but had paid his debts and rent before buying food for his family.

The extent to which Walter was held criminally responsible for his daughter's death was underpinned by questions of whether Walter's paternal failings were the result of socio-economic circumstances. Walter's previous employers played a crucial role in the

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[256] Poor Law regulations regarding the disenfranchisement of men in receipt of relief for their children were not straightforward. Procuring medical relief for his child did not disenfranchise a father, but applying for sterilised milk on the order of a Relieving Officer did. The Walter's confusion is therefore understandable and press reports on similar cases suggest it was not uncommon. See for example 'The Poor Law. Parish Relief Anomalies. Inquest Revelations', *Sheffield Evening Telegraph*, 11th April 1906, accessed 18th August, 2014, British Newspaper Archives.

[257] Walter Gammon, written statement, evidence item "B", *R v Gammon*, CRIM 1/99/8, TNA.

[258] Walter Gammon, statement before Deputy Coroner Thomas Charles, evidence "D", *R v Gammon*, CRIM 1/99/8, TNA.

defence's characterisation of him as a victim of circumstance rather than agent of his own demise. Foremen at Walter's previous jobs confirmed for the court that Walter 'showed every desire to retain his employment and lost it only through slackness of trade'.[259] Walter was not known to spend his wages (when he had them) on alcohol or gambling and there was no suggestion by the prosecution that Walter had not actively sought employment while out of work.

The testimony of the Gammons' physician provided the most compelling character and medical defence to allegations of Walter's cruel treatment of his wife and that medical aid would have saved his daughter's life. Dr Burns testified that in the few years that he had known him, he 'appeared to me to be a humane man to his family. I do not believe that all the medical aid in London would have saved the child's life. In my opinion the absence of medical Relief [sic] did not in any way accelerate the child's death'.[260]

Conclusions

Late Victorian society was very familiar with the misfortunes that befell London's poor. Illness and injury, unemployment and underemployment, scanty wages and high rents were common features of exposés on 'How the Poor Live'.[261] Men's negligence of their paternal duties toward their children was linked to socio-economic conditions

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[259] Albert Maron, 31st August, 1905, *R v Gammon*, CRIM 1/99/8.

[260] Doctor Henry Burns, 21st September, 1905, deposition, *R v Gammon*, CRIM 1/99/8, TNA.

[261] Popular writer and social reformer George Sims wrote a series of articles titled 'How the Poor Live' with Frederick Barnard that were published in *The Pictorial World* in 1881 exposing the predicament of London's poor. A compilation of these articles were published as a book (*How the Poor Live*) in 1883. The title was used in thousands of articles published newspapers throughout England from 1881 to 1913 about the squalid living conditions of London's poor and referred to specific cases of child neglect that came before London's courts.

reflecting the cultural understanding of child neglect as a product of poverty as much as poor parenting. However, the Court's sympathy for the downtrodden working-class father rested upon the pillars of working-class virtues such as industriousness, thrift and moderation. Fathers whose poverty stemmed from improvidence, idleness or intemperance were treated more harshly than those whose paternal failings could be attributed largely to socio-economic forces beyond their control.

Cases in which children's deaths were linked to the exercise of parental rights raised questions about poor men's masculine status. Fathers who refused their children medical care on political or religious grounds, or to avoid the dreaded workhouse, were routinely brought up on homicide charges when their children died from starvation and disease. However, these cases were rarely straightforward. Poor men's paternal prerogatives were curtailed by their limited ability to provide for their family's basic needs. State and philanthropic bodies, whose primary concern was the welfare of London's poor children, undermined the masculine status of poor fathers who used their services and undercut the paternal authority of men who refused to accept parochial welfare. Men whose failure to maintain their children was attributed to personal failings were roundly criticised in the Court, press and wider community. The depth of public feeling against men who neglected their paternal obligations through idleness, intemperance and wilful ignorance was reflected in the relative severity of verdicts in these men's trials. Greater ambivalence was shown in cases involving reputedly respectable and caring fathers whose decision to withhold medical attention from sick children was guided by religious, political or moral principle.

Chapter Three

'London Brutes'

Spousal Violence in Trials of Child Homicide

Most male-perpetrated child homicide cases involved acts of domestic violence perpetrated by fathers in the privacy of their homes. The cramped housing experienced by many working-class Londoners meant that violence in the family home was rarely a private affair. Neighbours who testified to overhearing couples 'jangling' in their rooms, intervening when they feared assaults may turn deadly and sheltering children from violent and drunk parents commonly appeared as character and eye witnesses in trials of child homicide. Wives and surviving children presented accounts of prisoners' propensity for violence or expressed shock at uncharacteristic acts of violence. Not all references to marital violence were explicit or couched in terms of condemnation. Hints of violence conducted behind closed doors were revealed in allusions to women's fears of violence and in the defence of men's mastery within their homes.

It is difficult to quantify the number of child homicide cases that occurred within a broader familial context of domestic abuse. Our knowledge of the relationship between spousal abuse and child abuse in these cases is contingent largely upon the testimony of the perpetrator's family and acquaintances. Women who depended on men's contribution to the family income may have been reluctant to disclose information that could negatively impact upon their husband's case. Children too could fear the consequences of providing potentially damaging testimony against their father. Neighbours could be reticent in disclosing private information about members of close-knit communities within their tenements out of a sense of fraternal or communal loyalty. Perceptions of what constituted domestic violence could vary widely within and

across social classes. Men's aggressive, violent or negligent conduct could be interpreted as domestic abuse or as patriarchal prerogative.

The cases examined in this chapter have been selected for analysis because they reflect the variability and inconsistency of late nineteenth- and early twentieth-century cultural and legal responses to family violence. Inconsistent responses and outcomes to child homicide trials involving allegations of spousal violence are linked to social ambivalence towards family violence. The ambivalence of the Court is further attributed to tensions between changing ideals of intimate gender relations and expectations of male privileges and prerogatives within domestic arrangements. I examine the mobilisation of concepts of masculinity in two cases in which children were killed in the course of men's violent assaults on their domestic partners. Analysis of a further two cases highlights pervasive notions of male prerogative that underpinned community responses to men's violence against their wives and cultural antagonisms towards women who threatened paternal authority.

Cultural and Legal Responses to Domestic Violence

Cultural and legal responses to domestic violence in the late nineteenth and early twentieth centuries were underpinned by changing concepts of gender and social anxieties about national security and political stability. Increasingly rigid Victorian conceptualisations of gender were developed through British colonial expansion and perceived challenges to Britain's position as the world's greatest Imperial nation.[262] The British responded to colonial unrest in India and Africa by clamping down on social and

[262] For instance, see Wiener, *Men of Blood*; Carolyn Conley, *Certain Other Countries* Angus McLaren, *The Trials of Masculinity*.

political disorder in the homeland. As Conley observes, it became increasingly important that the British, and particularly the English, were perceived 'not only as the richest and most powerful people in the world but also the noblest and best behaved'.[263] As part of this imperial civilising offensive the English legal and juridical system responded to interpersonal violence with increased stigmatism and harsher punishment. Despite the lowest recorded homicide levels in English history, the Victorians legislated against, talked about and prosecuted interpersonal violence with unprecedented vigour.[264]

The nineteenth century 'civilising offensive' on interpersonal violence concentrated first on public 'man on man' homicide, then 'domestic' violence perpetrated by men against women, and to a lesser extent, women's violence against children. Targeted legislative and legal responses to interpersonal violence took place amidst unprecedented rapid social, industrial, urban, population and mobility advancements. London's working-classes were subjected to particularly intense scrutiny amidst heightened social anxiety over the moral, physical and mental health of the nation.

By the late nineteenth-century, London was acknowledged as the literal and figurative

> centre of things: the creation in 1884 of the Greenwich Meridian .... crowned it as the prime meridian – zero degrees longitude – whence all the continents spread out east and West. London thus put the world in its place – a development which confirmed, on a global scale, a similar symbolic status already achieved within the nation.[265]

London was, as George Pondovero describes in H.G Wells *Tono-Bungay*,

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[263] Conley, *Certain Other Countries*, 206.

[264] See Wiener, *Men of Blood,* 9 –40

[265] Roy Porter, *London: A Social History*: (London: Hamish Hamilton, 1994), 225.

> Immense. The richest town in the world, the biggest port, the greatest manufacturing town, the Imperial city - the centre of civilisation, the heart of the world! ...a whirlpool, a maelstrom! It whirls you up and whirls you down.[266]

By the 1880s London's population had swelled to 4.5 million and topped 7 million by 1911.[267] The metropolis rapidly expanded to house its increasing population unfettered by any centralised planning or parliamentary organisation. London was scattered and sprawling with a confusion of laneways that organically evolved around new developments and the transformation of the City to accommodate residential suburbs. In Porter's words; 'London's districts were ever in flux, turbulent eddies of change, as citizens ceaselessly moved on, to avoid going down in the world'.[268]

It is unsurprising that anxiety over social degeneration and efforts to civilise English society centred on working-class Londoners who were imagined physically and morally weaker than their country cousins - and more prone to violence. Stedman Jones maintains that urban degeneration theory 'received widespread middle-class support' in the 1880s and 1890s.[269] These ideas emerged at the same time as London spiralled into socio-economic crisis. Chronic trade depression, the demise of key traditional industries, severe housing shortages in inner London and the rise of collectivist politics in the 1880s intensified distress and unrest amongst poor Londoners. Stedman argues that representations of London's poor, driven by fear and informed by theories of urban degeneration did not construct them as

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[266] H. G Wells, *Tono-Bungay* (London, 1908) Project Gutenburg Ebook (no pag.).

[267] Porter, *London*, 249

[268] Ibid, 252.

[269] Gareth Stedman Jones. *Outcast London. A Study in the Relationship Between Classes in Victorian Society* (London: Verso, 2013),

> objects of compassion. They were generally pictured as course, brutish, drunken, and immoral; through years of neglect and complacency they had become an ominous threat to civilisation.[270]

Working-class men were considered particularly dangerous because of a perceived lack of self-discipline and self-restraint. Such conceptualisations justified increased social and legislative regulation of poor Englishmen.

Gender and the Civilising Offensive

At the same time as the state imposed harsher punishments for antisocial and uncivilised behaviour, a sense of order and civility was engendered through discourses of self-management. Within a 'new economic, social and political order', concepts of womanliness and manliness naturalised the ideals of self-discipline, self-control and self-restraint.[271] Wiener links changing prosecutory practices and social emphasis on self-discipline and civility to a corresponding clamp down on public disorderliness and men's violence against women and children. [272] The restructuring of gender ideals lead to greater punishment for crimes against the person, contrasted with reduced punishment of crimes against property. At the same time, prosecution rates for male-on-male killing in public places dropped without a corresponding fall in the recorded incidence of 'private' murders in domestic spaces. [273]

Growing public censure and punishment of men's violence against women reinforced a natural dominant gender order with women as subjects of masculine chivalry and

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[270] Jones, *Outcast London*, 285.

[271] Wiener, *Men of Blood*, 13.

[272] Ibid, 2.

[273] Ibid, 3.

male control.[274] Accordingly, respectable women required respectable men to protect them from unruly, irresponsible and dangerous men. Those women who killed their children after being abandoned, abused or neglected by their husbands and lovers served as a reminder of the perils of 'unprotected femininity'.

Historical studies of working-class families in Victorian London suggest that spousal violence was a pervasive, if not inevitable, occurrence in working-class homes.[275] The idea that marital violence was a distinctly working-class problem was reinforced by the relatively high number of working-class men tried for marital assault in London's courts. Jo Aitken speculates that the greater numbers of poor men charged with assaulting their wives is more indicative of greater police and community surveillance within the poorest neighbourhoods.[276] Studies of the prevalence of marital violence based on convictions have shown that while wife-beating was commonly associated with urban slum-dwellers, skilled workmen constituted a significant number of those charged with wife assault. Emsley estimated that

> Skilled workmen, who might be supposed to have strongly espoused the ideas of Victorian self-improvement and respectability, ...constituted as many as one in three of the men prosecuted for wife-beating.[277]

Similarly, Hammerton found

> Poor, unskilled men, certainly, were most often vilified for abuse of their wives, but skilled workers, shopkeepers and men with a variety of

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[274] Shani D'Cruze and Louise A. Jackson, *Women, Crime and Justice in England Since 1660* (Hampshire: Palgrave Macmillan, 2009), 11–12.

[275] See, for example, Hammerton, *Cruelty and Companionship: Conflict in Nineteenth-century Married Life* (London: Routledge, 1995); Ross, *Love and Toil*; Behlmer, *Friends of the Family*; Ginger Frost, '"He Could Not Hold His Passions": Domestic Violence and Cohabitation in England (1850-1905)', *Crime, History & Societies* 12, no. 1 (2008): 25-44; Maeve Doggett, *Wife-Beating and the Law in Victorian England* (London: Weidenfeld, 1992).

[276] Jo Aitken, 'The Horrors of Matrimony among the Masses', 112.

[277] Emsley, *Hard Men*, 60.

> occupations from the lower middle class appeared no less frequently in the Preston police court on wife-assault charges.[278]

While historians have observed increasing intolerance towards wife-beating in England throughout the Victorian period, Emsley maintains that 'there was no steady linear growth of the condemnation of the wife-beater'.[279] Rather, Emsley suggests there was 'something of a male counter-offensive in the late Victorian and Edwardian periods'.[280] While the press, courts and wider society generally condemned wife-beating as unmanly, the courts consistently accepted wives' unwomanly conduct as extenuation for men's violence.

Inconsistent rulings and lenient sentencing in criminal cases for marital violence was common in English courts in the nineteenth and early twentieth centuries.[281] The *Matrimonial Causes Act* of 1878 empowered magistrates to grant an order of non-cohabitation to a woman whose husband had been convicted of assaulting her, allowed women custody of their children and men to contribute to an estranged wife and children's maintenance.[282] However, magistrates inconsistently interpreted a key condition that they must be 'satisfied that the future safety of the wife is in peril'.[283]

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[278] Hammerton, *Cruelty and Companionship,* 35-36.

[279] Emsley, *Hard Men*, 63.

[280] Ibid. Ernest Belfort Bax, for example, was a key advocate for men's rights and outspoken anti-feminist in late nineteenth- and early twentieth-century England. Bax wrote extensively on a perceived cultural misandry, his most influential publications being *The Subjugation of Men* (1896) and *The Fraud of Feminism* (1913).

[281] See, for example, Conley, *Certain Other Countries*, 75 – 81; Hammerton, *Cruelty and Companionship*: 34; Behlmer, *Friends of the Family*, 181-229; Shani D'Cruze, *Everyday Violence in Britain, 1850-1950: Gender and Class*, Women and Men in History, (Harlow, England: Longman, 2000), 9-11; Frost, 'He Could Not Hold His Passions', 31.

[282] This Act did not apply to the considerable number of London's working-class women who were not legally married to their 'husbands'.

[283] *An Act to Amend the Matrimonial Causes Act*, 27th May,1878, section 4, Gale Cengage Learning, Nineteenth Century Collections Online.

Behlmer has argued that in 'too many instances the 'future safety' standard gave magistrates an excuse to avoid interfering with patriarchal prerogative'.[284] Ross similarly concluded that men's violence against their wives 'was indeed a privileged form in a culture that permitted a wide range of physical expressions of anger and in which violence was a prerogative of those in authority'.[285]

Domestic disputes amongst London's poor over money (the lack of it, how it was spent and by whom) were common in late nineteenth- and early twentieth-century.[286] Men's domestic authority derived largely from their capacity to provide financially for their families. Yet, as Ross and others have shown, low wages or periods of unemployment could undermine their basis of authority and poor men could assert their authority through violence.[287] Ross has shown that these shifting boundaries were even more fluid in London's working-class homes. She illustrates the ways in which domestic spaces became sites of negotiation and contestation as unemployment, illness and idleness destabilised masculine identity and claims to domestic authority. [288]

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[284] Behlmer, *Friends of the Family*, 192-193.

[285] Ross, *Love and Toil,* 84.

[286] This is particularly well-established in Nancy Tomes, 'A "Torrent of Abuse": Crimes of Violence Between Working-Class Men and Women in London, 1840 – 1875', *Journal of Social History*, 11 no. 3 (Spring 1978): 328-345; Ellen Ross, *Love and Toil;* James Hammerton, *Cruelty and Companionship*.

[287] Ross, *Love and Toil*; Megan Doolittle, 'Fatherhood and Family Shame: Masculinity, Welfare and the Workhouse in Late Nineteenth Century England' in *The Politics of Domestic Authority in Britain Since 1800*, eds. Lucy Delap, Ben Griffin and Abigail Wills (Hampshire: Palgrave Macmillan, 2009); Frost 'I am Master Here'.

[288] Ross, *Love and Toil,* 27 – 91.

'The Baby Received the Blow': Child Fatalities of Spousal Violence

Julie-Marie Strange convincingly argues that the majority of working-class fathers in Victorian and Edwardian England were considered 'good' fathers in the sense that they were neither violent nor negligent towards their wives or children.[289] Similarly, Tim Fisher has argued that a historical focus on tyrannical and abusive fathers in oral histories and autobiographical texts has skewed our understanding of fatherhood in Edwardian England. Moreover, Fisher maintains that concepts of what constituted 'good' fathering were as variable as views on motherhood in the late nineteenth and early twentieth centuries.[290] English judiciary and legal commentators demonstrated antipathy towards men who abused and neglected their family through criminal prosecution and public censure. Yet it is evident from Court papers and press reports that the Court recognised a range of extenuating circumstances as mitigating men's domestic violence. This complicates (but does not diminish or discount) Ross' finding that 'much of late nineteenth-century English family law was posited on the proposition that men of the working classes were brutes'.[291]

Male unemployment and under-employment were commonly understood as key source of marital friction and impetus for violent assertions of patriarchal authority. Nancy Tomes' study of marital assaults tried in Victorian London courts revealed

> patterns of expectations held by working-class men and women that shaped their relationships. Both sexes recognised a system of male prerogatives based on the men's financial support of his family. Violence centred around breaches of these expectations… Physical conflict between the sexes in all these cases characterised situations of male insecurity rather than complete

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[289] Strange, *Fatherhood and the British Working-Class.*

[290] Tim Fisher, 'Fatherhood and the British Fathercraft Movement, 1919–39' *Gender & History,* 17 no. 2 (2005), 441-462.

[291] Ross, *Love and Toil,* 86.

> domination over women. The working-class men became violent when a woman challenged his authority rather than when she submitted to him.[292]

Victorian middle-class ideals of femininity assumed women's deference to their husbands' authority. However, a number of historical studies suggest working-class women in Victorian England could be aggressive and even engage in violent public stoushes without necessarily contravening community expectations for respectable womanhood.[293] D'Cruze identified culturally accepted contexts in which working women used violence to defend themselves or their families in Victorian England.[294] Similarly, the research of Hammerton, Behlmer and Frost on domestic violence in working-class homes in Victorian and Edwardian London supports models of working-class womanhood that allowed for women's aggression.[295] These studies suggest that the social structures supporting active and assertive modes of working-class femininity also justified men's use of physical force to dominate and chastise their wives.

The cases of James Cornfield and Matthew Lewis show how cultural acceptance of men's entitlement to chastise wayward wives was tested when children were inadvertently killed as a result of spousal violence. However, even in these fatal examples attitudes towards men's violence against women were fraught with ambivalence and 'marked by the coexistence of tolerance and condemnation'.[296]

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[292] Ross, *Love and Toil,* 338.

[293] See, for example, Tomes, 'A "Torrent of Abuse"'; Ross, *Love and Toil;* Emsley, *Hard Men*, 59. More recently Andrew August has argued that women's violence in late-Victorian East London was treated leniently by the courts and accepted by the press if it fit within the parameters of feminine norms ('"A Horrible Looking Woman": Female Violence in Late-Victorian East London', *Journal of British Studies*, 54, no. 4 (2015): 844 – 868).

[294] D'Cruze, *Everyday Violence in Britain, 1850 – 1950*, 14.

[295] Behlmer, *Friends of the Family*; Hammerton, *Cruelty and Companionship*; Frost, 'He Could Not Hold His Passions'.

[296] Hammerton, 'The Targets of 'Rough Music': Respectability and Domestic Violence in Victorian England,' *Gender & History* 3, no. 1 (1991): 24.

Tensions between 'tolerance and condemnation' of spousal violence in English courts were, as Wiener observers,

> inseparable from movements in the wider culture: attitudes toward violence, images of manliness and womanliness, views of the proper relations between different sorts of persons, and feelings about capital punishment were all evolving, as were relations between the different classes from which judges, jurors, counsel and most defendants, victims, and witnesses in trials were drawn.[297]

These 'tensions and contestations' between judges and jurors in homicide over the cultural and contextual meaning of men's violence in cases of child homicide 'fuelled significant changes in the courtroom understanding of criminal responsibility'.[298] Disagreement between the Coroner and jury in James Cornfield's case shows that jurors' enthusiasm to exercise their discretionary powers to discriminate between homicides could be a source of frustration for coroner's and judges.

Just before midnight on the 2nd of June, 1905 Rhoda Martha Brown heard her lodger, James Cornfield, 'jangling' with his wife shortly after he returned home to his room. At 1 a.m., she was awakened by a scream. She 'heard Mrs Cornfield scream … she said, "You have hit my baby on the head with a boot"'.[299] James' wife came into Rhoda's room with the baby and told her she had 'called him a dirty cur [and] he said he would like to kick my f- face in'.[300] Rhoda thought the baby looked 'very bad'.[301] The following day Rhoda

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[297] Wiener, 'Judges v. Jurors', 468. Wiener explores this argument more broadly in *Reconstructing the Criminal: Culture, Law and Policy in England, 1830 - 1914* (Cambridge, Cambridge University Press, 1990) and elaborates on the mechanics of gender in the operation of Victorian criminal law in *Men of Blood*.

[298] Martin Wiener, 'Judges v. Jurors: Courtroom Tensions in Murder Trials and the Law of Criminal Responsibility in Nineteenth-Century England,' *Law and History Review* 17, no. 3 (1999):467-506.

[299] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.0, 30 May 2014), June 1905, trial of James Henry Cornfield (t19050626-538).

[300] Ibid.

[301] Ibid.

suggested Mrs Cornfield take the baby to the doctor. Mrs Cornfield did so, despite her husband's protests 'that she was only spending money by going to the doctors'.[302] Rhoda warned James 'it was very bad and he would get into trouble'.[303] Doctor Robert Dudgeon attended twelve-month-old James Henry Cornfield, the younger, until his death on the 17th of June, 1905. A post-mortem examination showed that the cause of death was meningitis resulting from a skull fracture.

James was arrested on a charge of manslaughter at his son's inquest after the verdict was read. Inspector George Wallance testified at James' criminal trial that when arrested James said, 'You can do what you f- well like; you can give me five years if you like'.[304] According to Wallance, James later explained that when he came home on the Friday night, his wife had laughed at him and called him a 'bastard'.[305] She kept laughing until he threw his boot at her and accidently hit the baby. James 'meant it for her, not the baby'.[306]

James confirmed under oath that he acted upon his wife's provocation; she continually called him names until 'he threw his boot across the room in his temper, but not intending to hurt his wife or the baby'.[307] While James claimed to have acted without malice or intent, police testimony revealed James was frequently drunk and 'knocked [his] wife about continually'.[308] Despite a prior history of violent assault, the Jury found

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[302] *Old Bailey Proceedings Online,* June 1905, James Henry Cornfield (t19050626-538).

[303] Ibid.

[304] Ibid.

[305] Ibid.

[306] Ibid.

[307] Ibid.

[308] Ibid.

James guilty, but recommended him to mercy on account of the provocation. Far from the five year sentence he anticipated, James was sentenced to twelve months' hard labour.

James' relatively light sentence for killing his son in the course of assaulting his wife was not without precedent. In 1902 Matthew Lewis accidentally hit and killed his baby while he was beating his de facto wife, Elizabeth Gare. Elizabeth and Matthew had lived and had children together as husband and wife for three years, but Matthew claimed he had not been able to afford a formal marriage. According Elizabeth one day Matthew came home in the afternoon

> I was at the front door with my two children, the baby on my left arm and the little boy at my side – I could see that the prisoner had had drink – I went indoors – he went into the kitchen – I followed with the baby – I said, "Holloa, mate, you have been on the booze to-day" – he struck me with his fists – I snatched up this broom in my right hand to prevent the blow, holding the baby on my left arm – he snatched the broom from me from the bottom part and began to strike me with it – it glanced off my head on to the baby's – it screamed – I ran into the street – I spoke to a neighbour, Mrs Biggs, and ran for Dr. Randall, who examined the child, it died the following morning.[309]

The case almost did not make it to criminal court. The coroner's jury refused to accept the direction of the Coroner, Dr Michael Taylor, to find Matthew guilty of manslaughter and returned a verdict of 'Death by Misadventure'.[310] Dr Taylor rejected the jury's verdict and again explained to the jury that if a person took the life of another whilst in the commission of an unlawful act, in this case assault, it amounted to the crime of manslaughter. However, according to the *Northhampton Mercury*, the jury still failed to reach consensus, with fifteen jurors continuing to favour a verdict of

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[309] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.0, 25 June 2014), December 1902, trial of Lewis, Matthew, (t19021215-126).

[310] 'Jury's Verdict Declined. A Curious Incident at Wimbledon,' *Evening Telegraph*, 24th November, 1902, accessed 25th June, 2014, British Newspaper Archives.

'misadventure' and only one for 'manslaughter'.[311] The Foreman said the jury agreed with the stated cause of death. Matthew had inflicted the fatal blow while conducting the illegal act of assault and in doing so, killed the child. Exasperated, the Coroner replied, 'Then I do not see how you can avoid finding a verdict of manslaughter, and I must bind you over to appear before one of his Majesty's Judges'.[312] The Coroner then asked the jury if they would like to reconsider their verdict, to which the Foreman flatly replied, 'They won't alter their verdict'.[313] The Coroner bound over each member of the jury £40 to appear at the CCC to take direction from the judge. Matthew's lawyer, Mr Wareham, requested that the Coroner record a note that the jury had returned a verdict of misadventure after being twice charged.

> Addressing the jury, the Coroner said he was afraid that he could not take their verdict. – The Foreman: Suppose the jury had been unanimously in favour of a verdict of misadventure, would you have accepted it? – The Coroner (smiling): You still would have been bound over to appear before a Judge.[314]

At the CCC the Recorder expressed his firm belief that 'Juries must find on the facts and take the law as it stood. They must not make the law themselves'.[315] After a short deliberation, the jury returned a verdict of manslaughter.

Despite the violence perpetrated against her and her child, Elizabeth defended Matthew at his criminal trial. Elizabeth told the Court

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[311] 'A Refused Verdict', *Northampton Mercury*, 28th November, 1902, accessed 25th June, 2014, British Newspaper Archives.

[312] Ibid.

[313] Ibid.

[314] Ibid.

[315] 'Juries and their Verdicts,' *Gloucester Citizen*, December 16, 1902, accessed 25th June, 2014, British Newspaper Archives; see also 'A Jury Gets Instruction in the Law,' *Edinburgh Evening News*, 15th December, 1902, accessed 25th June, 2014, British Newspaper Archives.

> He bears a good character – his business is too bad to marry – he has kept me three years – he is a good husband to me – I do not mind marrying him.[316]

The jury found Matthew guilty, but strongly recommended mercy on account of his good character. Justice Darling ordered Matthew enter into recognizance on the understanding that he would marry Elizabeth. Elizabeth's assessment of Matthew's character and qualities as a husband and the Court's insistence Matthew formally marry his wife in lieu of imprisonment, suggests acceptance of domestic violence as an inevitable and even understandable aspect of marriage. Similarly, newspaper headers suggest that Matthew's attack on his wife was not particularly shocking, but that the 'baby also received the blow' was of concern.[317] The crime itself was attributed to 'drink', although there does not appear to have been an easy consensus regarding what this meant in terms of Matthew's criminal and moral culpability.[318] For example, the *Nottingham Evening Post* sardonically framed its report on the Lewis case around the 'Advantages of Marriage. Strange End to an Old Bailey Case'. The report subtly questioned the defence's argument that 'the occurrence was pure accident' and included

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[316] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.0, 25 June 2014), December 1902, trial of Matthew Lewis (t19021215-126).

[317] 'The Baby Received the Blow,' *Sutherland Daily Echo and Shipping Gazette*, 13th November, 1902, accessed 25th June, 2014, British Newspaper Archives.

[318] 'Hit at his Wife and Killed his Child. A Sad Drink Story,' *Derby Daily Telegraph*, 12th November, 1902, accessed 25th June, 2014, British Newspaper Archives; 'Drink Costs A Child's Life,' *Edinburgh Evening News*, 12th November, 1902, accessed 25th June, 2014, British Newspaper Archives ; 'Drink Leads to Manslaughter,' *Dundee Evening Post*, 13th November, 1902, accessed 25th June, 2014, British Newspaper Archives. However, headers such as' That Fatal "If!" Father Charged with Manslaughter' suggest some frustration with the Courts acceptance of the defence that the defendant would not have done it 'if only I had not been in drink' (*Evening Telegraph* [Scotland], 13th November, 1902, accessed 25th June, 2014, British Newspaper Archives.

the 'strange' exchange between Justice Darling and Matthew following pronouncement of the jury's verdict.[319]

According to the press report, Matthew

> expressed his willingness to take the pledge.
> His Lordship: Are there any teetotallers about this neighbourhood? (Laughter.)
> One of the court missionaries came forward and said he would see that prisoner took the pledge.
> His Lordship: Then there is another thing. Are you willing to marry this woman?
> Prisoner: Yes, sir. But she's got a nasty temper sometimes.
> His Lordship: Oh, many married people have that! (Laughter.) You see there are several advantages in getting married. For instance, you are compelled to keep your children while they are young, and when you are old, they will keep you. (Laughter.)
> Prisoner was bound over to come up for judgement if called upon.[320]

Justice Darling's comments and the apparently jovial tone of delivery played down the presence of domestic violence and disharmony in 'many' marriages. Moreover, his comments resonated with cultural assumptions of conflict, often including violence, within the marriages of poor Londoners and of working class men's heavy alcohol consumption. Justice Darling' s dubiety over finding a sober man in Merton and the Court's mirth in response indicate a degree of fraternal consensus in linking immoderation to certain working-class masculine identities.

Men eligible to be jurors in an assize court did not have the wealth or social status of magistrates like Justice Darling but they were all comfortably middle class. Jurors in the Coroner's Court were more of a cultural mix of mostly middle- and respectable working-class jurors drawn from the local area. Archival records suggest it was customary for

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[319] 'Advantages of Marriage. Strange End to an Old Bailey Case,' *Nottingham Evening Post*, 19th December, 1902, accessed 25th June, 2014, British Newspaper Archives.

[320] Ibid.

unemployed men of good character to be given jury duty in order for them to collect the small sum of compensation.[321] The influences of class biases at different levels of the judiciary (magistrates, assize court jurors, coroner's inquest jurors) can be interpreted widely and does not appear to have affected rulings in uniform or predictable ways. Respectable working-class men could be as critical of poor men whose drunken violence resulted in the death of their child as middle- or upper-class men who broadly associated brutishness and drunkenness with London's working classes. British historians have effectively established that class distinctions within Victorian and Edwardian working-class London were often more meaningful than those between the rich and the poor.[322]

Associations between men's intemperance and domestic violence were mobilised not only in men's defences to the accidental killing of children, but in cases in which men deliberately and violently killed their children. Alcohol consumption was a significant aspect of London's working-class culture. By the late nineteenth-century drunkenness amongst London's working classes was increasingly viewed as wasteful and illicit. The narrative of violence beginning with wife beating and culminating in the death of a child in the case of Adolph Dumpig shows the extent to which cultural ambivalence towards domestic violence was entrenched in London's working-class culture. Adolph

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[321] For example, Hazel Barnes objected that although 'it has been the custom to summons on coroner's juries men who are out of work in order that they may have the benefit of the fees …the majority of the jurymen in [Walter Gammon's] case were shopkeepers …[who] were not friendly to the Socialists' (CRIM 1/99/8, TNA).

[322] See Ellen Ross, '"Not the Sort that Would Sit on the Doorstep": Respectability in Pre-World War I London Neighbourhoods', *International Labour and Working-class History*, 27, Spring (1985), 39-59; James Hammerton, 'The Targets of "Rough Music": Respectability and Domestic Violence in Victorian England', *Gender and History*, 3 no.1 (1991): 23-44; Himmelfarb, *Poverty and Compassion*, 12; Patrick Joyce, *Visions of the People: Industrial England and the Question of Class, 1840 – 1914* (Cambridge: Cambridge University Press, 1991), 57.

Dumpig's case indicates a reluctance to interfere with the sanctity of male prerogative underpinned judicial responses to family violence from the constabulary who patrolled London's streets to the High Court judges of the CCC. It affirms Ross' thesis that in late nineteenth-century London husbands' violence against their wives was privileged form of gender violence and prerogative of male domestic authority.[323]

On the New Year's Eve of 1904, William Woods rushed to the defence of his tenant, Antonie Dumpig. Her husband, Adolph Dumpig, repeatedly beat her while she cowered in a doorway, soaking wet and crying. William was struck as he sought to prevent Adolph from attacking his wife. The police attended the scene, but 'declined to interfere in a quarrel between a man and his wife in their own house'.[324] An hour later police were again called to the Dumpigs' lodgings where they discovered the Dumpigs' eight-month-old son dead in his pram with stab wounds to his throat, mouth and ear. Adolph Dumpig was found resting in the garden, apparently drunk, his hands covered with wet blood. Adolph was immediately arrested and charged with the murder of his son. He was found guilty and sentenced to death twelve days later.

According to his wife's testimony, Adolph arrived home drunk at midnight on New Year's Eve with a quart of rum. Adolph and his wife shared the rum and Adolph became 'very drunk' and violent. Adolph's violence escalated after the police left. He locked Antonie in a room away from the baby, which was sleeping in the kitchen. She heard no noise from the kitchen but later saw Adolph pacing around the backyard, singing loudly

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[323] Ross, *Love and Toil,* 84.

[324] 'Drunken Father's Crime. German Butcher Charged with Murdering his Baby', *Dundee Courier*, 4th January 1904, accessed 11th April, 2016, British Newspaper Archives. The Constable deposed at the Coroner's inquest that he told William Woods he 'could not interfere' in a 'domestic quarrel' (George Gosly, 8th January, 1904, deposition, coroner's inquest [Walter Dumpig], CRIM 1/88/3, TNA).

and smashing windows. She feared he would attack her again, so she escaped into the street. Woods heard the smashing of glass and Antonie's cries for help and again called for police. It was then the murdered baby was found.

Police testified that Adolph appeared very drunk at the station and had no recollection of committing the crime. At the station, after the charges were interpreted to him, Adolph was overheard asking his wife, 'Did I do this or did you Antonie? Speak the truth. I was out last evening. I never done it. Should it come that I should murder the child I love so dearly?'[325]

Both Woods and Antonie testified that Adolph's extremely violent and malicious behaviour was out of character. Woods deposed that Adolph was until that night 'sober and well conducted, and apparently on good terms with his wife, and very fond of the child … I never saw him drunk before'.[326] Antonie confirmed 'he was generally a sober man'.[327] Antonie's testimony set up a defence based around 'uncontrollable impulse' due to extreme intoxication. She had 'no idea why he should injure the child unless it [was] that he [was] not quite right in his head' because he 'never threatened to kill the child' and 'was very much attached to it. [328] Nor could she attribute his actions to the

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[325] Laban Lines, 8th January, 1904, deposition, coroner's inquest [Walter Dumpig], CRIM 1/88/3, TNA. The criminal files on Adolph Dumpig's case reveal slight inconsistencies in various interpretations of Adolph's statements after being taken into custody by police. In the police report it is recorded that Adolph asked Antonie, 'what did you do to the child. I was not home in the evening' before stating that he 'never done it' (see Laban Lines, Police Report. Copy to Director of Public Prosecutions, CRIM 1/88/3, TNA). According to the interpreter called to the police station on the 1st January, 1904, Dumpig seemed very surprised and deposed Adolph had said 'Tonie, what are you talking about? Have I done it, or have you? Speak the truth. Oh! Dear God! I know nothing of it!' (Aaron Lichtenstein, 1st January, 1904, deposition, *R v Dumpig*, CRIM 1/88/3, TNA).

[326] William Woods, 8th January, 1904, deposition, Coroner's inquest [Walter Dumpig], CRIM 1/88/3, TNA.

[327] Antonie Dumpig [interpreter: Karl Shneidder], 8th January, 1904, deposition, coroner's inquest [Walter Dumpig], CRIM 1/88/3, TNA.

[328] Antonie Dumpig, 8th January, 1904, coroner's inquest, CRIM 1/88/3.

stress of unemployment because although he was unemployed, 'he had some money from Germany'.[329]

Antonie supported her husband throughout the criminal proceedings. She accompanied her husband to the police station, sought legal counsel for him and provided potentially exculpatory testimony at his criminal trial. Her actions appear remarkably generous given that over the course of twenty-four hours her husband had beaten and terrorised her, brutally murdered her baby and proposed in the presence of police that she herself had committed the crime. Antonie was not uniquely positioned as a casualty of her husband's violence and steadfast advocate in his defence. Many women found themselves simultaneously grieving the loss of a child killed by their husband and advocating in his defence. Poor women's loyalty towards abusive husbands can be attributed to entrenchment of matrimonial obligation and duty in London's working-class culture. If cultural concepts of feminine respectability and honour did not motivate women to remain steadfastly loyal to their husbands, economic necessity certainly did. Historical studies of domestic violence in Victorian and Edwardian England suggest that London's working-class women often refused to assist prosecution of abusive husbands because of the loss of income during his incarceration.[330]

Men's violence against women and (less often) children was regularly mitigated on the basis of men's extreme drunkenness when the offence was committed. Defence

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[329] The Dumpigs' were German immigrants. While press reports noted Adolph's nationality (along with his age and occupation) only one newspaper referred to him in rather derogatory terms as a 'drunken alien' (see 'London Tragedies. Drunken Alien Murders his Child', *Sheffield Daily Telegraph* 14th January, 1904, 11th April, 2016, British Newspaper Archives).

[330] Behlmer, *Friends of the Family*, 202-203.

counsel argued that Adolph was so intoxicated when he killed his son, he could not be held responsible for his action and called for the charge to be reduced to manslaughter. The prosecutor agreed Adolph was undoubtedly very intoxicated at the time he committed the crime. He advised the jury that if they were satisfied that he was so drunk he could not form deliberate intention, the jury could find him not responsible for his action. However, Justice Ridley rejected Mr Bodkin's interpretation on principal and warned of the dangerous precedent if the case, which was clearly one of murder, was excused on the basis of drunkenness alone. Ridley informed the Court that

> a man cannot commit murder and then say that he did not, because he was drunk at the time. I admit that in a case where a question of provocation arises that drunkenness may be taken into consideration in determining whether a crime can be reduced from murder to manslaughter, but in the case of a defenceless child, where the man in drink plunges a knife into its throat, in my opinion the act is murder and nothing else. In fact, I can see no possible defence.[331]

The jury found Adolph guilty of murder, but with a 'very strong' recommendation to mercy, despite the evidence of Adolph's violence against his wife prior to killing his son.[332]

Adolph's brutal treatment of his wife and child affirmed characterisations of the brutish masculinity of London's working-class men. The stabbing murder of Adolph's son was typical of paternal filicide in terms of method, with 40 per cent of all male murder indictments in my study resulting from fatal stabbings. The tendency for men to use more violent and bloody methods to murder their children contrasted with

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[331] 'Drunkenness No Excuse for Murder,' *Edinburgh Evening News,* 14th January, 1904, accessed 11th April, 2016, British Newspaper Archives.

[332] No doubt Adolph Dumpig had a distinct advantage over his peers in gaining a reprieve in that the German Consul promoted a petition for his reprieve organised by a group of German labourers living in St. Luke's and Hoxton.

women's typically less brutal means of killing. Drowning, suffocating and strangling were the most common methods women used to murder their children. Despite late-Victorian fears of female poisoners and strong associations between criminal poisoning and poor, underprivileged women, very few women were indicted for deliberately poisoning their children. Interestingly, in this study men were slightly more likely than women to use poison to kill their children. This finding resonates with Robb's observation that despite 'near parity between the sexes' in poison cases tried in England 'the popular image of the poisoner remained overwhelmingly female'.[333]

Three of the 52 men indicted for murder in this study used poison to deliberately kill their children. Richard Oakes and James Benson were found criminally insane after poisoning their children to save them from future suffering. Arthur Devereux was convicted of poisoning his twin sons and their mother in order to start a new life with his eldest son. Arthur Devereux's use of poison to kill his wife and children subverted stereotypes of working-class masculinity and of fathers who killed their children. Robb observes that male poisoners were treated particularly severely by the courts' because 'poison seemed so much more sinister, secretive, and calculated than male brutality, which by comparison seemed spontaneous and candid'.[334]

Legal and community responses to cases of male-perpetrated child homicide involving poisoning supports Robb's finding that poison cases were treated with greater severity than more violent and spontaneous homicides. Analysis of court and press representations of Arthur Devereux's crime suggests a complex interplay of gendered

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[333] George Robb, 'Circe in Crinoline: Domestic Poisonings in Victorian England', *Journal of Family History* 22, no. 2 (1997), 2.

[334] Ibid, 7.

ideals and assumptions of class were at play in the construction of male child-poisoners. The ways in which understandings of masculinity and fatherhood were mobilised in constructions of Arthur's guilt is examined in the following chapter. I focus here on the role of misogyny within Arthur Devereux's case.

In April 1905 Arthur was brought before the magistrate in Harlesden Metropolitan Police Station to explain why he stuffed the corpses of his wife and twin toddlers in a trunk and stored them for months in a Harlesden warehouse. Arthur told the Court that when he returned home with Stanley after taking him out for ice cream, Arthur found his wife and youngest sons lying dead in their beds. Arthur believed they had died from poison so 'rather than face an inquest, I decided ….to conceal the bodies in a trunk which I had in my possession for about two years'.[335] He alleged Beatrice had administered the chloroform he kept in his writing desk, intended for his own suicide, should he lose his position and 'face starvation'.[336]

During the course of criminal proceedings Arthur cited mental instability, domestic troubles, fear of poverty and the possibility accidental overdose as motivations for Beatrice to kill the twins and then kill herself. He alleged he had a 'violent quarrel with her previously to going out, also many times quite recently and during the last twelve months'.[337] However none of the neighbours knew of any conflict between the Devereuxes. Only Beatrice's mother, Ellen Gregory, could testify to Beatrice's fears of her husband's increasing antagonism towards her and their youngest children.

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[335] Arthur Devereux, 14th April, 1905, written statement, exhibit 26, *R v Devereux*, CRIM 1/97/7, TNA.

[336] Ibid.

[337] Ibid.

Beatrice's social isolation played a considerable role in the ease with which Arthur was able to conceal her death. Her mother conceded she 'was not always of a cheerful disposition and kept very much to herself and did not make many friends'.[338] Beatrice's neighbour, Sarah Wells, characterised her as 'very reserved and kept entirely to herself' and noted that 'the family seemed to live quietly together'.[339] While they were neighbours, Sarah heard 'no signs of quarrelling'.[340] Sarah did, however, hear strange noise of metal banging coming from the Devereux bedroom on the morning of the 1st of February, 1905. On the 4th, she saw Arthur and Stanley 'making bonfires of paper in the backyard' and overheard Stanley asking his father if he was going to make dinner.[341] Days later she saw Stanley rattle the letter-box and ask to come inside and heard a voice tell him he could not. Sarah 'never saw the wife or the twins from the time [she] heard the noise in the bedroom'.[342] She had 'occasionally heard the twins cry, but from the time of the noise [she] never heard them cry'.[343]

Beatrice's final days were pieced together through the testimony of those whose interactions revolved around the provision of domestic services – the milkman, the postman and the baker. Similarly, the twins' age, their limited physical mobility and lack of social resources beyond that of their parents made them particularly easy targets without their mother's protection. It is unknown whether Arthur killed his wife as a

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[338] Ellen Gregory, 12th May, 1905, deposition, *R v Devereux*, CRIM 1/97/7, TNA.

[339] Sarah Wells, 17th April, 1905, deposition, coroner's inquest [Beatrice Ellen Maud Devereux], CRIM 1/97/7, TNA.

[340] Ibid.

[341] Ibid.

[342] Ibid.

[343] Ibid.

means to relieve himself of the burden of the twins or killed the twins to avoid the burden of their care after he achieved his ultimate objective in killing his wife. Perhaps Arthur found his wife and twin sons equally burdensome. Katherine Watson's study of Victorian English poisoners suggests that Arthur was one of a number of men convicted of poisoning women and children to avoid the imposition of paternal obligations.[344] According to Ellen, who had lived with Arthur and Beatrice during the first four years of their marriage, Arthur 'seemed to be very fond of Stanley...he was not fond of the twins... [he] said they would be all the more for him to keep'.[345] Ellen alleged Arthur resented Beatrice for giving birth to twins and had bitterly complained that 'his wife ought to have been satisfied with one'. [346]

Arthur's resentment of the physical and financial imposition presented by his mother-in-law's presence in the home no doubt intensified after the birth of the twins. Arthur himself confirmed Ellen's allegation that he forced her to leave and threatened to shoot her if she tried to return. Yet Arthur's hostility did not alienate him from other men in the community or in the Court. The Coroner responded humorously to Ellen's claim that Arthur had threatened to shoot her. The Coroner reportedly quipped 'Well, you are his mother-in-law, you know', rousing laughter from the crowd.[347] The Coroner's comments appear all the more insensitive given the presence of Beatrice and the twins' bodies lying on display between Ellen and the jury.

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[344] Watson, *Poisoned Lives,* 78-83.

[345] Ibid.

[346] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 15 April 2015), July 1905, trial of Arthur Devereux (t19050724-618).

[347] 'The Trunk Tragedy. Statement by Devereux. His Remarkable Career'. *Yorkshire Post and Leeds Intelligencer*, 12th May, 1905, accessed 18th April, 2016, British Newspaper Archives.

Arthur repeatedly called upon men, some strangers and some passing acquaintances, to shield his family from his meddling mother-in-law. And they did, themselves commiserating over the tensions produced by mothers who refused to let go of their daughters and impinged upon patriarchal authority over wives and children. The men's co-operation was underpinned by cultural anxiety about the erosion of masculine privilege and paternal authority. Threats to violence and the use of physical force to chastise insubordinate women were within the boundaries of acceptable working class manhood. William Garfath, agent to the Devereuxes' landlord, recalled a conversation with Arthur on the 7th of February, 1905 where he said

> daresay you will be troubled in a day or two by an old woman, my mother in law … I don't think she will trouble me again for a while as I have threatened to blow her brains out with a revolver if she comes on my doorstep again.[348]

According to Garfath,

> … the principal subject of conversation on February 7th was the prisoner's mother-in-law, and she seemed to be the person he seemed to have the greatest possible objection to – I know that other people speak in terms not complimentary about their mothers-in-law – when I spoke to the prisoner about his mother-in-law I was rather sympathetic and said, "They have no business to interfere with young married people; they ought to leave you alone; a mother ought to leave the daughter alone; they ought to know when they are comfortable and looked after.[349]

Three or four days after this conversation with Arthur, Garfath had taken Ellen through Arthur's flat, despite initially sending her away, because she 'would not be satisfied unless she looked over the place'.[350] Garfath denied he tried to 'choke her off going

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[348] William Garfath, 29th May, 1905, deposition, *R v Devereux*, CRIM 1/97/7, TNA.

[349] *Old Bailey Proceedings Online*, July 1905, Arthur Devereux (t19050724-618).

[350] Ibid.

there', but conceded he 'did not encourage her'.[351] He knew that Ellen was Arthur's mother-in-law and 'what he had said about her turned out to be true'.[352]

Thomas Simms, yard foreman at the warehouse where Arthur deposited the trunk containing his victims, deposed that he did not divulge any information to Beatrice's mother because Arthur told him she had caused tensions in his marriage. Thomas Banister, the owner of the warehouse, alleged Arthur had not directly told him not to divulge any information to his mother-in-law, but received the request 'only through the men'.[353] Consequently, he told the Court, despite his impression that 'she seemed very anxious to know where her daughter was and was not very easily put off …Mrs Gregory never got anything out of me'.[354]

Unfortunately for Arthur, Banister did reveal to Ellen that he was warehousing a trunk for Arthur. According to Banister

> I think Mrs Gregory was kept at bay for three or four weeks – I did not tell her that I thought there had been foul play – it was not until about the third visit that I told her I had a box …. She was surprised when I mentioned about the trunk and said she thought her daughter was in it – I told her I thought she was a wicked sort of woman to think anything of such a thing.[355]

Banister acknowledged that he harboured suspicions about the contents of Arthur's tin trunk, but nevertheless, continued to see Ellen as an antagonist to be 'kept at bay' and out of other men's affairs.

The testimony of men who unwittingly facilitated the concealment of Arthur's crime shows that patriarchal violence was justified by the provocation of insubordinate

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[351] *Old Bailey Proceedings Online*, July 1905, Arthur Devereux (t19050724-618).

[352] Ibid.

[353] Ibid.

[354] Ibid.

[355] Ibid.

women. Arthur's response to his mother-in-law's 'meddling' reinforced his masculine identity and strengthened his bonds with other men. It was the particularly feminised form of his actual violence against his wife and children and the perceived depravity of his behaviour after their deaths that hardened the Court's and the press against Arthur.

Conclusions

The analysed cases show the broad range of outcomes for men who killed their children as a result of or in conjunction to marital violence. Attitudes to violence in working-class marriages, expectations of male prerogative and recognition of the vulnerability of poor men's domestic authority were mobilised in representations of these men's crimes in Court, the press and wider community.

Juridical responses to cases of child homicide involving spousal violence reflect the complexity and ambivalence of late nineteenth- and early twentieth-century attitudes to family violence in England. Assumptions of class and gender underpinned cultural attitudes to family violence and were mobilised in the prosecution and sentencing of cases of child homicide involving allegations of spousal violence and abuse. While the Court, press and wider community expressed condemnation of men's violence against women and children, outrage over spousal violence was often tempered by recognition of various means by which women could provoke men to violence.

The extent to which women were considered to have provoked men's violence through words or behaviour played a considerable role in mitigation of men's criminal culpability for inadvertently killing their children. James Cornfield's case reveals tensions, possibly driven at least in part by cultural and class differences, between jurors, coroners and judges regarding the extent to which unwomanly conduct could mitigate men's fatal violence. However, jurors, coroners and judges did not respond

uniformly to cases of child homicide involving spousal violence. Judges were often critical of jurors' indulgence in accepting weak insanity pleas and provocation-based defences in murder cases in order to avoid delivering a death sentence. Yet judges themselves were not always adverse to elastic and somewhat indulgent interpretations of law in administering surprisingly light or novel sentences. The 'strange' sentencing of Matthew Lewis serves as a case in point.

This analysis of trial accounts has shown that responses to family violence in London's working-class communities were based on cultural norms of non-intervention in 'private' domestic disputes. A reluctance to intervene in domestic disputes amongst late-Victorian and Edwardian Londoners was driven by a desire to preserve family privacy within cramped and crowded communities and to preserve the sanctity of men's domestic authority. The cases presented in this chapter highlight the fatal consequences for children that could occur as a result of delayed interventions in family violence. Moreover, these cases establish a clear link between marital violence and child mortality and links ambivalent attitudes towards marital violence to variable trial outcomes for child homicide cases involving marital violence.

Chapter Four

'I will not Hurt or Kill Her, But I will Break Her Heart in Another Way ....' Manliness and Women's Provocation in Men's Narratives of Child Homicide

Spousal provocation was utilised as a partial exculpatory defence by both men and women accused of killing their child or children. Chapter one examined how expectations of working-class masculinities and fatherhood were mobilised in representations of male provocation as mitigating in cases of female-perpetrated child homicide. This chapter examines five cases in which fathers confessed to deliberately Defendants in these cases framed their violent acts with allusions to their wives' abdications of respectable femininity and related their own conduct to ideals of respectable working-class masculinity. In these narratives, maternal failings short-circuited men's attempts to fulfil the demands of respectable fatherhood. The Court's willingness to accept such provocation as compelling grounds for mitigation depended largely on whether men's actions were perceived to have been motivated by a paternal desire to protect their children from future suffering or as calculated acts of revenge.

In almost 15 per cent of all male-perpetrated child homicide trials conducted at the CCC between 1889 and 1913 spousal provocation was cited as the chief mitigating factor. By removing non-paternal cases and trials resulting in acquittal from the sample we can appreciate the significance of spousal provocations to culpability in cases of child homicide.[356] One-third of the remaining 41 defendants found guilty of killing their children based their defence on spousal provocation alone or combined with an insanity

[356] Provocation was a partial defence to murder, but did not entirely exculpate criminal responsibility. No cases were acquitted primarily on the basis of provocation.

defence.[357] This chapter examines how these men's crimes were constructed within the Court and the press as gendered acts of violence. Analysis of how allegations of spousal provocation were mobilised and interpreted in these cases illuminates the nuances in legal and cultural responses to men's and women's violence against children in Victorian and Edwardian England.

I examine these cases in light of the existing literature on legal responses to provocation as a partial defence to homicide and specifically in relation to spousal provocation as a defence to wife killings in late Victorian and Edwardian English courts. Studies of wife beating in Victorian England suggest that the constitution of provocation was intrinsically bound by cultural assumptions and expectations of class and gender.[358] Spousal provocation operated as a distinct form of exculpatory argument, but it was not statutorily recognised in Victorian or Edwardian English law.[359] Nor were the parameters of the defence clearly defined in common law. Spousal provocation could form the basis of a strong defence in cases in which the perceived wrongdoings of a spouse were so serious that they ameliorated the gravity of the offence. In homicide trials, women's adultery and other insults to masculine identity, such as nagging, verbal or physical assaults or neglect of wifely duties, could mitigate fatal wife beatings. Whether or not words alone could constitute provocation sufficient to reduce a charge

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[357] In five cases men were found unfit to plead by reason of insanity. One of these cases involved a father who killed his children in response to delusionary notions of his wife's infidelity.

[358] Maeve Doggett, *Marriage, Wife-beating and the Law in Victorian England* (London: Weidenfeld, 1992); Anne Clark, Domesticity and the Problem of Wife Beating in Nineteenth-Century Britain: Working-Class Culture, Law, and Politics', in Everyday Violence in Britain, 1850 – 1950, ed. Shani D'Cruze (New York, Longman, 2000): 27 – 40; Frost, *Living in Sin: Cohabitating as Husband and Wife in Nineteenth-Century England* (Manchester: Manchester University Press, 2008); Hammerton, *Cruelty and Companionship*, 13 - 70; Wiener, *Men of Blood*, 170 - 288; Ross, *Love and Toil*, 69 – 74, 84 - 87.

[359] See glossary of this thesis for a brief outline of provocation-based defences to homicide in Victorian English law.

of murder to manslaughter depended upon the presiding judge. Criminal defences based on spousal provocation in male-perpetrated child homicide cases similarly revolved around concepts of women's infidelity, drunkenness, refusal to maintain their household and poor mothering. Defence counsel argued that the stress produced by women's neglect of their homes and children, critical attitudes towards their husbands or alleged infidelity caused the unhinged state of mind in which the defendants killed their children. The Court decided whether or not the stress of such provocation was sufficient to cause a 'reasonable' man to lose self-control and kill his child in a fit of uncontrolled passion.

There was a distinct lack of consensus about what constituted grounds for provocation. Such ambiguity reflected cultural tensions about the limits of male prerogative within the domestic sphere and was heightened by different perspectives on spousal provocation taken by individual judges, jurors and coroners. Ambivalence about men's violence against women and children was further complicated in cases in which men's violent reactions to spousal provocation were directed at children. These tensions resulted in the Court's inconsistent responses to allegations of spousal provocation as a mitigating defence to male-perpetrated child homicide. In some cases unwomanly conduct was considered compelling grounds for mitigation and fathers received relatively light sentences on reduced charges of manslaughter after they confessed to deliberately killing their children. In other cases the gravity of women's provocations, when combined with the stress of poverty and unemployment, was considered to have weighed so heavily upon men that they were driven to the point of criminal insanity. In other cases the irrationality of men's allegations of spousal provocation formed the basis of successful insanity defences. Cases in which allegations of spousal insanity were not substantiated by evidence and men's motivations for killing

their children were believed to be vengeful usually resulted in a capital conviction and execution. The five cases examined here are representative of the variability of prosecution and verdicts patterns for cases of male-perpetrated child homicide that featured spousal provocation as a defence.

The case of Frederick James Chapman shows how women's behaviour that contravened accepted norms of female marital and maternal conduct was constructed as provocation of male homicidal behaviour in the Court and the press.[360] In 1893 Frederick handed himself in at Brixton Police Station and confessed to drowning his recently born son.[361] According to witnesses the 'sickly-looking man' 'made a long statement about domestic troubles' at the time.[362] It was revealed at the coroner's inquest that Frederick's wife was 'seduced' by his brother and contracted a sexual disease from him, which she in turn passed on to Frederick and their son.[363] The night before the murder Frederick's wife had told him of how his brother had 'taken liberties with her'.[364] Frederick 'said at the time that the child would be a disgrace to both of them'.[365]

It is unclear whether Frederick's wife was raped by or had consensual sex with his brother. The contemporary connotations of being 'seduced by' and 'taken liberties with'

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[360] Wilson draws on Chapman's case to argue that men who killed their children in response to sexual betrayal by a spouse were represented sympathetically in the press and in the courts. See Wilson, Mad, Sad, or Bad?, 163-165.

[361] 'Confession of a Child Murder by a Father,' *Sheffield Independent,* 27th January, 1893, accessed 3rd November, 2014, British Newspaper Archives.

[362] Ibid.

[363] 'The Brixton Tragedy,' *Reynold's Newspaper,* 12th January, 1893, accessed 3rd November, 2014, British Newspaper Archives.

[364] 'The Brixton Baby Murder. Verdict,' *Reynold's Newspaper,* 19th February, 1893, accessed 3rd November, 2014, British Newspaper Archives.

[365] Ibid.

suggests non-consent, but using such terms may have allowed Frederick's wife to couch her indiscretions in culturally accepted terms of feminine passivity. The extent to which Frederick and the Court blamed his wife for the sexual and moral contamination implies the affair was consensual. However, it is well established that blaming victims of rape for male sexual violence was rife in British courts throughout the nineteenth and twentieth centuries.[366]

Frederick's trial occurred at the height of late Victorian anxieties about sexual contagion and immorality. Mid to late Victorian conceptualisations of 'the scourge' of venereal disease viewed men and their extra-marital sexuality as the primary cause of its spread.[367] However it was prostitutes, rather than the men who engaged in extra-marital sexual activity, who were real targets of legislative attempts to curb the spread of sexual disease.[368] Proponents of women's rights positioned married women as innocent victims of their husbands' sexual vices and prostitutes as scapegoats for men's extra-marital sexuality.[369] Socio-economically vulnerable women and children forced

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[366] Carolyn Conley, 'Rape and Justice in Victorian England,' *Victorian Studies* 29, no. 4 (1986): 519 - 536; Louise Jackson, *Child Sexual Abuse in Victorian England* (London: Routledge, 2000); Ivan Crozier and Gethin Rees, 'Making a Space for Medical Expertise: Medical Knowledge of Sexual Assault and the Construction of Boundaries between Forensic Medicine and the Law in Late Nineteenth-century England,' *Law, Culture and the Humanities* 8 no. 2 (2012), 285-304; Wiener, *Men of Blood,* 76 - 122.

[367] Deborah Gorham, 'The "Maiden Tribute of Modern Babylon" Re-examined: Child Prostitution and the Idea of Childhood in Late-Victorian England,' *Victorian Studies* 21, no. 3 (1978): 355.

[368] Judith Walkowitz, *Prostitution and Victorian Society: Women, Class, and the State* (Cambridge: Cambridge University Press, 1982); Gorham, 'The 'Maiden Tribute of Modern Babylon', 353 - 379; Carol Smart, *Regulating Womanhood*; M. J. D Roberts, 'Feminism and the State in Later Victorian England,' *The Historical Journal* 38, no. 1 (1995): 85-110; Kelly Trumble, '"Her Body is Her Own": Victorian feminists, sexual violence, and political subjectivity' (PhD thesis, Florida State University, 2016).

[369] Elizabeth Wolstenholme and Josephine Butler were key figures in campaigns for repeal of the Contagious Diseases Acts, setting up the highly successful Ladies National Association for the Repeal of the Contagious Diseases Acts in 1869. The Ladies National Association's objected to the Contagious Diseases Act on the grounds that 'it is unjust to punish the sex who are the victims of a vice, and leave unpunished the sex who are the main cause, both of the vice and its dreaded consequences' ('The Ladies Protest', *The Daily News,* 1st January, 1870). For scholarship on feminist responses to the Contagious Diseases Acts see Jane Jordan and Ingrid Sharp, *Josephine Butler and the Prostitution Campaigns: Diseases of the Body Politic*, History of Feminism (London: Routledge, 2003); Lois Bibbings, *Binding Men: Stories*

into selling sex were conceived as prey to male sexual immorality and licentiousness.[370] Others, however, argued that male sexual necessity and men's rights to sexual liberty were to be defended and protected.[371]

Five years prior to Frederick's trial, Charles Clarence was convicted at the CCC with two non-sexual 'crimes against the person' offences related to disease transmission after he infected his wife with gonorrhoea.[372] The conviction was later quashed upon review by the CCCR, but the case raised important questions about sexual privileges of husbands and the bodily rights of wives. [373] In another famous case, Lady Gertrude Elizabeth Campbell filed for separation from her husband in 1886, after he infected her with syphilis. In light of these cases, the gravity of the offence Frederick's wife's committed against her husband was not as much her infidelity but that she infected him with a sexual disease, clearly without his consent.

In his opening remarks to the Court, prosecutor Mr C. Mathews

> expressed doubt whether the prisoner's distress of mind, owing to his wife's infidelity and his own consequent illness, would lead the JURY [sic] to say that the offense was murder than manslaughter.[374]

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about Violence and Law in Late Victorian England (London: Routledge,2014); Trumble, 'Her Body is Her Own'; Lydia Murdoch, *Daily Life of Victorian Women* (The Greenwood Press Daily Life through History Series, 2013), accessed 20th April, 2016, Ebook Library.

[370] Bibbings, *Binding Men*, 112 – 148.

[371] By the late-Victorian period notions of male sexuality were shaped by doctrines of self-restraint, however, the idea that men were naturally more sexual than women and had a biological need to satisfy their sexual urges in and outside of marriage persisted into the twentieth century. For further discussion of nineteenth-century English ideas about male sexual privilege see Judith Walkowitz, *Prostitution and Victorian Society* and Bibbings, *Binding Men*.

[372] Charles Clarence was charged and convicted on two counts of assault and grievous bodily harm by a jury at the CCC in 1888. However, the Recorder who heard the trial reserved judgement and sent case on to CCCR where it was dismissed upon review.

[374] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.0, 15 May 2014), March 1893, trial of Frederick James Chapman (t18930306-262).

Moreover, Mr Mathews informed the Court

> if there was one person for whom unbounded sympathy must be felt, it was the prisoner…. He … would ask that the offence should be reduced to manslaughter: if ever there was a case not only for merciful consideration, but for lenient charitable indulgence, it was this one. In considering what they [the jury] must call the crime committed by the prisoner, they must not forget the awful crime which had been committed against him.[375]

For the defence, Mr Thompson

> urged that the prisoner, who was a sober, steady man of excellent character, was simply driven mad by this domestic trouble. His case was as far removed from actual criminality as anything could well be.[376]

Mr Thompson's sentiment, perhaps not coincidently, echoed Sir Ridley's concerns over the state's lack of power to adequately punish 'those who are really criminals, and to mitigate the treatment for those who are not really criminals in our prison population'.[377] Speaking for the Prison Bill as Secretary of State for the Home Office, Ridley was referring particularly to the 'very inconvenient portion of our prison population' who entered the prison system upon default of punitive fines.[378] However, as I observed in my earlier discussion of Ridley's comments in relation to provoked women, the notion that some parents who were driven to kill their children under great provocation were 'not really criminals' was as common as it was contentious.[379]

The presiding Justice Hawkins offered consolation to Frederick too, saying that 'this was about as sad a case as had ever come before him' and 'he had the strongest

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[375] 'The Brixton Tragedy,' *Reynold's Newspaper,* 12th February, 1893, accessed 16th April, 2014, British Newspaper Archives.

[376] 'Simply Driven Mad,' *Leeds Times,* 11th March, 1893, accessed November 3, 2014, British Newspaper Archives.

[377] Ridley, 'Prisons Bill', HC Debate, 24th March, 1898.

[378] Ibid.

[379] See page 54 of this thesis.

sympathy with all that had been said on behalf of the prisoner'.[380] This was not the first case upon which Hawkins had ruled involving sexual transmission of disease within marriage. Hawkins served on the CCCR panel in the Clarence case of 1889 and was a voice of dissent amongst the majority of judges who determined that no assault had occurred because consent was implied by marriage. [381] Hawkins maintained that Clarence's offence was 'as cruel and as contrary to the obligation a man owes to his wife to protect her from harm, as can be well conceived'.[382] Given Hawkins' views on sexual contagion and marital consent it is less surprising that in his summary Hawkins applauded Frederick for forgiving his wife and brother 'who had so grievously wronged him, and who had ruthlessly broken up his home and his happiness'.[383] Taking the 'humane course', Hawkins did not pass sentence, but bound Frederick over in his own recognizances of £10, observing that he 'would leave the Court with the fullest sympathy of every man who had heard his sorrowing and sorrowful tale'.[384]

'It would never have happened if my wife had not gone away'

Fear and disgrace of sexual contagion combined with allegations of spousal abandonment in Ernest Royle's defence too. When charged with the murder of his seventeen-day-old daughter, Doris, Ernest replied, 'I am very sorry. It would never have

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[380] 'The Brixton Tragedy,' *Reynold's Newspaper*, 12th March, 1893, accessed 3rd November, 2014, British Newspaper Archives.

[381] *R v Clarence* (1889) 22 QB 23. Hawkins primarily argued that transmission of sexual disease within marriage had already been established as a civil wrong through matrimonial law by the late 1880s and therefore the marital exclusion law should not be arbitrarily applied in the Clarence case.

[382] Bibbings, *Binding Men,* 133 – 134.

[383] 'The Brixton Tragedy,' *Reynold's Newspaper,* 12th March 12, 1893.

[384] "The Brixton Tragedy," *Reynold's Newspaper,* 12th March, 1893. Frederick was convicted on the reduced charge of manslaughter which, unlike murder, left sentencing to the judge's discretion.

happened if my wife had not gone away'.[385] At her daughter's inquest Emily Royle explained her absence as a consequence of exhaustion, illness and marital disharmony. Both her two-year-old and seventeen-day-old daughters suffered from gonorrhoea, contracted from their father, and she had struggled to look after the ailing children and the home on her own since her confinement. She had been up all night on the 5th of November with the sick children and had argued with Ernest over claims she got on his nerves, nagging him to get out of bed and go to work in the morning. The dispute escalated and Emily alleged she feared for her life. The following morning she fed, bathed and put the baby to bed and left her husband with the children.

Witnesses testified that Ernest had appeared consumed with guilt and shame because he had communicated his sexual disease to his wife and children. At the same time, his wife's anxiety over his recent slackness was believed to have intensified Ernest's mental unrest. Emily's father testified that the day Emily left Ernest 'was in a state bordering on insanity; his eyes seemed to be bowling out of his head; he had been crying'.[386]

Ernest's landlady testified that she heard the children crying the whole day after Emily left. Early in the evening Ernest sent a letter to Emily's father begging him to send Emily home to tend to the children. It read:

> If Emm [sic] is in here will she come in and look after the children till I can get them both away in the Infirmary as I am nearly out of my mind and if I have got to have them myself all night something very serious will happen to the three of us for it is more than I can put up with so if Emily is in perhaps she will come in.[387]

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[385] Detective Inspector Albert Hawkins, 8th November, 1910, deposition, *R v Royle*. CRIM 1/118/5, TNA.

[386] Charles A. Langford, 17th November, 1910, deposition, *R v Royle*, CRIM 1/118/5, TNA.

[387] Ernest Arthur Royle, 6th November, 1910, letter to Mr Charles A. Langford, exhibit 1, *R v Royle*, CRIM 1/118/5, TNA.

When Ernest received Charles Langford's message that he did not know where his daughter was Ernest allegedly cried 'If I'm left here all night with these 2 [sic] children I'll do them in'.[388]

Concerned, Charles Langford called in to check on Ernest shortly after receiving his letter. He met Ernest coming down the stairs with Mabel in his arms. Ernest said, 'If Emm is indoors will you tell her to come in as the children have been crying all day and the baby won't take the bottle'.[389] Charles counselled Ernest, 'Well my boy you must do the same as I've done. I have had 18 children and manys the time I have had to get a pennworth [sic] of milk and feed them with a spoon'. [390]

Emily's brother testified that Ernest was still in bed when he checked in on him. Ernest told him the children were fine and he left. Half an hour later when Emily's mother looked in on Ernest she found the baby Doris lying dead on the bed, strangled with a boot lace. When she asked Ernest what he had done he responded, 'Wasn't it better dead than to see the disease working out of its eyes as it was?'[391] Emily's aunt, unaware of the events that had transpired over the previous two days, arrived at 11 a.m. to help Emily tend to Doris' eyes. Mrs Lennox testified that

> As I was going up the stairs prisoner said, "Don't come in, Aunt Rose, Emmy is not in." I said, "I must come up to see to the baby's eyes." He said, "Don't come in, I have killed her". I went in and saw the baby lying on the bed. Prisoner said, "What was I to do, being left all these hours; I was ageing to do her in" – pointing to Mabel.[392]

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[388] Albert Bird, 17th November 17, 1910, deposition, *R v Royle*, CRIM 1/118/5, TNA.

[389] Charles A. Langford, 17th November, 1910, CRIM 1/118/5.

[390] Ibid.

[391] *Old Bailey Proceedings Online,* December 1910, Ernest Arthur Martin Boyle [sic] (t19101206-27).

[392] Ibid.

Langford's chiding over Ernest's unwillingness to take on childcare responsibilities in his wife's absence was framed by his own experiences of fatherhood. His instruction that Ernest 'must do the same' suggests working-class men in early twentieth-century London were often required, if not expected, to participate in some childcare. The regularity with which Emily's family called upon Ernest during his wife's absence reflected their concerns that Ernest was particularly ill-equipped for the demands of childcare in his increasingly unstable mental state.

Divisional surgeon Robert Esler testified at Ernest's trial that he had requested examination for sexual disease and confirmed he was suffering from gonorrhoea. It is possible Ernest had not previously been formally diagnosed with the condition and wished to confirm his fears that he had infected his daughters with the disease. It is just as likely that Ernest's motivation was more calculated: lay correlations between venereal disease and insanity allowed defence counsel to establish an insanity defence. Under cross-examination by Ernest's defence Esler did inform the Court of 'a very intimate connection between venereal disease and the brain; great mental depression is caused, and that might induce some form of mania'.[393]

Brixton Prison PMO Sidney Reginald Dyer, well-respected for his medical acumen and legal knowledge, rejected 'an intimate relation between venereal disease and insanity' and stated he had 'never known a case in which gonorrhoea has produced insanity'.[394] Syphilitic insanity was medically recognised as a distinct form of mental illness; the correlation between gonorrhoea and mental illness was largely lay and widely disregarded by medical experts. Dyer confirmed Ernest was 'of a morose

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[393] *Old Bailey Proceedings Online*, December 1910, Ernest Arthur Martin Boyle [sic] (t19101206-27).

[394] Ibid.

constitution and anemic [sic]',[395] but had shown 'no evidence whatever of delusions or hallucinations or insanity' during his month of detention.[396] There was no family or personal history of insanity, no injuries or illness or fits to indicate epilepsy. However, under cross-examination by defence counsel, Dyer conceded the possibility that 'a man might have a homicidal seizure on November 6 and be quite normal by November 8'.[397] Largely disregarding principles of criminal insanity laid out in *M'Naghten Rules*[398], the jury grasped the possibility that Ernest acted under the influence of a 'homicidal seizure' and found him criminally insane.

Given that Ernest's venereal disease was not contracted from his wife and he was the source of the family's contagion, it is unlikely his diseased state would have garnered him any sympathy from the Court. However, Ernest's deep sense of shame, his overt expressions of emotion and expressed desire to kill his child rather than see her suffer was likely to have contributed to his construction as a tragic, rather than sinister figure. Men's overt expressions of grief were interpreted through cultural frameworks correlating working-class masculinity with emotional rectitude. Julie-Marie Strange observed 'when men broke down and wept, it was often described as shocking and unmanly, despite taking place within the domestic interior, a place usually associated with feeling and intimacy'.[399] Within this cultural framework, the jury, like Charles

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[395] *Old Bailey Proceedings Online*, December 1910, Ernest Arthur Martin Boyle [sic] (t19101206-27).

[396] Ibid.

[397] Ibid.

[398] See glossary, page 246.

[399] Julie-Marie Strange, *Death, Grief and Poverty in Britain, 1870 – 1914* (Cambridge University Press, Cambridge, 2005), 212.

Langford, correlated Ernest's lack of emotional rectitude with a mental state 'bordering on insanity'.[400]

Early twentieth-century cultural understandings of the potentially dire consequences of a woman's absence from the home underpinned the jury's assessment of Ernest's mental instability. While working-class men could be expected to participate in childcare when the need arose, childcare was primarily considered a maternal responsibility and obligation.[401] Moreover, the stress of caring for two very young and ill children was likely interpreted as an unreasonable burden for any man, certainly for a man physically reduced by venereal disease and of 'morose constitution'. Ernest's representation in Court and in the press stressed his lack of manly fortitude under pressure and emphasised his physical and emotional weakness. *The Standard*, for example, reported that Ernest was 'carried from the dock in a swoon', using a term more commonly employed to denote women's excesses of high emotion, to Edwardian readers.[402]

'I have got a Good Wife So Far. She Don't Get Drunk, But it is Her Jaw that Has Brought me to this'

Like Ernest Royle, James Valentine Curry killed his children in his wife's absence. However it was her 'jaw' rather than her absence that was the alleged grounds for James' provocation-based defence. Both James and his brother attributed James' mental

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[400] Charles A. Langford, 17th November, 1910, CRIM 1/118/5.

[401] The extent to which the sexual division of parental obligations and responsibilities underpinned juridical assessments of culpability for gross homicidal negligence of children is established in chapter two of this thesis.

[402] 'Murder by a Father,' *The Standard,* 9th December, 1910, accessed 13th December, 2015, British Newspaper Archives. On swooning and gender in Victorian literature see Naomi Booth, 'Feeling Too Much: The Swoon and the (In)Sensible Woman,' *Women's Writing* (May, 2014), 1-17.

distress at the time he murdered his children to his wife's verbal insults and jealousy in their sworn testimony before the Court. Medical experts at the trial explained his actions with more generalised references to physical and emotional stressors. Together, these two narratives produced a discourse of eroded masculinity under the forces of male unemployment, domestic disharmony, physical privations and mental instability. The frictions within such layered explanations of paternal filicide reflect complex interactions of socio-economic and cultural forces within marriages of poor Londoners.

Detective Sergeant Frederick Wensley testified at James' criminal trial for his sons' double murder that as he

> conveyed the prisoner from Commercial Street Station to Worship Street Police Court in a cab … he pointed to six men standing at the corner of Curtain Road, and said, "You see those six men standing over there; they are all our chaps waiting for a job. If you go a little higher up you will see another thirty. Women don't understand it. If you don't get work they say you don't try. I have got a good wife so far. She don't get drunk, but it is her jaw that has brought me to this." [403]

Gatherings of unemployed men along Curtain Road, the centre of Shoreditch's furniture trades, were a common feature of Edwardian London's industrial streetscape.[404] The men who lined the street in the hope of securing a day's or even an hour's work were mainly semi-skilled labourers who turned to easily learnt trades like furniture polishing when work was slack. Thus competition for furniture polishers by trade was particularly fierce. Despite previously maintaining regular employment as a French polisher, James had only been able to secure casual work in the nine months prior to the murders.

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[403] Detective Sergeant Frederick Wensley, 21st January, 1904, deposition, *R v Curry*, CRIM 1/88/10, TNA.

[404] Charles Booth, *Life and Labour of the People of London. The Trades of East London Connected with Poverty*, 182 – 183.

Detective Inspector Thomas Divall deposed that when he charged James with murder prior to his transfer to Court Curry intimated he had killed his sons to punish his wife. James confessed

> It is a bad thing to say, but I am glad they are dead. I started it, and I am glad that it is finished, and perhaps my wife will be sorry at the finish.[405]

However, his admission that he was motivated to kill his sons at least partially to spite his wife was subsumed within discourses of spousal provocation and insanity.

The testimony of Curry's brother, William Curry, added further provocations James allegedly suffered at the hands of his wife. According to William, James had been out of work 'some time' and had only had casual employment. James had gone into his brother's work twice in the last month seeking employment, but was not given any work. William had given him money to tide him over several times over the last month. A week prior to the murders James had asked William for two shillings to tide him over while he went 'on the road' to look for work.[406] He complained that if he didn't leave his wife would drive him 'mad'.[407] William concluded that although James and his wife, Fanny, 'lived together on very bad terms, [h]e loved the two children'.[408]

Under cross-examination by the defence William alleged

> His wife is a very jealous woman and often accused him of immorality with other women. Prisoner complained to me that in consequence he had to move from house to house. He was accused about every landlady. This preyed on his mind, and he looked very worried and pale. His wife used to annoy him at his work, frequently. He was a good workman, and a sober man. He made great efforts to obtain work. It is a terribly slack time in our

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[405] Detective Inspector Thomas Divall, 21st January, 1904, deposition, *R v Curry*, CRIM 1/88/10, TNA.

[406] William Curry, 21st January, 1904, deposition, *R v Curry*, CRIM 1/88/10, TNA.

[407] Ibid.

[408] Ibid.

> trade. His subscription to the Union was in arrear, and his name was erased. This prevented him from getting work at some shops.[409]

William's admission that James had previously attempted suicide pointedly proceeded his statement that the Currys' 'married life has been unhappy for years'.[410] Defence counsel clearly attempted to correlate James' allegedly unhinged state of mind with the chronic stress of a bad marriage and long-term unemployment.

Everett Nortox, medical superintendent at Shoreditch Infirmary, confirmed that he treated James for oxalic acid poisoning after he attempted suicide during the previous year. James had two epileptic fits while under Nortox's care, but he 'showed no signs of insanity' and 'left on his own accord'.[411] However, Nortox conceded that he

> should not be surprised at a man who is constantly worried having his mind affected – an epileptic would be more likely to be affected by worry than a man in an ordinary condition – privation through want of work and means would be likely to affect him.[412]

James Scott, chief PMO of Brixton Prison, agreed that epilepsy was a contributing factor in the case insofar as 'epilepsy would tend to increase his despondency, and to make him more impatient and irritable'.[413] At the same time, however, Scott did not question James' suggestion that his wife was to blame for their

> "cat and mouse existence" owing to his wife's bad temper, nagging tongue and unreasonable jealousy. He declares he has never given her any reason to be jealous….. On January 20th the day of the crime he says he had been walking about all day looking for work and had very little food. When he got home in the evening "quite broken up" and despondent about his prospects, and his wife told him, as she often did, that she did not believe that he had

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[409] William Curry, 21st January, 1904, deposition, *R v Curry*, CRIM 1/88/10.

[410] Ibid.

[411] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.0, 03 June 2014), February 1904, trial of James Valentine Curry (t19040208-197).

[412] Ibid.

[413] PMO James Scott, 6th February, 1904, medical report, *R v Curry,* CRIM 1/88/10, TNA.

> looked for work, he says he felt thoroughly tired of life and the trouble. He declares that he was very fond of his children, and had never before contemplated doing them any injury. They were not, on this evening, annoying him in any way, by being noisy or troublesome. He says that his recollection of the murdering of his children is very indistinct, and that he did not realise what he had done till he had gone out of the house.[414]

Scott found James was insane and suffering from melancholia while under observation and when he committed the murders. The jury agreed with Scott's assessment. James remained at Broadmoor Insane Asylum until 1918.

Responses to Frederick, Ernest and James' extreme reactions to women's challenges to their paternal authority and masculine identities in the Court, press and wider community highlight cultural anxieties over the erosion of men's domestic authority in working-class London. In each case the Court appeared sympathetic to the defendant's allegations of spousal provocation and found such provocations had, at least partially, contributed to the state of mind in which the men killed their children. The relative success of these men's criminal defence relied on the perceived validity of their claims of spousal provocation and the presence of other mitigating factors, such as poverty, illness or insanity. The following cases of Robert Ward and Henry Williams demonstrate Court condemnation of men who killed their children to exact revenge upon women for alleged sexual indiscretions. Their allegations of adultery were not fully substantiated and were diminished by their wives' reputations as respectable mothers. Moreover evidence that the men in these cases were motivated more by a desire for revenge than to save their children from future suffering and the considerable degree of forethought in planning their children's death severely compromised the likelihood of clemency.

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[414] PMO James Scott, 6th February, 1904, *R v Curry,* CRIM 1/88/10.

'Through the Worry of my Wife I was driven to it'

Robert Ward confessed to police that he was driven to kill his daughters by his wife's alleged infidelity. Robert alleged that his wife had started up an affair with her 'ex-sweetheart' who had recently returned from military duties in India. Florence, Robert's wife, and her sister were emphatic that 'nothing whatever improper took place between' Florence and the soldier, Benjamin Olliff. [415]

The deaths of Margaret and Ada Ward attracted intense press coverage. The English press, eager to satisfy public interest, rapidly expanded coverage of major criminal trials in the late nineteenth-century.[416] The representation of murder trials reflects cultural tensions between a desire to punish interpersonal violence, particularly violence against women and children, and moral discomfort with capital punishment. Criticism of inappropriately lenient rulings in cases of child homicide was countered by sympathetic coverage of convicts' appeals for repeal of death sentences. Sympathy was heightened for those who crimes were linked to socio-economic forces beyond their control. These tensions were compounded in Robert Ward's case by questions of fidelity, honour and respectability.

The sensational nature of Robert's crime goes someway to explain the immediate interest in the case. However similar cases in which an otherwise affectionate father killed his children that involved multiple fatalities and attempted suicide attracted much less attention from the press. The initial confusion over whether Robert killed his

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[415] Florence Ward, 24th July 24, 1899, deposition, coroner's inquest (Margaret Florence Ward and Ada Louisa Ward), CRIM 1/56/9, TNA; Alice Reed, 7th August, 1899, deposition, *R. v Ward*, CRIM 1/56/9, TNA.

[416] Wiener, *Men of Blood*; Martin Wiener, 'Judges v. Jurors, 471; Anne Baltz Rodrick, '"Only a Newspaper Metaphor": Crime Reports, Class Conflict, and Social Criticism in Two Victorian Newspapers,' *Victorian Periodicals Review* 29 (1996): 1 – 18; Rosalind Crone, 'The Rise of Modern Crime Reporting,' *Violent Victorians: Popular Entertainment in Nineteenth-century London* (Manchester: Manchester University Press, 2012), 209 - 256.

children because of unemployment or insanity and the titillating twist of the suspected infidelity of his wife certainly fuelled public interest. No doubt Robert's death sentence sustained widespread interest at a time when debates about capital punishment were particularly heated.

Five days after the funeral of Margaret and Ada Ward, *The Illustrated Police News* ran a full-page illustrated feature article on the children's murder.[417] The dramatic spread portrayed a woman's shock as she opened the door onto the horrifying scene of Robert attempting suicide after cutting the throats of his two young daughters. In the left hand corner two inserts showed the exterior of the two storey terrace in which the crime occurred and a portrait of a well-groomed and respectably poised Robert Ward. These images heightened the disjunction between the respectable exterior presentation of house and portrait and the internal disorder exposed to the reader. The same edition of the newspaper opened with a front page pictorial representation of the 'Parisian Tragedy', depicting a scene in which a jealous Visconte fired his pistol into the face of his sweetheart. Symmetry between the stories of the 'Parisian Tragedy' and 'Walworth Tragedy' was highlighted by the placement of the Visconte case article immediately above the Ward article.[418]

The representation of the victims and their attackers present a gendered juxtaposition of class. The female victims in both pictures manifested ideal feminine

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[417] 'Another Awful Tragedy in Walworth. A Father Murders Two of His Children and Attempts Suicide,' *The Illustrated Police News*, July 29, 1899, April 11, 2016, British Newspaper Archives. The illustration is shown on the front page of this thesis.

[418] Conley (*Certain Other Countries*, 155) and Wiener (*Men of Blood*, 235) contend that relatively high conviction rates of jealous husbands who murdered their wives in Victorian Britain can be attributed to the British association of crimes of passion with Europeans. However, Jade Shepherd highlights the extent to which jealousy, particularly the jealousy of working class English men, was identified in Victorian British fictional, medical, criminological, alienist and journalistic discourse ('Victorian Madmen', 208-226).

attributes. All appeared vulnerable, passive, all turning their faces away from their attacker and none were depicted in actively defensive poses. However, the Visconte's victim was a beautiful, sensually posed and extravagantly dressed bourgeoise with ample breasts displayed over a plunging neckline, highlighted with exuberant splashes of black ink. Robert's children evinced the wholesome innocence and fragility of their youth through their modest, yet respectable dress. Class differences were reinforced by the opulence of the Visconte's crime scene and Robert's modest and homely working-class lodgings. Both Ward and Visconte clutch their victim's arm possessively. They were similarly depicted with well-groomed dark hair and moustaches and muscular physiques. Class and cultural distinctions between the two men were observed in Visconte's formal attire and Ward's respectable, yet decidedly working-class vest and shirt, sleeves bloodied and rolled up to the elbows. Notably, Ward's rather muscular physique appeared at odds with descriptions of Ward as 'a rather small man',[419] who became increasingly haggard as his trial progressed and his eventual execution loomed.

While Robert was the subject of criminal investigation and prosecution, considerable and sustained media interest in the case focussed on his wife, Florence Ward. From the coroner's inquisition into her daughters' deaths to her husband's execution for their murders, Florence Ward was constructed variously as an agent of provocation and a victim of her husband's jealous rage.

Florence's interview with *Lloyd's Weekly Newspaper* two days after the murders reads as a vindication of her reputation, which had clearly been tainted by her husband's allegations of unwomanly conduct. The reporter introduced Florence as 'an

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[419] 'The Walworth Tragedy,' *Sheffield Evening Telegraph,* 1st August, 1899, accessed 11th April, 2016, British Newspaper Archives.

attractive-looking woman' who 'always took a proper pride in sending her pretty fair-haired children to school clean, well-dressed, and tidy'.[420] According to Florence's 'version of what led up to Thursday's crime',

> …. The troubles began soon after marriage, and not only through drink, but through his jealousy…. I could not even have a letter but what he would insist on seeing it. He used to quarrel with me a great deal because when I went for my supper beer, men round the bar would speak to me, and some of them would even want to pay for a glass of ale. That one thing alone has led to a great deal of unhappiness. He would pick a quarrel with almost anyone that spoke to me. I really seemed to have no friend. Can you wonder, then, that my whole life seemed wrapped up in my two dear little children?[421]

Florence explained her marital troubles and her refusal to accompany her husband home in terms of her husband's jealousy and lack of restraint. The rather dramatic account alleges Florence's 'first sweetheart … had travelled for miles to try and find me out and see me, for as boy and girl we loved one another'.[422] A meeting was set up at her sister's home.

> In the course of conversation the soldier, not knowing my husband's jealous disposition, innocently told him that as a girl I was his first sweetheart. My husband's eyes flashed fire. A row began, and the young soldier then said, "Oh, if that is it, I will go", and the three visitors all left to go to my relations. As I thought the children and myself would be in danger, I went too…..[423]

Florence alleged that she spent the next few days unable to sleep, fearing for her life. The interview was conducted shortly after Florence had visited her husband in the hospital. Florence alleged she

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[420] 'Camberwell Child Murders Seen From a Board School. Story of the Crime. Wife's Old Sweetheart,' *Lloyd's Weekly Newspaper*, 23rd July, 1899, accessed 11th April, 2016, British Newspaper Archives.

[421] Ibid.

[422] Ibid.

[423] Ibid.

> said to him, "Bob, why did you take the lives of the two little darlings?"[424] He glared at me and said, "Because you made me, and if there had not been so much row, and you had come in a bit quicker, you might have gone too"[425]. In conclusion to the interview, "Mrs Ward vehemently declared that there was no foundation for her husband's suspicions against her.[426]

Apparently not everyone in Walworth read or was convinced by the characterisation of events put forward in *Lloyd's Weekly Newspaper*. Certainly not members of the riotous crowd who abused Florence at her daughters' funeral or the coroner and members of the coroner's jury who criticised her decision to meet with an ex-sweetheart and abandon her husband.

After the children's funeral the *Yorkshire Gazette* reported on

> some most disgraceful scenes …. A large crowd had assembled from early in the morning in the vicinity of Manor-place [the mortuary], and also in Boundary-lane [the crime scene], and as early as eleven o'clock the police had to be reinforced. Four times they had to quell disturbances and attempts to mob the house. When the mother last appeared she was greeted on all sides by abusive epithets and all kinds of street refuse were thrown about.[427]

Florence was rushed into the funeral coach with the other relatives under 'a strong escort of police'.[428] However, despite the obvious animosity towards the children's mother,

> [w]hile the two white coffins were being carried to the hearse the hooting ceased and many of the roughest in the crowd bared their heads. The coaches were followed as far as the Elephant and Castle by the mob, hooting and shouting, the whole scene being most disorderly. [429]

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[424] 'Camberwell Child Murders,' *Lloyd's Weekly Newspaper*, 23rd July, 1899, accessed 11th April, 2016, British Newspaper Archives.

[425] Ibid.

[426] 'Camberwell Child Murders,' *Lloyd's Weekly Newspaper*, 23rd July, 1899.

[427] 'Walworth Tragedy. Disgraceful Scenes at the Funeral,' *Yorkshire Gazette*, 29th July, 1899, accessed 11th April, 2016, British Newspaper Archives.

[428] Ibid.

[429] 'Walworth Tragedy,' *Yorkshire Gazette*, 29th July, 1899.

Taking a decidedly more optimistic tone, the *Cornishman* reported the funeral of the 'Walworth tragedy' victims, took place

> amid signs of the greatest respect. The pathways in the vicinity of the scene of the murders – Boundary-lane – were almost impassible [sic], a great crowd, consisting chiefly of women and children, being present.[430]

The coroner's inquisition into the deaths of Margaret and Ada Ward attracted 'considerable interest'.[431] Perhaps unsurprisingly, 'the Court was thronged' when Florence Ward took the table as the first witness.[432] It is clear from the line of questioning from the Coroner, Mr G. P. Wyatt, and the jury, that Florence's refusal to leave the party with her husband was interpreted as 'considerable provocation'.[433] According to *The Standard*, Florence deposed that

> He [Ward] asked me if I was going home. I said, "No." Then he went home. I did not return, and neither did the children until the Wednesday, the day before the crime. My husband was then in bed, and he said, "I am glad to see you come back; I thought you had gone away for good……I know I am very miserable to you, and make your life unhappy." That night when in bed he said he felt pains in his head, and added, "If one dies, we all die together." He didn't rest all night, and got up at six o'clock in the morning and went out.
>
> The Foreman: Why did you refuse to go home on the Sunday, and remain till the Wednesday?
>
> Witness: Because I was afraid he would hit me.
>
> The Foreman: Didn't you think it would make your husband jealous to go and see the soldier?

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[430] 'The Walworth Tragedy,' *Cornishman,* 3rd August, 1899, accessed 11th April, 2016, British Newspaper Archives.

[431] 'The Walworth Tragedy. Inquest and Verdict,' *Reynold's Newspaper*, 30th July, 1899, accessed 11th April, 2016, British Newspaper Archives.

[432] 'Another Awful Tragedy in Walworth,' *The Illustrated Police News*, 29th July, 1899, accessed 11th April, 2016, British Newspaper Archives.

[433] Ibid.

> The Witness: I didn't think of it.[434]

The reporter added that 'Mrs Harriet Francis Mills [the Wards' landlady] ….said Ward and his wife were continually squabbling', before concluding that the

> Jury returned a verdict of Wilful Murder against Ward, adding a rider to the effect that they considered the Prisoner had been subjected to considerable provocation arising from the treatment received at the hands of his wife.[435]

The Standard was one of at least nine newspapers to report that Robert killed his children under great provocation at the hands of his wife. However more substantive reports on the inquest and verdict challenged the implication that Florence's behaviour amounted to 'considerable' provocation for the murder of her children. These reports presented Florence in idealised terms of working-class femininity, emphasising her physical delicacy that suggested vulnerability while remarking upon her strong work ethic and devotion to her children. For example, Florence was described as a 'young and some-what delicate looking' but 'hard-working woman' who 'maintained the household by charring and other labour, and also managed to keep her children neat and clean' while her husband was out of work.[436] Florence's delicacy was reinforced in another report on the inquest in which she was described as in a 'half-fainting condition' when she appeared as the first witness.[437] *Reynold's Newspaper* published Florence's

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[434] 'The Double Murder at Walworth,' *The Standard,* 25th July, 1899, accessed 11th April, 2016, British Newspaper Archives.

[435] 'The Double Murder at Walworth,' *The Standard,* 25th July, 1899.

[436] 'Another Awful Tragedy in Walworth,' *The Illustrated Police News*, 29th July, 1899, accessed 11th April, 2016, British Newspaper Archives.

[437] 'The Camberwell Child Murders,' *Lloyd's Weekly Newspaper*, 23rd July, 1899.

confession that 'I may have nagged him and caused him to drink. I've given him cause to hit me. I've nagged him'.[438]

While Florence herself claimed responsibility for Robert's violence towards her through her 'nagging', she consistently denied provoking his violence against her children through sexual infidelity. Considerable effort was expended to establish whether or not Robert's suspicions related to any actual infidelity. Reports circulated that police investigations failed to uncover any grounds for the allegations.[439] By the end of Robert's criminal trial, journalists had shifted their attention from verifying claims of infidelity to fleeting assessments of Robert's attempts to deflect blame for his actions onto his wife. At the same time as journalists criticised his unmanly attempts to deflect responsibility for his actions onto his wife, reporters appeared resistant to constructing Robert as a violent man, despite the violence of his actions. Under the heading 'Murder by a Peaceable Man. Sentence of Death' it was reported that Robert,

> who was described as a steady and peaceable man, attacked the children in his wife's absence and attempted to commit suicide, and when he was arrested he threw the blame on his wife, of whom he was jealous. The judge held out no hope of a reprieved. The defence was that the prisoner was insane.[440]

Robert's prior history of domestic abuse, the violent deaths inflicted upon his daughters and the unwillingness of medical experts to substantiate claims to insanity sat uneasily with his characterisations as a 'steady and peaceable man'.[441]

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[438] 'The Walworth Tragedy,' *Reynold's Newspaper*, 30th July, 1899, accessed 11th April, 2016, British Newspaper Archives.

[439] 'The Murder of Two Children. Accused in Court,' *Dundee Courier*, 16th August, 1899, accessed 11th April, 2016, British Newspaper Archives.

[440] 'Murder by a Peaceable Man. Sentence of Death,' *Sheffield Evening Telegraph,* 14th September, 1899, accessed 11th April, 2016, British Newspaper Archives.

[441] Ibid.

Media attention turned to Robert's physical and mental state in the lead up to his execution. Readers, no doubt some sympathising with Robert or objecting generally to capital punishment, learned of his 'most pitiable condition' in the days prior to the execution.[442] Public interest in and ambivalence about Ward's execution was evidenced by strong support generated for his reprieve. A reprieve petition bearing over 15,000 signatures was presented to the Home Secretary on the grounds of criminal insanity. However, despite having issued reprieves on shakier foundations than attempted suicide and a family history of insanity, the Home Secretary refused to intervene.[443] In his last moments, Robert was 'in a haggard and depressed condition, and had to be supported on either side in walking to the scaffold. He murmured prayers up to the last'[444] and expressed deep regret for his crime'.[445]

In contrast, Henry Williams, executed in 1902 for murdering his daughter in response to the alleged infidelity of his de facto wife, was defined in the press by his manful stoicism in his final hours. Henry 'walked unassisted to the scaffold',[446] 'almost assisted the executioner with the pinioning' and 'remained firm to the last'.[447] When several of his relatives took a last farewell of the doomed man, he was by far the least

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[442] No title, *Sheffield Evening Telegraph*, 25th September, 1899, accessed 11th April, 2016, British Newspaper Archives.

[443] No title. *Portsmouth Evening News*, 27th September, 1899, accessed 11th April, 2016, British Newspaper Archives.

[444] 'Execution at Wandsworth. Child Murderer Hanged. Haggard and Depressed Convict,' *Evening Telegraph,* 4th October, 1899, accessed 11th April, 2016, British Newspaper Archives.

[445] 'The Walworth Murderer,' *Lloyd's Weekly Newspaper,* 8th October, 1899, accessed 5th June, 2015, British Newspaper Archives.

[446] 'A Child Murderer Hanged,' *Grantham Journal,* 15th November, 1902, accessed 5th June, 2015, British Newspaper Archives.

[447] 'Fulham Murderer Hanged,' *London Evening News and Evening Mail*, 11th November, 1902, accessed 5th June, 2015, British Newspaper Archives.

affected. He told them he should not flinch when he had to meet his fate. On learning that a reprieve had been refused, he calmly remarked, 'So much the better; the sooner to meet my darling. I never asked mercy of any man. I pray forgiveness of God'.[448]

Henry Williams' case serves as a useful counterpoint to that of Robert Ward. Robert was represented in the press and Court as a man undone, unmanned by his unrestrained jealousy, his uncontrolled brutal acts of violence and eventual physical and emotional breakdown. Henry, on the other hand, articulated his motive for murdering his daughter in terms of masculine honour, morality, selflessness and paternalistic compassion and concern for his daughter. These sentiments were echoed in the jury's observation of Henry's 'somewhat honourable' motive and press reports of his unflinching self-possession in his final hours.[449]

'I will swing for it like a man'

Henry murdered his five-year-old daughter, Maggie, after accusing his de facto wife of intimacy with a sailor named 'Alf' while he was stationed in South Africa.[450] Oscillations between intimacy and threats of violence in Ellen's account of her interactions with Henry's prior to the murder resonated with assumptions about volatility in working-class marriages. Ellen recounted an argument they had in the lead up to the murder in which Henry demanded

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[448] 'Executed for Child Murder,' *Western Times*, 12th November, 1902, accessed 5th June, 2015, British Newspaper Archives.

[449] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 11 April 2016), October 1902, trial of Henry Williams (t19021020-735).

[450] The nine year de-facto relationship between Henry Williams and Ellen Andrews was 'complicated'. Ellen alleged that she had told Henry in a letter she no longer wished to live together upon his return to England, however, their intimacy continued after his return and Ellen was referred to as Henry's wife by witnesses at Henry's trial. To avoid confusion, I refer to their relationship as de-facto here.

> Tell me the truth like a woman and I'll forgive you and it will be all over. Do you like him better than me?" I said "No it never came to that it was not spoken of". He shewed [sic] me a razor that night and said I should be satisfied when I saw him with his throat cut. I said I had heard a lot of that I was not afraid. We slept together on the Monday and Tuesday 8th and 9th September and arranged to return home on the Wednesday. On the morning he said at first he wanted to take the box home and then that he wanted to take Maggie. I said it was too early. He said it was hard if he could not take his own child. He said to me "I won't hurt you but I will do something which will break your heart and brand you so that you will never hold up your face in the world again." I had a return ticket to London Bridge – his was to Victoria. I saw him off on 10 September by the 8.19 a.m. train ….to Worthing with the child Maggie. We parted on friendly terms. He kissed me at the station and told me not to be late. I returned to London Bridge about 3.30 p.m. My sister was with me and we went and had some tea … [on the way home] I had to pass Lord Palmerston Public House and saw defendant inside with Mrs M--- and Mrs Nye. I went in and said to him "I see you are about here". Mrs Nye said "Mrs Williams I have bad news for you your Maggie is dead". I said "What run over?" She said "No killed. He's killed her". He said "Yes she's killed. I've killed her it's all over". At that moment the Constable came in and arrested him. He always appeared very fond of the child.[451]

Other witnesses confirmed Henry's reputation as a loving father. His landlady, Elizabeth Helm, told the Court that 'no father could be fonder of his child than he was; she was the one thing in the world that he was most devoted to'.[452] Her comments came only six days after she had found Maggie lying dead on the bed with the bedclothes tucked up to her chin, a large doll by her side and three letters on her chest.

Witnesses testified to Henry's fear and anger at the thought of his daughter sleeping with other men. Hours before the murder Henry told Helm 'he would sooner see Maggie dead than grow up to sleep in a bed with another man'.[453] Shortly afterwards he complained to George Frewin that Ellen told him

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[451] Ellen Andrews, 9th September, 1902, deposition, *R v Williams*, CRIM 1/75/11, TNA.

[452] Elizabeth Hannah Helm, 9th September, 1902, deposition, *R v Williams*, CRIM 1/75/11, TNA.

[453] Ibid.

> in her nightdress [that] she loved this other man do you think I can let my little Maggie sleep with another man as I did with her little daughter no this will drive me stark raving mad.[454]

In this statement Henry appears to refer to his fear that another man may molest his daughter as Henry himself molested Ellen's older daughter while they co-slept (a crime for which he was convicted in 1899).[455] However, in other statements Henry suggested that Ellen was a prostitute and his daughter was in danger of being forced into prostitution by her mother. After his arrest Henry declared, 'I am glad she is dead she cannot be brought up as a prostitute'.[456] Then, at the station he took a razor out of his pocket and said, 'This is what I did it with I did it because her mother is nothing more than a prostitute'.[457] Later, he reiterated to Detective Inspector Walter Drew that he 'killed [his] beautiful little daughter to save her from prostitution'. After Drew cautioned and charged him, Henry responded,

> I know you will put it down in writing I did kill my lovely daughter to save her from becoming a prostitute. It is not many men who would have had the heart to do it but I bleeding well did and now I will hang for it I did it to save my old woman from putting her in bed with other men God blimey me she was my child and I loved her and I will walk like a man to the scaffold I loved every hair on her head.[458]

Henry repeatedly spoke of the violence he perpetrated against his daughter as evidence of the depth of his fatherly love and as an expression of his manhood. Upon his arrest

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[454] George Frewin, 16th September, 1902, *R v Williams*, CRIM 1/75/11.

[455] See HO 144/678/101552.

[456] Police Constable Lewis Harrison, 16th September, 1902, deposition, *R v Williams*, CRIM 1/75/11, TNA.

[457] Ibid.

[458] Detective Inspector Walter Drew, 16th September, 1902, deposition, *R v Williams*, CRIM 1/75/11, TNA.

Henry told police a number of times that he killed his 'little girl' and he would 'hang like a man for it'.[459]

More implicitly, witness testimony constructed the murder itself and Henry's attitude towards Ellen afterwards as a re-assertion of manhood. Henry's friend, George Frewin, testified that after he told Henry police had been notified of the murder

> He said come and have the last drink with me George…. I said you were a fool to do this Harry. He said never mind I'll swing for it like a man. Mrs Nye was in there with us and was crying. Mrs Andrews came in and asked her what was the matter. She said Maggie is dead. Mrs Andrews said My Maggie dead? Defendant said Yes, Maggie is dead. Now go to your b-seafaring man.[460]

The Court heard that police inquiries into Ellen's sexual conduct found no evidence she had ever been involved in prostitution or in a sexual affair with another man. Henry was found guilty of murder without repeal, despite the Jury's recommendation to mercy *'on account of the somewhat honourable motive he had of saving the little girl from a life of prostitution'.*[461] The Court's verdict reflects the depth of early twentieth century cultural anxieties about the sexual immorality and in particular, the sexual corruption of children in London's infamous 'white slave trade'.[462] More specifically, Home Office

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[459] Lewis Harrison, 16th September, 1902, *R. v Williams*, CRIM 1/75/11.

[460] George Frewin, 16th September, 1902, *R. v Williams*, CRIM 1/75/11.

[461] *Old Bailey Proceedings Online,* October 1902, Henry Williams (t19021020-735). Italics in original text.

[462] Popular late Victorian journalist William Stead's highly sensationalised 'expose' of the white slave trade in young English girls and rampant juvenile prostitution in London attracted intense and sustained interest. The series of articles published in the *Pall Mall Gazette* under the evocative title 'The Maiden Tribute of Modern Babylon' from the 6th to the 10th and on the 30th of July 1885. It was reproduced across the regional press affirmed existing fears of the sexual depravity of London streets and invigorated investigations into child welfare amongst London's poor. See also Judith R. Walkowitz *City of Dreadful Delight: Narratives of Sexual Danger in Late-Victorian London* (London: Virago, 1992); Lynda Nead, *Victorian Babylon: people, streets, and images in nineteenth-century London* (New Haven: Yale University Press, 2000); Seth Koven, *Slumming: Sexual and Social Politics in Victorian London* (Princeton, New Jersey: Princeton University Press, 2004).

refusal to extend clemency in this case was likely coloured by his prior criminal conviction for the molestation of Williams' step-daughter.

Press reports reflected ambivalence towards Henry as a violent man who killed his own daughter to spite her mother, but expressed the most honourable motives a father could have to do so. Henry's declaration that he killed Maggie to save her from growing up to be a 'bad woman' like her mother and that he would 'hang like a man for it' was the focus of earlier reports on the crime.[463] Maggie's murder was characterised as 'a case of jealousy and revenge',[464] owing to her mother's conduct.[465] Extracts from Henry's 'strange letters' written in Brixton Prison while awaiting trial were the subject of an extended report in which Williams expressed forgiveness for Ellen's alleged sins against him. Henry's closing prayer was that 'God forgive her [Maggie's] mother and those who had a hand in this to take our [Henry and Maggie's] lives …..God rest her [Maggie] in heaven …how I long to go with her'.[466]

Conclusions

Legal rulings in these cases were largely informed by common law precedence on crimes of passion, jury associations of insane jealousy with criminal insanity and the Court's acceptance of infidelity and domestic dysfunction as grounds for provocation.

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[463] 'A Child's Shocking Death. Confessions of a Father,' *Nottingham Evening Post*, 12th September, 1902, accessed 2nd June, 2015, British Newspaper Archives.

[464] 'Crime in London. Horrible Tragedies,' *Manchester Evening News*, 20th October, 1902, accessed 2nd June, 2015, British Newspaper Archives.

[465] For example, see 'Crime in London. Horrible Tragedies,' *Manchester Evening News*, 20th October, 1902 and Untitled, *North Devon Journal,* 30th October, 1902, accessed 2nd June, 2015, British Newspaper Archives.

[466] 'Written from Gaol. Alleged Murderer's Strange Letters. Happy with My Bible,' *Yorkshire Telegraph and Star*, 4th October, 1902, accessed 2nd June, 2015, British Newspaper Archives.

Provocation-based defences to child homicide were successfully utilised by men and women charged with killing their children. Men mobilised late Victorian and Edwardian ideals of working-class womanhood to argue for mitigation of sentencing and to establish grounds for insanity pleas on the basis of spousal provocation. The women alleged to have provoked their husbands to kill their children were criticised for their absence from the home, nagging, bad-temper and alleged sexual indiscretions.

Analysis of trial accounts presented in this chapter reveals ideas about respectable working-class womanhood through the testimony of defendants, working-class witnesses and commentary of the court. Representations of absent mothers, ill-tempered nags and unfaithful wives contrasted with popular Victorian middle-class idealisations of a wifely 'angel in the house' and with working-class men's expectations of a 'good wife'. Respectable working-class women were expected to keep their children and lodgings clean, drink in moderation, show marital fidelity and defer to their husbands' paternal authority. Contested allegations of women's unreasonable nagging, maternal absence and public insubordination in constructions of spousal provocation exposed the tensions and complexities in working-class gender ideals.

The majority of cases in which men claimed to have killed their children under the provocation of their wives' sexual indiscretions resulted in conviction or rulings of criminal insanity. Allegations of sexual indiscretion were largely discredited by witness' characterisations of their wives' respectability and by prosecuting counsel's counter-allegations of insane jealousy. The crimes of men motivated by morbid jealousy to kill their children affirmed negative stereotypes of working-class men's propensity for brutish jealousy and lack of self-control. While the press framed representations of jealousy-motivated child homicide in terms of insanity and brutality, causative links between jealousy, madness and murder were not absolute. Analysis of trial outcomes

and medical reports submitted at trial shows that irrational jealousy, even insane jealousy, was not necessarily correlated with criminal insanity. The inconsistent sentencing patterns represented in the sample of cases presented in this chapter suggest that morbid jealousy and other emotional responses were interpreted within an aetiology of paternal filicide. Socio-economic, physiological, mental and interpersonal factors were considered as extenuates to child homicide perpetrated by fathers motivated by feelings of jealousy towards their wives.

Provocation-based defences to child homicide, particularly those involving insane jealousy, were unlikely to secure men an acquittal. However, the proportion of cases that involved rulings of insanity and reductions in charges and sentencing suggest such defences found resonance with cultural understandings of the detrimental effects of domestic disharmony on men's mental state. Moreover, courtroom commentary in these cases suggests acceptance of spousal provocation as a mitigating factor and of a particular model of working-class masculinity that accounted for jealousy and aggression in marriage.[467]

[467] Not all the men were formally married to the women they alleged had provoked them, but all of the men referred to these women as their wives and were cohabitating as if married prior to the alleged crimes being committed.

Chapter Five

A 'Sad and Terrible Story'

The Criminal Responsibility of Fathers who Murdered their Children

The majority of men who were tried for killing a child under fourteen-years of age at the CCC between 1889 and 1913 murdered their own child or children. Fathers were indicted in almost 70 per cent of the 118 trials for child homicide involving men in this study. While only 62 per cent of men tried for the manslaughter of a child were identified as the father of the victim, almost 80 per cent of men tried on a capital indictment for killing children were the victim's fathers. Eight of the ten men convicted of capital child homicide had murdered their own child. Five of these convicted fathers had their death sentences reprieved and three were executed. Of the two men found guilty of the murder of someone else's child, one was executed and the other had his sentence commuted to life imprisonment.

This chapter examines the ways in which ideas about fatherhood and masculinity were employed to determine men's criminal responsibility in a representative sample of five cases. Poverty was cited in three cases as grounds for reprieve of sentence or pardon while extreme mental duress (that fell short of criminal insanity) was the primary reason for reprieve granted in a fourth case. A fifth case represents the minority of capital convictions for child homicide that resulted in execution. The cases analysed here highlight the variety of socio-economic, psychological and biological forces engaged in constructions of criminal culpability that extend beyond simple binaries of good or bad.

Men convicted of child murder were most commonly characterised as 'sad', 'tragic' or 'desperate' figures, rather than fiendish, evil or simply bad men. Henry Augustus Berney

serves as a case in point. Henry claimed he accidently smothered his illegitimate eighteen-month-old son and threw his body in the Thames in panic. The Court, however, held little doubt he had murdered the child in preference to maintaining him. According to the victim's mother and other witnesses, Henry, then unemployed, pimped the victim's mother on the streets when she was pregnant with the victim, Reginald Berney. Reginald was Henry's third child. The eldest two children had been put out to nurse and promptly abandoned by their parents.

Henry was represented as a reluctant father who took the baby from his mother under false pretences in order to be rid of a baby neither he nor his wife wanted to maintain.[468] Within a few hours of the birth, Henry told the mother, Mary Blackford, he was taking their baby out to nurse in the country. A month later he told her that he had thrown the baby into the Thames and threatened to kill her if she made inquiries with the police. No reports or inquiries were made regarding Reginald's whereabouts, until Henry and Mary were arrested on charges related to prostitution and assault. While in police custody, Mary told the police what she knew about the baby's disappearance and a police investigation into the matter resulted in Henry's arrest for the murder of his son. Witnesses at Henry's trial alleged that both Henry and Mary were heard to say that they did not want or care about their son.

Although the press identified Henry as an immigrant in headlines such as 'Child Murder Case. Swiss and the Baby', 'Swiss Sentenced to Death' and 'Swiss Respited' only one article flagged the possibility that issues of ethnicity could diminish Henry's criminal responsibility. Reverend J. P Bacon-Phillips, Rector of Crowhurst and locally acclaimed 'Prince of Letter Writers to the Newspapers', wrote a letter to *The Standard*

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[468] 'Child Murder Case. Swiss and the Baby,' *Dundee Courier*, 17th May, 1907, accessed 10th April, 2016.

following Henry's conviction. He questioned Henry's criminal responsibility based on his extreme poverty, his mental condition, limited grasp of the English language and the possibility that he may have accidentally smothered his infant. The letter was published in *The Standard* and the *Morning Leader* the following morning. Bacon-Phillips allegedly received a letter from Henry

> saying that he had been informed by the Chaplain of the Prison that … through Bacon-Phillips activities he had been reprieved and thanked him for his timely intervention.[469]

There is no evidence to substantiate the claim that Bacon-Phillip's contributed in any way to the decision of the Home Office to grant Henry's repeal a week later. Moreover, transcripts of Henry's deposition do not indicate Henry had difficulty speaking or understanding English. Nor does it appear that defence counsel made language barriers a point in the defence. However, the *CCCSP* often omitted significant portions of the case for the defence, where arguments regarding Henry's reduced capacity to understand proceedings against him would have been made. No Home Office case files on have been found to provide additional information about whether possible language barriers contributed to his eventual reprieve. Poverty, the basis upon which the jury recommended clemency, therefore appears the most likely grounds upon which Home Office based Henry's reprieve. Sensitivity to Henry's socio-economic circumstances overshadowed concerns regarding his established propensity for violence, paternal negligence and criminal history.

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[469] Bruce Cripps, 'The Reverend James Price Bacon Phillips 1857-1938 (Rector at Crowhurst 1889-1917),' 2000/2010, http://www.stgeorgescrowhurst.org.uk/wp-content/uploads/2010/12/Bacon-Phillips-leaflet.pdf, accessed 11th March, 2016.

William Viney was similarly saved from the hangman's noose by virtue of his socio-economic vulnerability, despite brutally murdering his children in a fit of jealousy. Following his arrest, William signed a written statement declaring

> I William Viney states [sic] I have no home for the children and I am out of work they are homeless and fatherless and I have cut their throats. I could have done the last one but he made such a row.[470]

According to the *Illustrated Police News*

> There can be little doubt that Viney was actuated by jealousy. It appears that a little while after Christmas Viney's wife – who is many years his junior – ran away from him, leaving the children with him. Up to that time the Vineys had been living in the neighbourhood of Drury Lane. After his wife went off Viney fell out of work, and subsequently he sold up his home and lived with the children on the proceeds of the sale. They had no fixed abode, and slept mostly out of doors. During the past week Viney discovered that his wife was living …with another man. On Thursday he went to the house …and endeavoured to persuade her to take the children back again. There was a scene and it is understood that his wife refused to accede to his request. Viney went away, taking three of the children with him, but leaving the little girl on the doorstep. Later on he sent the elder boy for the girl, and from there it is believed the whole of them went direct to the marshes. The tragedy followed.[471]

The language used in this article constructed William's actions as the consequence of personal and social forces beyond his control. William 'fell out of work' and was forced to sell his home and lived on the streets of London with his children after his wife allegedly abandoned her family to live with another man. William murdered the children as a response to his wife's refusal to take their children back. William initially left the youngest, most vulnerable child with her mother, but murdered his daughter after his wife allowed her out of her care.

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[470] William Viney, 12th August, 1898, written statement, exhibit 'B', *R v Viney*, CRIM 1/15/27, TNA.

[471] 'Horrible Tragedy at Leyton,' *Illustrated Police News,* 20th August, 1898, accessed 10th June, 2015, British Newspaper Archives.

The testimony of William's eldest son, Joseph, indicated that William had the forethought to sedate the children with alcohol and encourage them to rest prior to cutting their throats as they slept. These actions interpreted within a framework of paternal love could have been read as a sign of William's desire to shield his children from suffering fear and pain in their final moments. Joseph told the Coroner that he had spent the week prior to the murders sleeping out in the streets, under bridges, a Salvation Army shelter and in fields of London with his father and siblings. On the Friday, his father took them from London Fields down to the Leyton Marshes. He sent Joseph to collect his younger sister from his mother and to buy a pint of beer. He told Joseph,

> we could have as much beer as we liked, we all had some, he took us further across the marshes when it began to get dark he laid us down and put his coat over us about half an hour after lying down, I heard one of them groaning. It was Freddy I went to see what was the matter I saw he was bleeding at the neck. Father was stooping over the baby (Annie) laying her on her face I told him Freddy was bleeding, the baby was making a groaning noise as I went across to her I took up the baby and found she was bleeding from the neck I then saw that father had done something I called him a cruel beast and ran away. I did not see my father touch Harry or Bertie. I ran away and told my mother.[472]

While Joseph considered his father to be a 'cruel beast' for murdering his siblings, a letter in which he blamed his mother for provoking his father's actions through her infidelity was submitted into evidence by the defence.[473] In it Joseph alleged a lodger in their home named Curly and his mother

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[472] Joseph Viney, 16th August, 1898, deposition, coroner's inquest (Harry Viney, Bertie Viney and Annie Viney), CRIM 1/15/27, TNA.

[473] The letter is not signed, but could only have been written by Joseph or Freddy Viney. Considering William was in hospital with a life threatening neck wound at the time it was written shortly after the murders it is most likely to have been written by the prosecution's chief eye witness, Joseph Viney. Spelling is as presented in the original document.

> …. as [sic] been the cause of what has curd let then say what they will to justy fie[sic] themselves they are cause of the whole affair they will tell any lie to make their own ease good.[474]

There was a general consensus amongst members of the Court and the press that William 'seemed to have been terribly hampered by his wife and numerous children'.[475] The jury considered William's grinding poverty, his age, the provocation of his wife's unwomanly behaviour and his deteriorating mental and physical condition when returning a guilty verdict with a strong recommendation to mercy.

In a letter to the editor of *The Standard*, a juror in William's trial expressed the jury's regret and 'awful shock' that 'the poor old man['s]' sentence had not been promptly reprieved.[476] The juror explained the jury understood that given 'the facts of the case were undisputed', their role was to decide whether or not William's culpability could be exculpated by his state of mind or mitigated by extenuating circumstances.[477] The medical evidence that was presented indicated William was of weak intellect, but could not be certified as criminally insane.

> In summing up the case, the learned Judge laid it down most firmly that a person of weak intellect could not be relieved from the consequences of his crime, but also intimated that it might be a case for the clemency of the Crown. We returned our verdict with an earnest recommendation to mercy on account of the extreme extenuating circumstances and the weakness of his intellect….every man of the twelve jurors believed with all his heart and soul that our recommendation would be heeded by the Home Office. I may say I am positive that not one of my brother jurors would have consented to a verdict of guilty but for their absolute confidence in the mercy of the Home Office in this case.[478]

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[474] Joseph Viney, letter, 'evidence 'A', *R v Viney*, CRIM 1/15/27, TNA.

[475] 'Two Murders. Viney "Quite Prepared to Die." Kate Shoesmith Reprieved,' *Chelmsford Chronicle*, 23rd September, 1898, accessed 4th June, 2015, British Newspaper Archives.

[476] 'The Leyton Murders. To the Editor of the Standard,' *London Evening Standard,* 23rd September, 1898, accessed 4th June, 2015, British Newspaper Archives.

[477] 'The Leyton Murders', *London Evening Standard,* 23rd September, 1898.

[478] Ibid.

The juror's letter shows that in cases where the option of a finding of criminal insanity was ruled out, juries utilised the option of a recommendation to mercy in order to circumvent capital punishment.

The jury's sensitivity to William's extreme circumstances was most likely heightened by cultural awareness of the particular socio-economic vulnerability of older working-class men due to their diminished physical capabilities. Able-bodiedness was integral to working class masculine identity; financial independence, self-direction and paternal provision depended on men's physical capacity to compete in London's aggressive labour market. For older men in particular illness and injury too often precipitated a swift descent from the ranks of the respectable poor into the depths of poverty. William's loss of masculine identity was compounded by his wife's refusal to submit to his paternal authority and rejection of William for a younger lover.

William's sentence was eventually commuted to life in prison. Several factors worked in William's favour aside from defence counsel's successful representation of him as a victim of social and personal circumstances beyond his control. His reprieve occurred on the same day as that of Kate Ellen Shoesmith, who had been sentenced to death for the murder of her newborn infant. Justice Darling presided in both cases and both prisoners were to be executed by the same hangman on the same day. Justice Darling had publicly voiced his sympathy for Kate and William and there was considerable public feeling against the possible executions. The Home Secretary's decision to commute William's sentence to life in prison reflects cultural tensions between the desire to severely punish acts of murder and moral discomfort with capital punishment.

James Benson's case further demonstrates the Court's reluctance to hold men who killed their children accountable to the full extent of the law when their actions could be

attributed to socio-economic or marital troubles. Like William, James was convicted of murdering his child, but was partially exculpated based on the Court's belief he was subject to forces beyond his control when he committed the act.

Witnesses at James' trial characterised him as a good father who appeared very fond of his son and a good husband prior to the murder. James was deeply attached to the mother of his child who was both his sister and de facto wife. Surprisingly the issue of incest does not appear to have detrimentally affected James' representation in the press or the Court. On the contrary, a deep cultural aversion to public discussion of incest – despite a widespread perception of the prevalence of incest within London's cramped slums – may have orientated the Court towards an expedient decision that would avoid the public exposure generated by a capital conviction.

Most press reports failed to explicitly identify James' mother, Jane Louisa Benson, as his lover and sister. Those that did perfunctorily observed 'the deceased was the son of the prisoner's sister, with whom he had been living as man and wife'.[479] The *Derby Daily Telegraph's* coverage of James' trial suggests that the Court displayed a similar reluctance to sensationalise the incestuous nature of the relationship between James and his sister. According to the reporter, Jane Benson testified that they had kept their relationship secret from their family. James was

> much upset by the appearance of [their] sister, and constantly said, "What are we to do?" He opened the door to the father, and when her father insisted on her going away at once, her brother said, "My grave is dug". They had arranged before that to die together. She herself suggested laudanum, and bought some.
> Mr Frayling: Why?
> Mr Cluer: Is that necessary? We have the facts.[480]

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[479] 'Ex-Soldier Sentenced to Death,' *Western Times*, 10th March, 1906, accessed 4th June, 2015, British Newspaper Archives.

[480] 'Bow Murder Charge. Dead Child's Mother Tells Her Story,' *Derby Daily Telegraph*, 29th January, 1906, accessed 4th June, 1906, British Newspaper Archives.

If anything, 'the facts' of the James' incestuous relationship added to the tragedy of the whole affair. James expressed an altruistic desire to save his child from the shame and uncertainty of growing up an illegitimate orphan born from incest in a written confession presented in Court: -

> My darling child has been drugged to death with laudanum administered by me out of love for him, and to save him from the insults which he would have to put up with through life, all through my blind, mad love for the best girl that ever breathed. God be kind to her and the babe as well. The innocent should not suffer.[481]

His fear that his son would be stigmatised was not unfounded. Cousin marriage was increasingly associated with birth defects in the late nineteenth century and the practice declined significantly amongst the English middle-classes in the early twentieth century.[482] By the time James' son was born cultural taboo against sexual relations between immediate family members, which had always existed, had intensified in line with greater stigmatism of cousin marriage and heated debate about marriage between widowers and the sisters of deceased wives.[483]

While historians have little evidence of the actual prevalence of incest within the many single room working class households of London, contemporary commentators certainly perceived incestuous encounters to be common occurrences. Late Victorian

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[481] 'Ex-Soldier Sentenced. "Sad and Terrible Story,"' *Manchester Courier and Lancashire General Advertiser*, 10 March 1906, accessed 4th June, 1906, British Newspaper Archives.

[482] Nancy Anderson, 'Cousin Marriage in Victorian England,' *Journal of Family History* 11, no. 3 (1986): 285.

[483] Nancy Anderson, 'The "Marriage with a Deceased Wife's Sister Bill" Controversy: Incest Anxiety and the Defence of Family Purity in Victorian England,' *Journal of British Studies* 21, no. 2 (1982): 67-86. Frost shows that late-Victorian and Edwardian responses to working-class affinal and consanguineous marriages were 'complex and contingent on many factors' in *Living in Sin: Cohabitating as Husband and Wife in Nineteenth-Century England* (Manchester: Manchester University Press, 2008:1. See also Frost's discussion of affinity and consanguinity of pp. 52–68 of the same).

social investigators reported widespread incest amongst London's poor and attributed the prevalence to London's cramped multi-family tenements.[484] Arthur Sherwell, for example, directly correlated 'statistics of incest' with overcrowded tenement housing. Sherwell's moral indignation is evident in his contemplation on the impossibility of estimating

> the disastrous moral effects of the overcrowding which is so notable a feature of life in Soho. It is an equal outrage upon all ideas both of sanitary and moral purity, and goes far to make the commonest decencies of life impossible. It is no wonder if sometimes the children's moral ideas become as fetid as the air of the crowded rooms in which the people work and sleep and live.[485]

As Louise Jackson rightfully cautions, middle-class readings of working-class sexualities cannot be assumed as faithful representations of the actual prevalence of incest in London's slums.[486] These writings do, however, reflect middle-class anxieties about and fascination with the private lives of London's poor.

While sexual relations between brothers and sisters did not accord with Victorian ideals of family purity and sexual morality, legislation prohibiting incest was not introduced in England until 1907 (the year after James' trial). The depth of cultural feeling about incest and a corresponding reluctance to address it was evident in parliamentarians' discomfort with discussions of incest. Earl of Donoughmore opened the second reading of the Incest Bill in 1903 with acknowledgement that the 'Bill deals with rather an unpleasant subject, but at the same time it is one the seriousness of

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[484] Beatrice Webb, Clara Collet, George Sims, Andrew Mearns and Arthur Sherwell all observed incest amongst London's poor in the course of their social investigations.

[485] Arthur Sherwell, *Life in West London: A Study and a Contrast* (London, Methuen: 1901), 124.

[486] Louise Jackson, *Child Sexual Abuse in Victorian England* (London, Routledge, 2000), 29.

which cannot be questioned'.[487] The Lord Chancellor too, prefaced his contribution to the debate with his expression of regret 'that the nature of this Bill is one which renders it repulsive to everybody to discuss it'.[488] However, he questioned the need to criminalise incest as this would draw attention to the practice 'which it is inadvisable to drag into the light of day'.[489] Rather, he proposed a better course of action would be to bury the infamy, rather than exposed it through juridical punishment.[490]

Despite a widespread belief incest was 'an offence not only against morality and decency but against every instinct of human nature',[491] neither the Court nor the press expressly condemned James. The jury found James guilty of murder, but with a strong recommendation to mercy given 'the condition in which he was living in' and 'the fact that his father did not allow his daughter to take the child away'.[492] The explicit grounds for clemency outlined by the jury foregrounded the assumption that a child's rightful place was with its mother and hinted at the tragic consequences of incest in terms of displaced paternal authority. This presented the disordering effects of incestuous relations on kinship as more deleterious than the act of incest itself. His

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[487] Earl of Donoughmore, 'Incest Bill' [second reading], HL Debate, 16th July, 1903, vol. 125 col 820, accessed 16th November, 2015, Hansard Millbank.

[488] The Lord Chancellor (The Earl of Halsbury), 'Incest Bill' [second reading], HL Debate, 16th July, 1903, vol. 125 col 822-823, accessed 16th November, 2015, Hansard Millbank.

[489] Ibid.

[490] The Lord Chancellor quoted Tacitus' advise to Diversitas supplicii illuc respicit, tanquam scelera ostendi oporteat, dum puniuntur, flagitia abscondi' (He respects the diversity of execution, as shown crimes must be punished while, hidden crimes.). Anne Cossins attributes lengthy delays in passing incest legislation to The Lord Chancellor's vigorous opposition to repeated attempts to introduce laws against incest (*Masculinities, Sexualities and Child Sexual Abuse*, Boston: Kluwer Law International, 2000, 25).

[491] Lord Davey, 'Incest Bill' [second reading], HL Debate, 16th July, 1903, vol. 125 col 823, accessed 16th November, 2015, Hansard Millbank.

[492] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 12 April 2016), March 1906, trial of James Benson (t19060305-45).

father's exertion of paternal authority dramatically undermined James' domestic authority. James' filicidal response to the dramatic disavowal of his masculine identity appears to support a pattern in which fathers reasserted their patriarchal authority by taking their child's life.

Speaking in his own defence James attributed his actions to the effects of heavy drug and alcohol consumption and implied that he could not be held responsible for actions he could not recall committing or confessions he made in extreme distress. The press reported James testified that

> on the day after his sister left him he drank nearly half a pint of whisky and some laudanum. He became sick and fell asleep in an armchair, and the next morning found himself lying across the foot of the bed, and looking at the child saw that it was dead. When he wrote the letter he did not know what he was doing; he was frantic.[493]

The jury rejected James' defence that his child died while he was under the influence of an opium trance and found him criminally responsible for the baby's murder with a strong recommendation for mercy. Justice Grantham said that while he could appreciate the jury's sympathy for the prisoner 'sad and terrible story',[494] his circumstances were 'no excuse for his conduct'.[495]

The Court's sympathy for fathers who killed their children to protect them from suffering fitted within existing cultural expectations for proper fatherhood. The extension of clemency to poor men of prior good character as husbands and fathers reflects a cultural understanding of the profound moral, emotional and physical effects

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[493] "Ex-Soldier Sentenced', *Manchester Courier and Lancashire General Advertiser*, 10th March, 1906.

[494] Ibid.

[495] 'Sensational Story. A Baby's Death. Remarkable Letter,' *Sheffield Evening Telegraph*, 9th March, 1906, accessed 10th April, 2016, British Newspaper Archives.

of low wages and inadequate employment on London's poor. Recognition that poverty could induce severe paternal anxiety over the welfare of children is evident in the extension of mercy to Henry Walter Popple in 1905. Henry claimed he killed his two daughters because he did not want to see them starve. Home Secretary Aretus Akers-Douglas granted Henry a conditional pardon just over a month after he refused to intervene in the execution of Arthur Devereux for the murder of his wife and twin sons. The perception that Henry's actions were ultimately motivated by paternal love and a desire to protect his children was a key point of difference between his successful appeal of sentence and Arthur's failure to secure reprieve.

Newspapers covering Henry's trial highlighted the fact that he had been out of work and his claim that he cut his young daughters throats with a razor 'as he did not want to see them starve'.[496] Reporters highlighted Henry's remorse and the sorrowful testimonies of his wife and remaining daughter as evidence of emotional intimacy between Henry and the surviving family members. It was reported that while his wife gave evidence at their children's inquest, Henry 'buried his face in his hands, and sobbed loudly. At the close of her evidence Mrs Popple went into a fit of hysterics and had to be removed from the Court'.[497] Other articles noted that 'Emily Popple, the wife, said her husband was kind and loving to his children, but suffered from depression'.[498] Her support was reinforced by his 'little step-daughter' who gave evidence at Henry's

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[496] 'Child Murderer Sentenced,' *Manchester Courier and Lancashire General Advertiser*, 16th September, 1905, accessed 10th April, 2016, British Newspaper Archives.

[497] 'Scenes at an Inquest,' *Manchester Courier and Lancashire General Advertiser*, 10th August 1905, accessed 4th June , 2015, British Newspaper Archives.

[498] 'Coachman Charged with the Murder of his Two Little Girls,' *Western Times*, 14th September, 1905, accessed 4th June, 2015, British Newspaper Archives.

trial.[499] Bertha Popple, 'a little girl of fourteen ….dressed in black', was alleged to have pleaded with the magistrate at Lambeth Police-Court; '"Please, sir, will you have mercy on my dad?"'[500] Such clear references to his (surviving) family's affection and suggestions he was a 'sober, industrious', but eccentric man diminished reports he was prone to 'fits of passion' and was 'very quarrelsome with his fellow-employees'.[501] Press reportage on Henry's case presented him relatively sympathetically as a loving father and as a respectable hard working man who had fallen on hard times. At his trial, previous employers characterised Henry as 'at all times erratic and eccentric', but also always 'honest, sober, and industrious'.[502] His wife Emily testified for the defence that Henry was

> a good husband and a good father – he made no difference between his own children and his step-children – he has been subject to attacks of depression and low spirits….his idea was always that he could not do sufficient for me and the children – he was afraid that we should come to want, and always thought he could not get enough money for us ….when he was out of work I did a little washing but I had to hide it from him, because he did not like to see me out at work… I was able to keep the house going for about three weeks ….he did not ask me how I was doing it …..on the Thursday before August 6th …Bertha came in and said that Daddy was only eating bread for tea – I asked him why he should eat a piece of dry bread and he said, "That is plenty good enough for me; I have not earned anything" – during those weeks he seemed very depressed and seemed to want to be alone".[503]

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[499] 'Coachman Charged with the Murder of his Two Little Girls,' *Western Times*, 14th September, 1905.

[500] 'The Walworth Tragedy,' *Manchester Courier and Lancashire General Advertiser*, 16th August 1905, accessed 4th June, 2015, British Newspaper Archives.

[501] Ibid.

[502] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 13 April 2016), September 1905, trial of Henry Walter Popple (t19050912-708).

[503] *Old Bailey Proceedings Online*, September 1905, Henry Walter Popple (t19050912-708).

Emily's references to the equality of Henry's love for all his children and his deep sense of shame that his wife had taken on work to maintain the family while he was unemployed undoubtedly struck a chord with the Court.

It was common for women to survive multiple partners and many men found themselves maintaining their wives' children from previous marriages. Not all men were as willing as Henry to accept paternal responsibility for other men's children. Ginger Frost's analysis of 51 cases involving men who violently assaulted and/or neglected their affiliated illegitimate children tried in English courts between 1851 and 1905.[504] More than half of these men resented the financial burden of illegitimate children they did not want and could not afford. Other men in Frost's study refused to maintain other men's children affiliated to them through marriage, despite their legal responsibility to do so. The contrast in motivations for killing children in the cases Frost describes and Henry's case demonstrates the limits of overarching explanatory motifs of men's motivations.

The manner in which Henry shouldered this additional burden as a matter of course suggested he was a man of honour and compassion. Similarly, the extent to which he was emotionally troubled by his wife's employment while he was out of work pointed to his desire to fulfil his role as the financial provider for his family. This was reinforced in the highly symbolic reference to Henry's refusal to eat his usual (wage earning) lion's share of the family meal and instead survive on dry bread alone. This sacrifice reflected his acknowledgement of his diminished role within the family and sense of emasculation.

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[504] Frost, 'I am Master Here', 27–42.

Correlations between Henry's sense of shame over his paternal failings and his deteriorating mental health were clearly established by character witnesses. Medical experts, however, offered divergent accounts of Henry's mental condition. Differences in the focus and conclusions of medical reports provided by the defence and prosecution were characteristic of varying interpretations of criminal insanity in trials of paternal filicide. Providing medical evidence for the defence, William Henry Butter Stoddart deposed Henry was 'prevented by mental disease from controlling his conduct'.[505] Stoddart's assessment was underpinned by the presumption of an innate biological drive towards offspring preservation. The fact that Henry killed his own children, rather than his step-children suggested to Stoddart that Henry had lost the 'natural instinct to preserve one's own offspring', but that was not in and of itself a sign of insanity.[506] Stoddart attached more significance to Henry's attempted suicide because 'in [his] opinion nearly everyone who attempts to commit suicide must be insane'.[507] Thus, Henry's desire to kill his children was a sign of insanity insofar as it was linked to his intention to commit suicide. According to Stoddart

> I have heard more than once of men who are about to commit suicide resolving to murder their children – it is a thing which occurs with far too great a frequency – if a man says, "I am going out of the world and I think it is between for my children that they should die at the same time", he is insane already because he intends to commit suicide; the two instincts are inborn – I should say that a man who does not resolve to commit suicide, but resolves to murder his children because he thinks they are better out of the way, is insane, and a man may do that without being responsible in law, if he takes that view… A man who takes the lives of his children because he thinks they are better out of the world is insane…. I base my opinion upon the whole of

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[505] *Old Bailey Proceedings Online*, September 1905, Henry Walter Popple (t19050912-708). At the time William Henry Butter Stoddart was an assistant medical officer at Bethlehem Royal Hospital for mental disorders (notoriously coined Bedlam) and was well respected for his lectures and writings on insanity.

[506] Ibid.

[507] Ibid.

> the case – a man who has had experience in insanity is able to come to a conclusion in a case of this kind as far as the mental condition is concerned, and I consider that a man who takes away the life of those he loves best must do it from an insane point of view.[508]

In response, the prosecution called Dr Scott, who testified that while Henry had shown 'some little eccentricities of manner' he had 'not detected any evidence of insanity on which [he] could have founded a certificate' of insanity.[509] Scott attached greater significance to mental strain of Henry's frustrated desire to provide for his family and fear of future suffering from which could not protect them. Under cross-examination by the defence, Scott testified

> I found no evidence of malice here …. I have heard nothing to the contrary stated but that he had love for his children and home – the only motive I can suggest for this crime is the fear of approaching poverty for them all …at the time he committed these acts his judgement was warped by his despondency – with such a trial as this over the prisoner's head I should not expect him to improve much, but no one suggests that he is a raving lunatic – I do not think any human being could swear that the prisoner was responsible for his actions at the time he committed these acts, but I have stated my opinion after I have heard the facts.[510]

Evidence of mental instability that fell short of criminal insanity combined with favourable presentation as a good father and husband did not ensure the success of Henry's insanity plea, but it did secure his conditional pardon.

In contrast, Arthur Devereux failed in his attempts to sympathetically position himself both as a loving family man and as a madman. Unlike Henry, Arthur was not perceived to have genuine paternal affection for his twin sons and had expressed no remorse for his alleged crimes. Moreover, while the Court interpreted Henry's actions in

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[508] *Old Bailey Proceedings Online*, September 1905, Henry Walter Popple (t19050912-708).

[509] *Old Bailey Proceedings Online*, September 1905, Henry Walter Popple (t19050912-708).

[510] Ibid.

terms of his paternalistic desire to protect his children, Arthur's actions were perceived to have been motivated by self-interest and antagonism towards his wife and unwanted sons.

Perceptions of Arthur's guilt drew heavily on cultural assumptions and expectations of masculinity and fatherhood. The sharper focus on masculinity in Arthur's case was a consequence of irregularities between his behaviour and that expected of men accused of killing his children and of the artificiality of his carefully constructed paternal identity.

Characterisations of Arthur as a husband and father formed the backbone of both the prosecution and defence counsel's construction of his guilt and criminal culpability. Arthur himself appeared to be at pains to present himself as a 'good family man' to the Court. Inspector George Cole testified that Arthur had asked him to find photographs of him with his wife and children 'for his defence … He said he wanted the photo to show what a good family man he was ... He wanted the photos to show he took some interest in the twins'.[511] Arthur's mother-in-law, Ellen Gregory, provided damning testimony that characterised his relationship with the twins as indifferent at best and markedly different to his strong kinship with his eldest son. Neither the prosecution nor Arthur's defence provided witnesses with compelling evidence to substantiate or deny his mother-in-law's claims. However, witnesses who observed Arthur's interactions with Stanley during Beatrice and the babies' 'absence' testified that Arthur 'seemed very much attached to the boy – it was very noticeable; he seemed quite wrapped up in him'.[512]

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[511] Sergeant George Cole, 20th May, 1905, deposition, *R v Devereux*, CRIM 1/97/7, TNA.

[512] *Old Bailey Proceedings Online*, July 1905, Arthur Devereux (t19050724-618).

The prosecution juxtaposed the simultaneous deep affection shown towards his eldest child with the cold and calculating manner in which Arthur had disposed of the bodies of his youngest children. The jury heard Arthur sent Stanley across the road to buy cake after he 'discovered' his dead wife and murdered infants. While Stanley was out, he covered the corpses with bed sheets so they appeared to be sleeping. Once Stanley was tucked up in bed and asleep (in the same room as his mother and brothers) Arthur 'started to put them in a box'.[513] According to Arthur,

> I tried first to solder a sheet of zinc over it, but after trying for 3 or 4 days I found I could not do it, and nearly gave up hope. Then I thought of the wood and glue. That took me nearly 3 days to do. The only thing I was afraid of was the bottom of the box. I was afraid to face an inquest.[514]

Arthur spoke of his fear and 'nearly [giving] up hope' not in relation to finding his children dead, but that he would fail in his efforts to hide them.[515] When Stanley woke to find his mother and brothers gone, Arthur told Stanley 'that his mother had been taken to the hospital, as she had been once before, and that the twins had been taken to a public nursery' and then took him to school.[516] In the days that followed, in between taking Stanley to school, making his meals and putting him to bed, Arthur pawned the possessions of his wife and dead sons and created an airtight box in which to conceal their corpses.

Arthur spoke at length with police and prison staff about the methods he used to hermetically seal the trunk in order to contain the smell of decomposition. His

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[513] Sergeant George Cole, 20th May, 1905, *R v Devereux*, CRIM 1/97/7.

[514] Ibid.

[515] Ibid.

[516] *Old Bailey Proceedings Online*, July 1905, Arthur Devereux (t19050724-618).

enthusiasm for the matter was considered unusual given his relationship to the deceased. Many observers found it particularly cold and unnatural. Detectives who were required to escort Arthur to the police station under arrest found his persistent desire to discuss details of his containment of the corpses repulsive to the point that one detective removed himself from Arthur's presence. Edward Pollard deposed Arthur was 'very cheerful in the train – I got a luncheon basket for him – he enjoyed himself – I gave him a cigar and he was laughing and chatting'.[517] He 'felt rather sick' listening to Arthur and moved 'to the other side of the carriage'.[518] Men were expected to display emotional fortitude, but Arthur's apparent lack of grief or remorse took masculine emotional reticence to its extremities and was thus interpreted as 'unnatural' and 'strange'.

Arthur was surprised that his defence counsel advised him not to blame his wife for killing herself and the twins in Court. This insight suggests that Arthur's lack of empathy for his victims was actively managed by the defence to diminish the perception of their client's emotional coldness and antagonism towards the victims. Nevertheless, several letters written by Arthur were reproduced in the press in which he suggested with varying degrees of emphasis that Beatrice regularly sedated the twins with drugs and an overdose 'might' have been accidental. In his final letter written before his execution Arthur told Beatrice's mother

> Once more I would say that, as far as regards the death of Beatrice and the twins, my hands are perfectly clean; I am totally innocent of blood.
> I am quite sure that Beatrice must have taken her own life … The twins might have met their death accidentally.

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[517] *Old Bailey Proceedings Online*, July 1905, Arthur Devereux (t19050724-618).

[518] Ibid.

> Beatrice kept dosing them to make them sleep while she did the washing. Possibly she overdosed them and poisoned them accidentally, and then took her own life in despair afterwards, when she found out what she had done. … The whole thing is as much a mystery to me as to anyone else …. Above all things, try to let Stanley think well of me always in the future as he has in the past.[519]

The press reported these allegations as sensational and strange, highlighting Arthur's eccentricity rather than the insensitivity he displayed by publicly defaming his wife following his conviction for her murder.

Thus far I have established that juries repeatedly showed their willingness to extend mercy to men who killed their children out of desperation when they tried but failed to provide for their family. Such men were believed to have murdered their children to save them from what they perceived to be a far worse fate, being either starvation or the workhouse. Arthur, on the other hand, was alleged to have 'given up', refusing to pursue employment and worst of all, considering killing himself and leaving his family without a male breadwinner. In some press reports, Arthur's masculinity was eroded by allegations that he had been fired for being lazy and that he had fraudulently applied for jobs as a woman. According to the *Guardian*,

> His method was to reply for advertisements in the newspapers for servant girls. He would ask the advertiser to send the railway fare for the purposes of an interview, and when he had got it he would pretend to be a girl, and forward a bogus doctor's certificate stating that the supposed servant girl was too ill to travel. He was "very much wanted" in 1903…. In some frauds he used the name of the young man Gregory, who was a chemist's assistant at Plymouth. Witness believed this respectable young man disappeared in consequence. When the prisoner was arrested he treated the matter as a joke.[520]

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[519] 'Devereux's Doom. Ex-Hasting's Chemist hanged for triple murder. HIS LAST LETTER,' *Hastings Chronicle*, 19th August, 1905, accessed 15th February, 2016, British Newspaper Archives.

[520] 'Alleged Triple Murder. Extraordinary Evidence,' *The Guardian Observer*, 12th May, 1905, accessed 7th June, 2015, British Newspaper Archives.

Not only did Arthur masquerade as a 'girl' and steal a 'respectable' young man's identity, possibly causing his disappearance, he was shown to be an unreliable provider for his family. A relieving officer of Edmonton Union testified that

> in April of last year he ordered relief for the family. Mrs Devereux told him that her husband once said to her that he was not going to work again; he was waiting for the grand finale. The witness afterward said to him, "What do you mean by saying that you are waiting for the grand finale?" He replied, "Well, I am tired of it all. Luck is against me. I cannot get anything to do, and I don't care how soon the time comes".[521]

Such references to Arthur's despondency at his inability to secure employment were strikingly at odds with press representations of Arthur as a sharply dressed and spritely prisoner, who alternated between bemusement and boredom during his trial. Newspapers reported Arthur 'showed the utmost coolness …. A huge crowd was waiting at the station when the prisoner alighted. He was smoking a cigarette, and displayed some amusement at the curiosity of the crowd'.[522] On another occasion Arthur was reportedly 'dressed in a serge suit, with a light green tie, and was dapper and alert, entering the dock with a spring in his step'.[523]

Figure 9. *Portrait of Arthur Devereux published in the Morning Leader, 14th April, 1905.*

Arthur's eccentricities and seeming indifference towards his legal predicament served as a double edged sword for his defence. On the

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[521] 'Alleged Triple Murder. Extraordinary Evidence,' *The Guardian Observer*, 12th May, 1905.

[522] 'The Triple Murder. Story of the Tin Box,' *The Guardian Observer*, 15th April, 1905, accessed 7th June, 2015, British Newspaper Archives.

[523] 'Dapper and Alert. Prisoner in the Trunk Murder Case,' *Lancashire Evening Post* 4th May, 1905, accessed 7th June, 2015, British Newspaper Archives.

one hand, the Court and press interpreted his unnatural cool and calm composure as inappropriate for a grieving father accused of killing his wife and children. On the other his demeanour raised questions over his mental condition and the possibility of an insanity defence.

Arthur had a family history of insanity and suicide, which was commonly accepted as a partial basis for an insanity defence even though it was not recognised as such under *M'Naghten Rules*. Arthur's uncle had been institutionalised and his aunt killed herself. His grandfather attempted to kill himself, as did his father, who was brought to financial ruin by 'his wife's extravagance in sending her three sons to a private school in Oxford and other ways'.[524] A grocer who had known the Devereux family for 'many years' informed Pollard that 'the whole family have violent tempers' and in his youth Arthur was known to be 'a troublesome and cunning boy'.[525] However, Pollard 'found nothing as to the prisoner's mental history except that he was of sound mind and understanding – every person that [he had] asked said he was perfectly sane, and all his employers said that he was the best chemist they ever had'.[526]

PMO James Scott was emphatic in his conclusion that Devereux was 'feigning madness, for the purpose of his defence'.[527] According to Scott's medical report, Arthur appeared rational and 'conformed fairly well to the Prison regulations' up to the week prior to his criminal trial.[528] Five days before his trial, Arthur's 'manner changed, and he

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[524] Inspector Edward Pollard, 23rd June, 1905, 'Police Report as to Insanity in Prisoner's Family', *R v Devereux*, CRIM 1/97/7, TNA.

[525] Ibid.

[526] *Old Bailey Proceedings Online*, July 1905, Arthur Devereux (t19050724-618).

[527] PMO James Scott, 26th June, 1905, report of PMO (Brixton Prison), *R v Devereux*, CRIM 1/97/7, TNA.

[528] Ibid.

began to act foolishly'.[529] Scott believed 'his silly conduct and talk has all been assumed, and that he has not been insane during the time he has been here. His behaviour has not been consistent with any known form of insanity'.[530] Moreover, Scott wrote that he 'failed to see any evidence of Prisoner having been insane at the time of his alleged offences. He appears to have a great deal of selfishness and cunning, and very little moral sense or principle.'[531]

The famed Doctor Henry Maudsley, in his report on Arthur's mental condition stated in unequivocal terms that Arthur was indeed shamming insanity for the purposes of his defence. Maudsley found that Arthur's 'elaborately conducted scrawls' and 'extravagantly perverse conduct … seem to betray the deliberate use of a cunning intellect to invent nonsense of speech and writing and perverse folly of conduct'.[532] Like Scott, Maudsley maintained Arthur's

> noisy, dirty, obscene and viciously perverse doings, energetically and consistently continued, are not such as [he had] ever observed in any form of insanity, and are inconsistent with the mental imbecility which he apparently feigns.[533]

Clearly unimpressed with Arthur's manic performance, Maudsley was similarly unmoved by the possible heredity influence of mental disorder in the Devereux family. No doubt evidence of Arthur's conviction on three counts of fraud two years prior to his triple murder trial served to reinforce doubts over the authenticity of his actions and illuminated his capacity for cunning.

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[529] James Scott, 26th June, 1905, *R v Devereux*, CRIM 1/97/7.

[530] Ibid.

[531] Ibid.

[532] Doctor Henry Maudsley, 21st June, 1905, medical report, *R v Devereux,* CRIM 1/97/1, TNA.

[533] Ibid.

Despite the largely circumstantial nature of evidence against Arthur on the charge of wilful murder, it only took the jury twenty minutes of deliberation to return a guilty verdict. It was highly likely that Arthur did administer fatal doses of poison to his wife and children given his attempts to conceal their deaths and apparent lack of grief over their deaths. However, it was not beyond reasonable doubt that Beatrice had accidently overdosed her sons and then deliberately took her own life or deliberately poisoned her sons and then killed herself. The extent to which Arthur's response to their deaths was so far removed from that expected of a grieving husband and father appears to have weighed heavily against him.[534] Aspects of Arthur's personal history involving criminality, idleness, aggression and dishonesty highlighted in the press painted a picture of Arthur as a weak, untrustworthy, immoral, cold and calculating character. Evidence of his obvious love and devotion to his eldest son Stanley only served to illuminate his indifference towards his youngest sons in life and death.

In his final letter to Ellen Gregory (Stanley's appointed guardian) Arthur expressed his desire that his absence be explained to Stanley so that he would 'think well of the father he loved so well in his childhood'. [535]

> Tell him that I have gone away on a big sea puffer again, and then he will gradually forget me with time.
> He is a very brave little boy. I have no fears about his future welfare and happiness whatever.
> Do not do anything to destroy his confidence in me. Let him think that I must have been drowned at sea, or something of that sort. If he gets into a good family ….he will ultimately cease to ask for me, though I always want him to think well of the father he loved so well in his childhood.[536]

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[534] Arthur's execution coincided with that of another man convicted of murdering his wife (see the case of Thomas George Tattersall). It is possible that the Home Secretary's refusal to interfere with Arthur's sentence was partly intended to demonstrate the government's intolerance of violence against women and children.

[535] 'Devereux's Doom,' *Hastings Chronicle,* August 19, 1905.

[536] Ibid.

Two weeks after Arthur's execution the press reported

> London felt a genuine sympathy with Stanley Devereux and genuine satisfaction that it learnt that he was to go to boarding school and live under a new name.... It is hoped the sinister shadow which has been cast upon his young life will eventually fade entirely from his memory. A dozen times a day he asks for his mother, or for the babies whom he used to nurse. But never once, since the beginning of the early stages of the famous trial, has he asked for his father.[537]

Maternal absence is clearly presented here as a greater blow to children than the absence of a father – even one as devoted to his son as Arthur. These pointed statements about Stanley's resilience and the relative ease with which Arthur was erased from his life were published in several newspapers across England. In these stories Stanley's future held the promise of hope and optimism. London had rallied to calls of support for Ellen Gregory who had pauperised herself in order to provide a respectable funeral for her daughter and grandsons and to raise her only surviving grandson. *London Daily News* published Ellen's 'pathetic letter' in which she expressed her gratitude for the Court's donations and for any future contributions towards Stanley's maintenance. According to Ellen

> This sad and heartbreaking case ... has reduced me from comparative affluence down to absolute poverty... It has reduced me to one room, which is almost bare. I should go to the depths of distress before parting with my boy Stanley. He is the only comfort I have remaining.[538]

Ellen's account of her struggle to provide for her grandson with limited earning capacity provides some insight into the otherwise unknown world of surviving family members of men convicted of the murder of their children. We know donations by the Court and the public funded Stanley's education and upkeep, but for how long? How did a mother

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[537] 'No Title, *Walsall Advertiser*, 2nd September 1905, 4th June, 2015, British Newspaper Archives.

[538] "Devereux's Boy. Public Subscription for His Education. Pathetic Letter". *London Daily News.* 25th August, 1905, 4th June, 2015, British Newspaper Archives.

provide for her family after the incarceration or execution of her husband for the murder of one or more of their children? The socio-economic implications of paternal absence as a result of criminal convictions for child-killing offences have not yet received historical attention. The challenges to such research are considerable. The Devereux case is one of a few exceptional cases in which the fate of surviving family members was disclosed in the press or inadvertently through Home Office correspondence on cases after the conclusion of criminal trials. In the vast majority of cases these mothers, sisters and brothers slipped back into the obscurity of London's vast metropolis.

Conclusions

Men's relationships with their children and their wives prior to the murders were key factors in the sentencing of paternal filicide within the Court and in Home Office deliberations over reprieve of execution. Juries were more likely to find men who were portrayed as bad husbands and fathers guilty as charged and less likely to provide a recommendation to mercy. Similarly, Home Office was less likely to interfere with sentencing in cases in which men showed malice towards their children or their mothers prior to committing their crimes. At the same time, however, coroners, judges and juries reacted inconsistently to evidence regarding domestic violence in these cases. Men's idleness or refusal to financially provide for their families was consistently judged more severely than men's threats or actual use of violence against their wives and others in the Court and press reports.

Questions raised over men's sanity played a considerable role in whether or not juries provided a recommendation to mercy and, in turn, whether or not convicted men were granted reprieve. In these cases doubts were expressed by medical experts about

men's sanity, but they were unable to certify the men were criminally insane. In some cases this hinged on common law distinctions between medical and criminal definitions of insanity. In other cases men's mental state was not considered compromised to the extent that it rendered them irresponsible for their actions or unable to perceive, for example, that killing their children was wrong. Such men were, in a general sense, of unsound mind. Yet the Court clearly recognised that anyone who wilfully murdered another person, much less his or her own child, could be said to be insane or a 'madman'. The role of the Court was understood by judges and jurors to distinguish between the unreasonable acts of bad men and the insane acts of truly mad men. This chapter has shown that even in the few exceptional cases resulting in execution, the Court acknowledged the complexity of motivations the drove men to kill their children.

None of the men found guilty of the murder of their children in this study were shown or alleged to have acted cruelly or violently towards their children prior to the murders. Prosecution and sentencing patterns for paternal filicide, while clearly discernable, were not entirely predictable. The key differences between men who received clemency and those who were executed related to representations of men's conduct and attitude after the crime. The Court and press were far more sympathetic to fathers who displayed repentance, shame and remorse than those who did not. Men who grieved the loss of their children and expressed altruistic motives for killing them conformed to late-Victorian and Edwardian assumptions that fathers killed their children under great provocation. The idea that fathers who killed their children were not bad men, but tragic figures compelled by extreme socio-economic and/or mental duress was buttressed by belief in a natural patriarchal order. The following chapter examines how notions of fatherhood were mobilised in the construction of men who killed their children as loving fathers in successful insanity pleas. I show the Court's

willingness to accept the insanity pleas of men characterised as loving fathers rather than convict on a capital indictment.

Chapter Six

'I love My Baby; Wilful Murder! You Must be Mad…'

Male Perpetrated Child Homicide and Criminal Insanity

Men and women charged with killing children were more likely to be found criminally insane than in trials involving an adult victim.[539] Existing literature establishes that a considerable number of women charged with the murder of their children were found criminally insane.[540] My research supports a growing body of evidence that shows men were as likely, if not more likely than women to be found criminally insane when charged with causing the death of a child.[541]

More women were tried for the murder and manslaughter of children under the age of fourteen years old, but men charged with the same offence were statistically more likely to be found criminally insane than women at the CCC between 1889 and 1913. Over the twenty-four years covered by this study, 26 out of 46 men (57 per cent) charged with the murder of a child were found criminally insane at arraignment or at trial by jury.[542] More than twice as many women were charged with the murder of a

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[539] This finding is based on a comparison of the total verdicts in murder trials from English and Welsh Assizes (including the CCC) with verdicts in murder trials involving male perpetrators and child victims conducted at the CCC between 1889 and 1913.

[540] Scholarship that specifically addresses the construction of criminal insanity in cases of female-perpetrated child homicide in late nineteenth- and early twentieth-century English courts include Ward, 'The Sad Subject of Infanticide'; Ward, 'Legislating for Human Nature'; Kramar and Watson, 'The Insanities of Reproduction'; Krueger, 'Literary Defenses and Medical Prosecutions'; Marland, 'Images and Impulses'; Marland, 'Getting Away with Murder?'; Wilczynski, 'Mad or bad?'; Graves, '-In a Frenzy while Raving Mad'.

[541] For example, both Conley and Shepherd argue that nineteenth century English courts were only slightly more likely to return a verdict of guilty, but insane in trials involving mothers accused of killing their children as fathers accused of killing their children.

[542] This figure only relates to men charged on individual indictments for murder. No men were found guilty, but insane or unfit to plead by reason of insanity on an indictment for manslaughter, with the

child than men (120 women and 46 men), but only 36 per cent of these women were found criminally insane before or at trial by jury.[543]

Table 10. Verdicts on Individual Indictments for Child Homicide Tried at the CCC, 1889–1913.[544]

	Murder		Manslaughter	
Verdict	Male	Female	Male	Female
Acquitted	2	19	12	28
Convicted	11	14	14	16
Convicted (lesser offence)	7	47	4	18
Criminally insane	26	43	-	1
Total	46	123	30	63

These findings remains consistent when analysed on a year by year basis across the period under investigation, despite fluctuations in the number of men and women found criminally insane each year. The following table shows those men charged with the murder of a child were significantly more likely to be found criminally insane than to be convicted or acquitted.[545]

exception of Albert Gale who was jointly indicted for killing his infant with his girlfriend, but was considered an 'imbecile' and therefore unfit to plead to the charge.

[543] This figure only relates to women charged on individual indictments for murder.

[544] I have not included verdicts on joint indictments in this table as only three people were found criminally insane on joint indictments in this study (Richard and Amy Oakes were jointly found criminally insane on an indictment for murder and Albert Gale was found unfit to plead to a joint indictment for manslaughter).

[545] No men were found guilty, but insane or unfit to plead by reason of insanity on an indictment for manslaughter, with the exception of Albert Gale who was jointly indicted for killing his infant with his girlfriend, but was considered an 'imbecile' and therefore unfit to plead to the charge.

Table 11. Total Verdicts on Male Indictments for Child Homicide Tried at the CCC, 1889 – 1913.[546]

Verdict	Individual		Joint		Total	% of Total
	Murder	Manslaughter	Murder	Manslaughter		
Acquitted	2	12	3	19	36	30
Convicted	11	14		8	33	27.5
Convicted (lesser felony)	5	-	1		6	5
Convicted (misdemeanour)	2	4	1	10	17	14.2
Criminally insane	26	-	1	1	28	23.3
Total	46	30	6	38	120	

19 of the 21 men found criminally insane in this study were charged with the murder of their own child(ren). This chapter examines how ideas about working-class fatherhood were mobilised in insanity pleas of and juridical responses to fathers who killed their child(ren) in a representative sample of ten cases. I critically examine how men's reputations as fathers influenced juridical responses to insanity pleas in cases of paternal filicide. I argue that a man's general reputation as a kind and loving father, while speaking to a lack of malice, was not considered in and of itself a satisfactory basis for an insanity plea. Men's relationship with their children prior to murdering them was a significant mitigating factor, but one that depended upon the presence of a range of other indicators to substantiate an insanity defence. My findings complicate and extend current historical understandings of how late Victorian and Edwardian English courts' factored men's prior reputations as fathers into assessments of criminal insanity.

[546] See Appendix F of this thesis on page 242.

Medico-Legal Context for Insanity Pleas in Cases of Child Homicide

The discrepancy between the numbers of men found criminally insane on charges of murder and on charges of manslaughter can be attributed both to sentencing options available to juries and the types of crimes prosecuted on murder and manslaughter charges. The tendency of courts to accept an insanity defence in preference to convicting on a capital indictment is well established by scholars of crime in Victorian Britain and was observed by contemporaries in the press, legal treatise and by judges during court proceedings.[547]

While *M'Naghten Rules* narrowly defined criminal insanity in terms of delusion, courts looked to a range of physical and moral or environmental causes to establish grounds for findings of criminal insanity in cases of male-perpetrated child homicide.[548] Heredity, intemperance, disease, injury, domestic troubles, employment issues and financial pressures were commonly identified as causes of insanity by English physicians and psychiatrists in the late nineteenth and early twentieth centuries. In courtrooms, character witnesses often identified these factors as the catalyst for prisoners' insanity or the cause of further deterioration in those already suffering from mental illness. Similarly, judges, counsel and jurors appear to have recognised a range of physical conditions and mental stressors as grounds for exculpating criminal responsibility for child homicide.

Hereditary taint was cited as a predominant cause of insanity in many cases of male perpetrated child homicide. However, a family history of insanity was rarely the only

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[547] See, for example, Showalter, *The Female Malady*; Lucia Zedner, 'Women, Crime and Penal Responses: A Historical Account' *Crime and Justice*, 14 (1991), 307–362; Ainsley, 'Some Mysterious Agency', 37–55; Ward, 'The Sad Subject of Infanticide', 163–180.

[548] See discussion of *M'Naghten Rules* in glossary.

grounds for an insanity plea. In most cases, heredity taint was constructed as a predisposition towards insanity, set off by mental or physical stress. For example, press reports observed George William Austin 'was a steady, industrious man, but was depressed because he was out of work' when he nearly decapitated his beloved son with a hatchet.[549] George's sister told the coroner's jury that he had suffered pains in the head ever since he was struck on the head with a brick as a boy. She reported that 'his Aunt was in a lunatic asylum. His father too, was a bit queer' and concluded that George was 'restless lately, and evidently insane'.[550]

In my analysis family history was attributed variable evidentiary weight in legal evaluations of criminal insanity and generally more than a family history of insanity was required to substantiate an insanity defence. Less than half of all rulings of criminal insanity occurred in cases in which family history of insanity, idiocy or imbecility in relatives was cited at trial or in the PMO medical report. In these cases references to a family history of insanity were made only in relation to other known causes of insanity and not as a primary consideration in an assessment of criminal insanity. Certain diseases and injury, physical privation, alcoholism, long-term unemployment, marital troubles and bereavement all appeared alongside heredity as contributing causes to men's insanity in cases of child homicide.

Intemperance and epilepsy, for example, were often cited in lay and medical witness testimony as contributing factors to explain the cause of men's filicidal behaviour. These associations were underpinned by widespread cultural and medical correlations

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[549] 'Charge of Murder by a Father', *London Standard*, 24th January, 1899, accessed 11th April, 2015, British Newspaper Archives.

[550] Ibid.

between epilepsy and insanity and alcoholism and insanity. In the case of James Valentine Curry (examined in chapter four) a history of epilepsy was integrated into the aetiology of his criminal insanity, along with privation and alcoholism. One medical witness testified that he

> should not be surprised at a man who is constantly worried having his mind affected – an epileptic would be more likely to be affected by worry than a man in an ordinary condition.[551]

When probed further by the Court, the doctor added, the worry and physical privation caused by lack of work and money 'would affect an epileptic subject more than other people'.[552] PMO James Scott conceded that while

> the epilepsy which he has suffered from is a strong factor in the formation of my opinion [that Curry was melancholic and criminally insane when he killed his two sons] …. Everybody who has epilepsy is not insane, but it generally affects their minds.[553]

Correlations between melancholia, epilepsy and criminality were also drawn in cases involving epileptic men who were not labouring under the effects of extreme financial hardship when they killed their children. Medical witnesses in the case of Alfred Bartlett agreed that Alfred was

> an epileptic subject [and] that melancholia almost invariably follows an attack of epilepsy, and that during and after such an attack the patient is irresponsible for what he says and does.[554]

Alfred's physician characterised him as a 'most respectable man and affectionate husband and father' prior to strangling his five-month-old daughter. After an epileptic

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[551] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 26 April 2016), February 1904, trial of James Valentine Curry (t19040208-197).

[552] Ibid.

[553] James Scott, 6th February, 1905, report of the PMO (Brixton Prison), *R v Curry*, CRIM 1/88/10, TNA.

[554] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 26 April 2016), March 1891, trial of Alfred James Bartlett (t18910309-286).

seizure, Alfred experienced a 'profound state of melancholy' in which he contemplated suicide and was unable to work. Holloway PMO, Philip Francis Gilbert, found Alfred to be melancholic while under observation and 'incapable of appreciating the nature and quality of any act he did' on the day he killed his daughter.[555]

Neither medical expert testifying in the trial of Joseph Wood could say with any certainty that he was criminally insane when he murdered his daughter, but both confirmed reports Joseph was epileptic. Dr Bastion

> could not say that epilepsy was a form of insanity … [but] a large percentage of persons whose minds are affected are epileptic, and in the same family epilepsy and insanity are intermixed.[556]

PMO Gilbert was just as tentative in his speculation that Wood's 'attacks of giddiness …might have been attacks of an epileptic character' and he 'might have been suffering from mental disturbance' when he killed the baby.[557] With no firmer medical opinion as to Wood's mental state when he hit his three-week-old daughter over the head with a poker the jury returned a verdict of guilty, but insane.

Drunkenness was rarely the primary basis of an insanity defence in cases of child homicide, but defence counsel commonly argued that men were so drunk when they killed their children they did not know what they were doing. Just under a third of men convicted of murdering a child and 35 per cent of men prosecuted for killing a child on an individual indictment were reportedly drunk at the time of the incident and cited alcohol as a contributing factor in their defence. Alcohol was cited as a direct contributing factor in less than a quarter of cases in which men were found criminally

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[555] *Old Bailey Proceedings Online,* March 1891, Alfred James Bartlett (t18910309-286).

[556] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.0, 10 October 2014), May 1890, trial of Joseph Wood (t18900519-457).

[557] Ibid.

insane. More commonly in cases where criminal insanity was found, alcohol consumption – past or present – was cited by witnesses and in medical reports as contributing to the accused's mental deterioration and unstable mental condition. This finding resonates with Phil Handler's argument that judges tended to be more receptive to insanity pleas involving drunkenness if other mitigating factors were present.[558]

William James Folkard's filicidal behaviour was attributed to heavy drinking, bereavement, physical privation, injury and a family history of insanity. William had 'given way to drink' after two of his children died of illness in swift succession. He killed two of his four surviving children and attempted suicide a year later.[559] The Court heard William's grief at the sudden loss of his children was compounded by his inability to provide a gravestone for them. His family testified that his manner changed 'after the death of his children' – 'he would sit and not speak for hours in the kitchen'.[560] PMO Scott found William

> had been in a depressed state for a considerable time but latterly more than usual, and had drunk heavily, taking very little food – when asked about the death of his children last year he said he felt it very much, and added "I am not a chap to show much, but I feel it inwardly"….[561]

William's emotional rectitude resonates with historical correlations of working-class masculinity and emotional inarticulateness.[562] While emotional stoicism was an

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[558] Phil Handler, 'Intoxication and Criminal Responsibility in England, 1819–1920' *Oxford Journal of Legal Studies* 33, no. 2 (2013), 259.

[559] Folkard planned to kill himself and reasoned that his once his eldest sons were older they could help their mother 'but girls at the best are no good for supporting their parents' and the baby was entirely dependent on his mother (*Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.0, 10 September 2014), May 1904, trial of William James Folkard (t19040516-449).).

[560] *Old Bailey Proceedings Online*, May 1904, trial of William James Folkard (t19040516-449).

[561] Ibid.

[562] Julie-Marie Strange provides excellent analysis of working-class men's emotional responses to their children's deaths in *Fatherhood and the British Working Class*.

idealised aspect of Victorian manhood, pathological representations of men's emotional repression in these cases reveal the complexities of contemporary ideas about manliness and emotions.

Manliness and Emotion in Representations of Men's Criminal Insanity

It has been shown that late Victorian and Edwardian ideas about manliness and emotions underpinned perceptions of men's moral culpability and criminal responsibility in trials of child homicide. Here I examine how emotional benchmarks of working-class masculinities were mobilised in late-Victorian and Edwardian understandings of the aetiology of paternal filicide.

Men's mastery over their emotions was a key feature of late nineteenth- and early twentieth-century models of masculinity. Self-restraint, control of one's passions and the triumph of rationality and reason over sentimentality were the cornerstones of respectable manhood. Ideas about how men expressed emotions, such as pain, grief, anger and sadness, underpinned assumptions about men's insanity, criminality and deviance. In trials of paternal filicide, the Court examined men's emotional responses and their capacity to control their emotions in relation to cultural expectations and assumptions of working-class masculinity.

Men's lack of emotional response immediately after murdering their child(ren) was interpreted as a sign of an unsound mind in a reputedly 'good father', especially when the murder was particularly violent. For example, speaking of Curry's 'unnatural calmness twenty-four hours' after killing his sons with 'excessive ferocity', Scott observed that 'being extremely calm and cool immediately after the act is a peculiar

trait in a man in such circumstances'.[563] However, the same 'coolness' was likely to be interpreted as evidence of maliciousness in a reputedly unaffectionate father. Witnesses characterised Arthur Devereux's good humour after his arrest for killing his wife and children as 'disgusting'.[564] His emotional rectitude during his trial was interpreted as a sign of his cold and calculating nature and lack of remorse for his crimes. Perceptions of his unnatural coldness and lack of paternal feeling for his murdered sons significantly undermined his defence and contributed to Home Office's refusal to grant clemency.

The absence of emotional restraint shown in John Richardson's violent attack on his two-year-old son Thomas was compelling grounds for an insanity defence. Character witnesses testified at John's trial that he was known to have 'always been very strange', 'very melancholy', hypochondriacal and at times suicidal, yet was a kind and fond father. Neighbours, alarmed to hear hammering noises and a child's piercing screams coming from John's room, were so concerned they broke down the door and found Thomas lying naked on an armchair. Louise Chauvet testified that John was 'stark naked', standing over Thomas and 'banging [him] with his two fists as hard as he could'.[565] While John was beating his son Louise 'heard him say, "Will you be a good boy now?"'[566]

In the course of the brutal attack John tore away chunks of his son's scalp, nose and upper lip with his teeth. He knocked out Thomas' teeth, broke five ribs, fractured his skull on both sides, and caused lacerations to Thomas' brain and blood to pool in his stomach. Police testified John was 'very violent …like a madman' with 'no control over

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[563] James Scott, 6th February, 1905, medical report, *R v Curry*, CRIM 1/88/10.

[564] 'The Trunk Tragedy. Prisoner Sentenced to Death', *Dublin Daily Express*, 31st July, 1905, accessed 20th April, 2016, British Newspaper Archives.

[565] Louise Chauvet, 6th October, 1901, deposition, *R v Richardson*, CRIM 1/69/4, TNA.

[566] Ibid.

himself' when they arrested him.[567] At the police station, Inspector Charles Cutbush found John

> extremely violent; it took five or six policemen to hold him – I charged him with the murder of his child – he said, "I did it for the child's good – he afterwards said, "I did it; I thought I was doing it for the child's good" – and then he remarked, "Me kill my child! I love my baby; wilful murder! you [sic] must be mad; I thought the baby had a nerve, so I bit it through the mouth and on top of the head to do it good"….. In my opinion he was out of his mind when he was brought in.[568]

John's extremely brutal and excessive response to his son's perceived insubordination satisfied the Court of his criminal insanity. However, at least one press report suggested that John's violence was not uncharacteristic. The *Gloucestershire Echo* reported neighbours' statements that the Richardsons led a 'dog and cat life' and that Thomas had been removed from their care the night prior to his murder in fear for his safety.[569]

The majority of articles on the case represented John's crime as exemplary of savagery amongst London's poor. The regional press in particular correlated the 'insane ferocity' [570] of John's brutal attack on his son with 'London's epidemic of crime' and characterised John as 'A London Savage'.[571] Two articles published in *London's Daily News* represented the murder in less sensationalised terms as a specifically working-class 'tragedy'. The first article, 'A Charing Cross Tragedy', focussed on the geographic

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[567] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 26 April 2016), October 1901, trial of James John Richardson [sic] (t19011021-747).

[568] Ibid.

[569] 'Another London Tragedy. Murder at Charing Cross', *Gloucestershire Echo*, 6th September, 1901, accessed 14th April, 2016, British Newspaper Archives.

[570] "A Father's Insane Ferocity". *Sheffield Evening Telegraph*, 11th September, 1901, accessed 20th March, 2016, British Newspaper Archives.

[571] 'A London Savage', *Sunderland Daily Echo and Shipping Gazette*, 11th September, 1901, accessed 20th March, 2016, British Newspaper Archives.

significance of the crime by specifically linking it to an area particularly associated with poverty and crime.[572] The second article linked the 'tragedy' to a case of maternal filicide tried before Justice Bigham at the CCC at the same time. The defendant in this case, Harriet Holmes, cut the throats of her ten-year-old son and twelve-year-old daughter with a table knife. The article cursorily observed that John Richardson and Harriet Holmes were found criminally insane by the same jury.[573] Curiously none of the reports on these two cases tried before Justice Bigham noted the parents' crimes occurred only two weeks apart and took place within walking distance of each other.

Both Harriet and John were considered good and loving parents prior to violently killing their children and both were considered to have been mentally unstable for some time prior to committing the murders. In both cases a range of contributing factors were put forward by the defence. However the significant difference in the medical witnesses' explanations of the primary cause of insanity in the two cases was Harriet's insanity was associated with hormonal changes while John's was attributed to the stress of unemployment.

Unemployment as a Precursor to Criminal Insanity

Unemployment was cited as a mitigating factor in more than half of the cases of fathers bought up on a capital charge for killing their child; it was a cited as a contributing factor in every capital case with a finding of criminal insanity. Common

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[572] London murders were often identified in headlines by the area in which they occurred. Most of the time the effect was to associate violent crime with notoriously 'rough' areas of London or to sensationalise cases that occurred in reputedly quiet and respectable neighbourhoods.

[573] Untitled, *London Daily News*, 24th October, 1901, accessed 20th March, 2016, British Newspaper Archives. Again, newspapers covering both cases published outside of the County of Greater London tended to run with more sensational headlines such as 'Parents' Fearful Crimes' (*Hull Daily Mail*, 23rd October, 1901), 'Both Murderers. Insane Mother and Father' (*Portsmouth Evening News*, 23rd October, 1901) and 'Child Murderers Found Insane' (*Gloucester Citizen*, 23rd October, 1901).

acceptance of the emotional, physical and mental effects of male unemployment as mitigation to acts of child homicide reflect changing attitudes towards unemployment and London's unemployed in the second half of the nineteenth century. The criminal trials examined in this study took place at a time when the association of economic failure and personal failure was in flux. Over the course of the late nineteenth-century the problem of London's unemployed was gradually re-conceptualised as a social rather than individual problem in English sociological, political, literary and common discourse. Gertrude Himmelfarb explains that although the word 'unemployment' was first recorded in 1888, it was not regularly applied in general circulation until after the turn of the century.[574] However throughout the late nineteenth-century commentators on the unemployed

> offered a range of intermediate explanations between "individual inadequacies" and the "social mechanism" to account for unemployment. That many of "the unemployed" were unemployed for reasons beyond their control, that their "want of employment" was often occasioned by sickness, "hard times" or the seasonal, "irregular," or "casual" nature of the trade – these facts were understood and reflected in social policies long before "unemployment" became common.[575]

By the late nineteenth-century criticism of the brutality and improvidence of London's idle unemployed alternated with admiration of the stoicism of poor men who fought valiantly against the social forces of poverty and unemployment.[576]

Men's failure to fulfil the paternal role of economic provision struck hard at many men's masculine identities, even when they, and others, acknowledged the reasons for

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[574] Gertrude Himmelfarb, *Poverty and Compassion,* 42.

[575] Ibid, 42–43.

[576] Regenia Gagnier discusses what 'nonworking-class' representations of London's working classes in fictional and nonfiction writings and in working-class autobiography in *Subjectivities, A History of Self-Representation in Britain, 1832–1920* (Oxford: Oxford University Press, 1991), 107–170.

their unemployment were beyond their control. Men's sense of emasculation was often reinforced when their wives were forced to enter the paid workforce to make ends meet and further compounded by cultural ambivalence towards maternal employment. Cultural antagonism towards men perceived to have subverted working-class masculine ideals through idleness could aggravate underlying mental conditions in men labouring under the physical and mental strain of long-term unemployment.

A paternalistic desire to protect children from the ravages of poverty featured heavily in the insanity pleas of fathers who killed their children. Descriptive analysis of trial accounts and depositions in these cases show that men who killed their children to protect them through death strongly identified with breadwinner models of fatherhood. The depths of these men's shame and despair over their inability to maintain their children reveals the 'affective significance' attached to the provider role.

Cases of altruistic paternal filicide precipitated by men's fear of family poverty illuminate links between affection, protection and provision in working-class paternal identities.[577] The cases of Richard Oakes and Henry Jackson highlight the extent masculine roles of protection and provision were entrenched in working-class paternal identities in late nineteenth- and early twentieth-century England.

Richard Oakes and his wife attempted suicide and fatally poisoned their son because they were destitute and could not see any way out of their dire situation. Richard had tried without success to find secure employment and his wife Amy had not been able to

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[577] Julie-Marie Strange, Fatherhood, Providing and Attachment in late Victorian and Edwardian Working-Class Families', *Historical Journal* 55, no. 4 (2012): 1009. Leonore Davidoff and Catherine Hall, (*Family Fortunes: Men and Women of the English Middle Class 1780-1850* (London: Hutchinson, 1987), 334), Melissa Gregory ('Most Revolting Murder', 79), Jade Shepherd ('One of the Best Fathers', 7-9) and Laura King (*Family Men: Fatherhood and Masculinity in Britain, 1914–1960* (Oxford: Oxford University Press, 2015), 16) draw similar conclusions about working-class masculine identities.

adequately support the family through casual labour. Richard and Amy were deeply affected by their inability to pay their rent, which had fallen six weeks into arrears. Amy explained 'we don't like to disappoint, so we have tried to take our lives'.[578] They took strychnine first to no avail, so they tried to cut their throats, but that didn't work either. They 'did not wish to leave the little boy behind, to the cold charity of the world', so they gave their son strychnine, which produced the desired effect. [579]

In a letter to his brother, Richard wrote: -

> Twelve months have I now put up with a most miserable, struggling existence, and I really cannot stand anymore; I am completely worn out, and relations who could assist me won't do any more …. I can face poverty and degradation no longer, and would sooner die than go to the workhouse. Whatever the awful consequences may be of the step we have taken, we have, God forgive us, taken our darling lamb *Arty* with us, out of pure love and affection, so that the darling should never be cuffed about, or reminded or taunted with his heart-broken parent's crime. My poor wife has done her best at needlework, washing, house minding, etc., in fact, anything and everything that would bring us in a shilling, but it would only keep us in semi-starvation. I have now done six weeks' travelling from morning til night, and not received one farthing for it; if that is not enough to drive you mad, wickedly mad, I don't know what is – no bright prospect anywhere, no ray of hope … Dear Georgie, I am exceedingly sorry to leave you all, but I am mad, thoroughly mad.[580]

Richard clearly attributed his madness to the mental and physical ardours of poverty. His letter expressed recognition of the ultimate futility of their desperate struggle to survive by their own volition and avoid the indignity of poor relief. A sense of emasculation can be inferred from Richard's bitter sense of personal failure through long-term unemployment. This was no doubt compounded by an overarching sense of shame related to his attempted suicide. Like William Viney, Richard was an older father

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[578] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 26 April 2016), July 1890, trial of Richard Arthur Oakes, Amy Oakes (t18900728-587).

[579] Ibid.

[580] *Old Bailey Proceedings Online*, July 1890, trial of Richard Arthur Oakes, Amy Oakes (t18900728-587).

whose employability was limited by his age, failing health, physical weakness and deteriorating mental condition. The workhouse was almost inevitable for aged unemployed fathers who had been physically and mentally broken down by the effects of long-term unemployment. For respectable men the workhouse was an absolute last resort and temporary respite from poverty. The indignity of pauperism was intensified by the separation of husbands from their wives and children. The small but not insignificant number of men in this study who risked or deliberately ended their children's lives rather than them enter a workhouse is testament to the depth of working-class men's feelings against London's workhouses.

Henry Jackson and his wife refused to enter a workhouse despite Jackson's long-term unemployment reducing the family of five to bare subsistence. PMO Henry Draycott Walker identified long-term unemployment as the principal predisposing cause of the insanity that drove Henry Jackson to kill his son. However, Henry himself attributed his motives to deep-seated feelings of alienation and resentment over criticisms of his idleness and dependence upon his wife's income and on the charity of family and friends. Henry's mother testified that Henry was sacked from the Post-office because 'he wandered away and was absent from duty'.[581] Over the next two and a half years his wife went out to work as a charwoman but

> they were very often in want … they were in dreadful distress; they got rid of everything they had … they often cried over each other, and wanted to know where the next loaf would come from.[582]

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[581] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 26 April 2016), October 1895, trial of Henry Dracott Jackson (t18951021-831).

[582] Ibid.

Despite their poverty, the Jacksons 'kept it to themselves ….too much' according to Jackson's mother, who believed 'they might have had relief from the parish, but they would not – at least he did not do so'.[583] Henry's mother gave them what she could, but 'if it had not been for the neighbours last winter they must have perished'.[584]

The neighbours' generosity was tinged with disapproval over Henry allowing his wife to go out to work while he stayed home and looked after the children. Henry allegedly told his mother the day before the murder that 'the neighbours had talked about it, and said that he ought to go to work instead of his wife'.[585] Community disapproval of Henry's subversion of domestic gender roles resonated with broader social commentary on London's poor. Thomas Wright, for example, equated the phenomena of husband-supporting wives in working-class England with the common custom observed amongst 'savages' and wild beasts for females to labour while males leisure.[586]

Police testimony suggested that marital tensions produced by Henry's ongoing unemployment precipitated Henry's actions. According to Detective Sergeant Amos Atkinson, on the day he was charged with murdering his son Henry confessed

> I thought [my wife] would have committed suicide when she found the baby dead. I picked the poor little sod, because he was the easiest to get out of the way. It was time I made a move, the neighbours and my wife were always at me about getting work.[587]

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[583] *Old Bailey Proceedings Online,* October 1895, Henry Dracott Jackson (t18951021-831).

[584] Ibid.

[585] Ibid.

[586] Thomas Wright, *The Pinch of Poverty: Sufferings and Heroism of the London Poor* (1892), 41 – 48.

[587] *Old Bailey Proceedings Online*, October 1895, trial of Henry Dracott Jackson (t18951021-831).

PMO George Edward Walker observed that Henry 'did not appear to be out of his mind' when he was admitted to Holloway Prison later that day.[588] During the three weeks in which Henry was under Walker's observation, he

> has shown no regret for having committed the act, and has hardly appeared to realise the position in which he is placed, or the gravity of the crime which he has committed … he told me that at the time he committed the act he seemed to hear a voice, not human, telling him to do the deed, and he felt he must kill the child; and after he had killed it, he felt a satisfaction at having killed it.[589]

However, less weight appears to have been given to Henry's assertion that he was compelled by voices in his head, as the mental and physical effects of chronic unemployment. According to Walker,

> I was informed he had been out of work for some years – that has helped me to form an opinion in a person disposed to insanity that would be a factor or predisposing cause … Mental worry and want of food would be predisposing causes to insanity – he is a weakly man, very thin, evidently from defective physique … I cannot see why he should not get work, there is no actual disease about him that I can discover, his condition being more from starvation than anything else.[590]

Walker concluded that Henry was temporarily insane at the time he murdered his son, but 'there [was] nothing to justify from [his] knowledge and observation the view that he is out of his mind now'.[591]

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[588] *Old Bailey Proceedings Online*, October 1895, Henry Dracott Jackson (t18951021-831).

[589] Ibid.

[590] Ibid.

[591] Ibid.

'The world will forget the dead, but I want my wife to remember, and she will remember': Men's Madness, Marital Troubles and Child Killing

Analysis of provocation-based defences to child homicide in chapters one and four has highlighted a cultural assumption that in certain circumstances men and women could literally be driven mad by domestic troubles. Most commonly domestic troubles were interpreted by the Court as powerful catalyst for mental deterioration in an already psychologically compromised individual. The wife of Charles Everard Fox testified at her son's inquest that she and her husband fought regularly over his irregular unemployment and subsequent heavy drinking. She resented the burden placed on her and their two older children to maintain the family of fourteen when Charles was out of work or underpaid.[592] Although she characterised her husband as 'a very erratic man [who] said wicked things sometimes', she acknowledged 'he was intensely fond of the children'. [593]

On the 24th of April, 1906, Charles murdered his son as he slept in bed next to his sisters. After his arrest Charles made the alarming admission to police that

> I should like to say something in front of the proper persons and explain why the deed was done. It would (or should) have been the wife, but I wanted her to live and remember. He was the flower of the flock. Nobody knows how it was done. When I did the deed I never got a drop of blood on my hands. I am not afraid to die. The world will forget the dead, but I want my wife to remember, and she will remember.[594]

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[592] 'Father's Crime. Pitiful Story of a Tragedy. "Flower of the Flock". Little Girl's Terrible Ordeal', *Sheffield Evening Telegraph*, 28th April, 1908, accessed 20th April, 2016, British Newspaper Archives.

[593] Ibid.

[594] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.0, 04 June 2014), May 1908, trial of Charles Everard Fox (t19080526-44).

Less weight appears to have been attributed to Charles' comments made shortly after his arrest as the change in his behaviour following his dismissal from his postal position two and a half years prior to the murder. Family members called as character witnesses testified Charles' became 'very strange …. he looked balmy - mad; his eyes were very projecting and glaring; he was very excited when talking. His manner underwent a complete change after his dismissal from the Post Office'.[595]

Charles' eldest daughter confirmed

> My father was always most kind to his children, and we were all very fond of him. A great change took place in him after he left the Post Office; he seemed very peculiar, very depressed; he used to sit and think, with his hands on his forehead; he would shake his head and walk about for a rare long while and would not speak to anybody. I have seen him bang his head upon the wall, and when I said, "Don't do that, dad," he has replied, "Oh, that doesn't hurt me."[596]

PMO Scott attributed Charles' melancholic state of mind with 'his long series of troubles' and reported to the Court that although Charles' was fit to plead he did not believe he fully appreciated the seriousness of his offence and was insane when he murdered his son.

The Court accepted Scott's assessment and found Charles' criminally insane despite his explicitly vengeful motive to punish his wife for her nagging behaviour by murdering their son. The Court's ruling reflects the inconsistent application of standards of criminal insanity to cases of paternal filicide. There is little substantive difference between Charles' case and other cases in which melancholic idle men who claimed their wives' criticisms provoked them to kill their children were convicted (and later reprieved) on a capital charge. However, by the early twentieth century CCC juries

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[595] *Old Bailey Proceedings Online,* May 1908, Charles Everard Fox (t19080526-44).

[596] Ibid.

in capital cases typically delivered findings of criminal insanity based upon the PMO's assessment that the prisoner was insane at the time he committed the murder, even if the PMO found insufficient grounds to certify the prisoner was criminally insane.

The medical report presented at Charles Turner's trial for his daughter's murder reflects the fluidity of medico-legal concepts of criminal insanity in cases of paternal filicide. Charles Turner killed his three-year-old daughter in front of his nine-year-old son, after returning to home from working nightshift to find his wife spent the night away from home, leaving their five children unattended. Charles spent the day searching for his wife without sleep. About noon he confronted a man 'he had great reason to suspect of having been too familiar with his wife' about her whereabouts.[597] Charles shared drinks with his wife's alleged lover for a couple of hours, then assaulted him before parting company. Charles returned home late in the afternoon, drew a knife across Florence's neck and lay down beside her.

The medical report of PMO James Scott highlighted the effects of domestic instability on Charles' state of mind when he killed his daughter. He observed Charles had no family history of insanity or heavy drinking, but had trouble with his wife for the last eight years owing to her drinking habits and staying out with other men. Amongst her failings were infidelity,

> grossly neglecting her home and her children, letting her family often go without meals, &c. She has also been spending on drink the money intended for rent, housekeeping expenses, &c.[598]

Charles had to work extra hours to compensate for his wife's improvidence. When she went missing for days at a time he had the additional burden of domestic duties and

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[597] James Scott, 26th June, 1906, report of PMO (Brixton Prison), *R v Turner*, CRIM 1/103/2, TNA.

[598] Ibid.

> spent a great deal of the time, when he was not at work, in searching for her. He got very little sleep, and did not take much food. He became very depressed and worried….On the night of Tuesday May 22nd Turner complained of pains in his head, and "seemed to walk about like a man that is lost". Now and then he would sit down and hold his head, as if in agony. He expressed great anxiety about his children, and said he wished he could get someone to take care of them. He said he loved his children. The evidence all seems to show that prisoner was fond of his children, and the little girl Florence seems to have been an especial pet with him. All this mental strain and worry along with extra work and the want of sleep and proper food could not fail to produce a most injurious effect upon the prisoner and lead to great mental depression, and bodily weakness….[599]

Scott found that Charles had been depressed, but not actually insane, during the month he had been under his observation.[600] Nevertheless, Scott concluded that when Charles murdered Florence he 'was probably not in a condition, owing to disease of the mind, to know the nature and quality of the acts he was committing'.[601] Despite observing 'no definite indications' of insanity, epilepsy, irrationality or delusion', Scott testified at Charles trial that on the day of the murder, 'he was in an insane condition, probably from epilepsy, and did not know what he was doing'.[602] The jury agreed and found Charles criminally insane.

During the trial the press sympathetically characterised Charles as 'a good father' who was 'passionately fond of his children' and 'had been greatly worried by a worthless wife, who had deserted her home'.[603] At the same time as press reports attributed Charles' 'very wild condition of mind' to 'having a worthless wife', journalists

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[599] James Scott, 26th June, 1906, *R v Turner*, CRIM 1/103/2.

[600] Ibid.

[601] Ibid.

[602] *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 14 April 2016), June 1906, trial of Charles Henry Turner (t19060625-60).

[603] 'Worthless Wife. Father Commits Murder', *The Hull Daily Mail,* 3rd July, 1906, accessed 20th March, 2016, British Newspaper Archives.

emphasized his bond with his surviving children.[604] It was reported that after Charles' son testified against his father, 'child and father cried together, the prisoner breaking down in the dock'.[605] These characterisations represented Charles as a victim of his wife's failings as much as the children were positioned as victims of the failings of both their parents.

Masculinity and Delusions of Infidelity

While the Court and press were deeply sympathetic towards men believed to have been driven mad by 'worthless' wives, responses to men's allegations of spousal provocation were more ambivalent when such allegations proved to be founded upon insane delusions. Delusion was considered a key indicator of criminal insanity under *M'Naghten Rules*, although the majority of men found criminally insane at the CCC did not kill their children in consequence of an insane delusion. Thomas Cole Butler was the only man charged with murdering his children who was found criminally insane on the basis of the delusionary nature of his crime at the CCC between 1889 and 1913. Thomas claimed he shot his six children to shield them from the infamy of his wife's alleged unwomanly conduct with a neighbour and to serve as a lesson to all those who may stray from the moral path. While Thomas placed the utmost significance on the central role his wife played in provoking his crime, the delusionary nature of Thomas' allegations of his wife's misconduct was itself interpreted as a clear sign of insanity.

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[604] 'A Fond Father's Crime. Little Son Describes a Tragedy', *Yorkshire Telegraph and Star,* 3rd July, 1906, accessed 20th March, 2016, British Newspaper Archives.

[605] 'Father's Crime. Sad Murder Story. Boy's Terrible Experience', *Sheffield Evening Telegraph*. 2nd June, 1906, accessed 20th March, 2016, British Newspaper Archives.

Thomas was found unfit to plead by a grand jury, based on medical reports furnished by PMO James Scott and Dr Henry Maudsley.

Both Maudsley and Scott observed that, prior to the incident, Thomas was known as a loving father and devoted husband. By his own admission, Thomas was 'very fond of his children …. [and until] the night of May 18th, he had always thought that his wife was everything that a good and pure woman should be'.[606] Thomas saw his wife talking with a man on the road as she walked home and immediately formed the belief that his wife was conducting or planning an affair with the man (a local shop-owner, also making his way home along the same road).

This upset him so greatly he felt he could not sleep at home that night and instead slept at a Coffee-house. The next morning he carefully considered the matter, and decided to commit suicide, as he felt he could not live with his wife any longer. As he did not know how his children would be brought up after his death, and could not bear the idea of them ever learning that their mother had not been a good woman, he decided to kill them before himself. He afterwards changed his mind and resolved not to kill himself, but to expiate his crime on the scaffold, as a warning to others.[607]

While under observation on remand at Holloway Prison, Thomas was reported to be

> very orderly and well-conducted. He has taken his food well, and slept well. He has not shewn [sic] signs of mental depression, but, on the contrary, he has been unnaturally calm and cheerful under the circumstances. Judging from his demeanour, he has never appeared to realise the heinous nature of his crimes, nor the seriousness of his position. He has seemed rather to glory in the magnitude of his offence, and to consider himself a benefactor to society by the example he is setting.[608]

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[606] James Scott, 17th June, 1901, report of PMO (Holloway Prison), *R v Butler*, CRIM 1/67/3, TNA.

[607] Ibid.

[608] Ibid.

The doctors agreed Thomas' 'insane delusion of his wife's unfaithfulness was the abrupt climax of a progressing mental disorder in an evidently neurotic and naturally suspicious temperament'.[609]

The coroner's inquisition into the death of five of the six Butler children attracted a throng of spectators who crowded into St. Alfege church hall to observe the proceedings. Public interest in the case spurred publication of conflicting reports generated by cursory interviews with Thomas' neighbours, colleagues and passing acquaintances. Early reports highlighted the community's shock at the events given the Butlers' reputation as sober, industrious, respectable people within the quiet village. The incongruence between the irrationality of Thomas' crime and his calm composure during criminal proceedings was highlighted in pictorial representations showing Thomas' sharp grooming and stoic demeanour.

Figure 8. *Sketch of Thomas Cole Butler taken at his arraignment at Woolwich Police Court, reproduced in Sussex Agricultural Express (24th May, 1901) and Tamworth Herald (2th May, 1901).*

Sensational rumours of the increasingly bizarre behaviour of the 'mad sergeant' who gunned down all six of his children fuelled public fascination as the case progressed through the Coroner's Court to Thomas' arraignment at criminal court. Press reports on the coroner's inquest highlighted Thomas' questionable mental condition, drawing attention to the unnaturalness of his behaviour and attitude. In particular, the press juxtaposed Sarah Butler's physical and emotional breakdown during proceedings with Thomas'

[609] Henry Maudsley, 6th June, 1901, medical report, *R v Butler*, CRIM 1/67/3, TNA.

consistently calm composure and lack of remorse. At the coroner's inquest, The *Cornishman* observed

> Between two warders was the unhappy father, listening to the evidence of his wife as to the murder of his children.
> The first witness called was Mrs Sarah Lilian Butler, wife of the accused, and mother of the murdered children. She appeared to be ill. She stated she had not seen the bodies of her children, and could not look at them.
> … The recital of the death of the children … so unnerved Mrs Butler that she had to be carried in a fainting condition from the court. But all the time her husband maintained a calm and almost indifferent demeanour.[610]

By the time of Thomas' committal hearing at the CCC the attention of the press turned to questions regarding his fitness to plead. Newspapers implied Thomas may have been genetically predisposed to insanity, observing Thomas' father 'claimed to be Lord Cahir' and 'was confined in different asylums prior to his death'.[611] Journalists who attended Thomas' hearing cited witnesses who questioned his sanity and reproduced Thomas' writings to support allegations of insanity. Thomas' offer to give the management of Madame Tussaud's 'full permission to exhibit his model and those of his murdered children' was widely published by the press.[612] The letter to Madame Tussaud stipulated 'management allotted him a special room, which the public should be charged sixpence extra, the receipts to be put by for the benefit of the surviving daughter'.[613] PMO Scott submitted this letter to the grand jury and provided compelling evidence of Thomas' irrationality. Thomas' continued attempts to manipulate the proceedings to

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[610] 'How Sergeant Butler Murdered his Five Children at Charlton', *Cornishman* 30th May, 1901, accessed 20th March, 2016, British Newspaper Archives.

[611] 'The Charlton Tragedy – *Prisoner Insane*', Lincolnshire Chronicle, 28th June, 1901, accessed 20th March, 2016, British Newspaper Archives.

[612] Thomas Cole Butler, 14th June, 2016, letter to 'The Management' of Madame Tussaud's Exhibition, *R v Butler*, CRIM 1/67/3, TNA.

[613] Ibid.

maintain patriarchal authority over his wife and surviving daughter confirmed the doctor's assessment of criminal insanity.

Conclusions

Late-Victorian and Edwardian ideals of working-class fatherhood and masculinity were mobilised in these cases through the construction of men's criminal insanity. The stories told by and about men who killed their children highlight the ways in which men internalised and, by killing their children, subverted these masculine ideals. These cases illuminate the interplay between contemporary medico-legal constructions of insanity, cultural assumptions about class and gender and how these factors played out in the construction of the insane filicidal father.

The cases discussed in this chapter show that legal rulings regarding insanity pleas were not based solely on contemporary medical understandings of insanity, strict interpretation of legal tests of insanity or based solely on the evidence presented. Nor, however, was criminal insanity determined simply by accepted cultural standards of behaviour or broad gender expectations. As Angus McLaren observes 'hard facts and vague gender expectations' could be afforded strikingly similar evidentiary weight in assessments of criminal insanity.[614] Broadly uniform results were achieved for men who conformed to stereotypes of paternal filicide that correlated insanity with poverty and domestic disorder. The dire consequences of parental failure to fulfil culturally prescribed gender roles were commonly understood and often served to mitigate men's extreme violence against their children.

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[614] McLaren, *The Trials of Masculinity*, 111.

Men's fear and shame of failing to live up to cultural expectations of paternal economic provision was a common feature in courtroom narratives of paternal filicide involving insanity pleas. Nuances in the ways paternal failure was discussed in terms of criminal insanity and the murder of children highlights the complex range of meanings provision and protection took on in contemporary formulations of 'good' or 'bad' fatherhood.

Conclusion

Curious onlookers packed the CCC the day Arthur Devereux was sentenced to death for the murder of his wife and children. Reporters jostled for position. Legal dignitaries, esteemed gentlemen and ladies in colourful summer attire filled the reserves while men and women of all classes occupied seats, gangways and every inch of standing room. Days prior Justice Ridley had delivered a stirring address to the jury in which he declared Arthur's alleged crimes were 'as bad …as one could conceive …there could be nothing more horrible or atrocious …surrounded by details that were so unimaginably repulsive and disgusting for anyone who called himself a human being'.[615] The jury retired for ten minutes before returning a unanimous decision. Upon receiving the jury's verdict, Sir Justice Ridley donned the black cap and passed a sentence of death. He advised Arthur to abandon all 'hope for reprieve or forgiveness in this world' and dedicate 'the short space of life' that remained to securing a modicum of God's grace.

Representations of Arthur Devereux as an unnatural and even inhuman father appears to affirm the historical assumption that fathers who killed their children were the 'bad' corollary to 'mad' and 'sad' mothers who did the same. Yet the outcome of the trial and representations of Arthur as 'a monster in human form' were not typical of the majority of trials of male-perpetrated child homicide tried at the CCC.[616] The criminal culpability of the majority of men charged with killing their child was mitigated by poverty and spousal provocation or exculpated on grounds of criminal insanity. These men were not represented within the Court or press as intrinsically evil men or as bad

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[615] 'The Triple Trunk Tragedy. Closing Scenes at the Trial. Devereux Sentenced to Death', *Cheltenham Chronicle*, 5th August, 1905, accessed 27th April, 2016, British Newspaper Archives.

[616] Ibid.

fathers, but as desperate men driven to kill their children by social and economic forces, such as unemployment, domestic unrest and poverty. Marital troubles, illness and poverty were causatively linked to men's mental deterioration and often cited as factors contributing to the unhinged state of mind in which they killed their children.

Complex representations of men's motivations for killing their children mobilised notions of respectable working-class manhood. Characterisations of defendants as 'good fathers' and 'men of good character' accommodated paternal failings at the same time as they reinforced gendered expectations of class. Many men who had difficulty retaining employment and had then killed their children were described by character witnesses as being affectionate and good fathers. Other men were characterised as respectable working-class men of good character and strong work ethic, who strove earnestly to provide for their family. Paternal affection and a desire to fulfil the role of provision appeared as key markers of 'good working-class fatherhood' in these narratives and crucially shaped notions of men's criminal culpability for the death of children.

The vast majority of men and women tried for child homicide at the CCC belonged to London's working classes. Labourers, the wives of labourers and domestic servants were amongst the most socio-economically vulnerable members of London's working-classes and, as a collective, the most likely to be charged with child homicide related offences. Differences and similarities in the way the judicial system treated male and female defendants reflects the distinctly gendered experiences of socio-economic disadvantage amongst London's poor. The Court acknowledged poverty, fears of unemployment and the dreaded workhouse and the provocations of spouses and lovers as mitigating factors in the trials of both men and women. However, the narratives of poverty and provocation within men and women's defences diverged sharply in accordance with gender roles and expectations.

Both male and female defendants drew heavily on socio-economic explanations for killing their children. Socio-economic explanations grounded the motivations of loving parents who deliberately killed their children in the physical and mental effects of privation caused by poverty. But there were gendered differences in the substance of these explanations.

Men's successful defences drew on character and medical witnesses' observations of men's grief and shame over their inability to provide for their families. Poor men's earnest desire to maintain and protect their children and the shame experienced when they were unable to do so appealed to late Victorian and Edwardian paternalistic ideals of providence, sacrifice and altruism.

Women's socio-economic defences were often tied to the failings of violent, improvident husbands and absent fathers. While unchivalrous lovers and neglectful husbands were not attributed criminal responsibility for the murder of their children, their moral culpability for provoking women's crimes was widely acknowledged in the Court and in the press. Sympathy for neglected and abandoned mothers was underpinned by fundamental belief in a natural patriarchal order and recognition of the dire consequences for women when men failed to uphold paternal obligations and responsibilities.

Both men and women successfully claimed their actions had been provoked by the unwomanly or unmanly conduct of lovers and spouses. The nature of provocations put forward by defence and accepted by the courts were underpinned by expectations of gender and stressed the co-dependence of spouses to meet their respective parental obligations. Men's refusal to accept paternity of illegitimate children, the paternal negligence of idle and intemperate men and long-term spousal abuse were considered compelling grounds for mitigation of women's criminal culpability for acts of filicide.

Women's absence from the family home, adultery, neglectful mothering and housekeeping (especially when attributed to intemperance) and nagging behaviour were commonly accepted as grounds for mitigation in men's trials for child homicide.

While evidence of marital troubles carried considerable exculpatory weight, it was rarely presented or accepted as a primary defence to child homicide. Analysis of the disproportionately high number of acquittals, downgraded charges and reduced sentences for poor unemployed fathers beleaguered by bad marriages indicates that men's most successful defences to killing their children were built upon narratives of poverty and marital disorder.

Responses to trials of men accused of killing their children in the Court, press and wider community were marked by ambivalent attitudes to paternal prerogatives and male domestic authority. Accusations of paternal negligence within working-class communities reveal diverse and often conflicting beliefs about paternal prerogatives and obligations, particularly as they related to acceptance of parochial relief. At the same time, inconsistent juridical responses to cases of child homicide involving spousal violence reflected tensions between male prerogative and ideals of respectable working-class manhood.

Associations between poverty and marital disorder were repeatedly drawn in the defence of parents charged with killing their children through parental negligence as well as the most violent of means. This thesis is structured to highlight the way grounds for mitigation were underpinned by ideas about working-class masculinity and fatherhood. It has shown how acceptable grounds for mitigation in the most extreme cases built upon precedence set in less violent cases. Correlations between poverty, family violence and mental instability were repeatedly raised in men's and women's defences to charges involving fatal neglect, abandonment, beating, stabbing and

shooting of children. While poverty, provocation and insanity featured heavily in courtroom narratives across the spectrum of child homicide offences, trial outcomes hinged upon characterisations of fatherhood and motherhood.

Parents of either sex were more likely to be found criminally insane than convicted of their child's murder. The overwhelming majority of those found criminally insane after killing their children were characterised as good parents prior to the incident. Representations of men's criminal insanity engaged notions of class and gender that emphasised social and biological differences between men and women and class-based cultural distinctions between men. While women's criminal insanity was often located in reproductive causes, such as childbirth, lactation, menstruation and menopause, men's criminal insanity was predominantly attributed to the paternal roles of provision and protection.

Men, whose motivations for killing their children and whose subsequent behaviour did not conform to expectations of a remorseful and grieving father, were invariably perceived as mad or irrevocably bad and were sentenced accordingly by the Court. The majority of men who deliberately killed their children displayed remorse, regret and grief after the fact; however, a small number of men remained unrepentant and/or denied all responsibility for the crime. Some reputedly good fathers killed their children to punish the children's mother and exalted in the righteousness of their actions. These men were found criminally insane. Men characterised as cold or indifferent fathers who acted with aforethought and malice were more likely to convicted on capital charges without reprieve than loving fathers whose acts were premeditated and motivated towards revenge.

This thesis raises questions about the cultural contingencies of constructions of masculinity and fatherhood in representations of male-perpetrated child homicide. As

such, this work presents an impetus for future investigations into the similarities and divergences of representations of manhood in juridical and cultural responses to male-perpetrated child homicide across time. Have representations of men who commit child homicide and their reasons for doing so changed over time? Does the nineteenth-century working-class father who killed his child to save them from poverty still exist in the context of modern-day London? I offer the preliminary proposition that men's most commonly cited explanations for child homicide heard in the CCC from the late nineteenth-century to the early twenty-first century have undergone dramatic changes.

In many respects, social, political and cultural shifts over the last one hundred years have changed the lived experience of working-class London. These developments have generated a whole new set of assumptions and expectations of working-class masculinities and fatherhood for twenty-first century Londoners. In the 127 years since the earliest case in my study was tried at the CCC socio-economic conditions amongst London's poor have – generally speaking – dramatically improved. The modern welfare state was then in its infancy, born from the newly elected Liberal party's major social welfare, education, parliamentary and employment reforms commenced in 1906.

Driven by the guiding principle of governmental responsibility for the nation's citizens, the Liberal party had introduced free medical treatment for school children and maternity, sickness and unemployment benefits across Britain by 1913. However, it was after the Great War that perhaps the most significant social welfare measures were introduced, measures that reduced socio-economic pressures upon London's 'respectable' out-of-work fathers. Affordable council housing achieved through the 1919 Housing Act, the introduction of a free 'cradle to grave' National Health Service in 1948 and the availability of the contraceptive pill on NHS from 1961 limited family

homelessness, improved access to child healthcare and reduced the number of unwanted pregnancies.

While these measures did not specifically address male unemployment, the most cited contributing factor in men's trials for child homicide in my study, these measures did increase opportunities for men to meet the obligations and responsibilities of fatherhood. In particular, the ability of unemployed parents to provide the basic necessities of food, shelter and health care for their families has greatly improved. Increasing availability and cultural acceptance of the contraceptive pill throughout the 1960s and 1970s reduced the number of unwilling single fathers and reduced marital strains within families that could not afford additional children.

By the turn of the twenty-first century, the effects of poverty and unemployment were not attributed the same evidentiary and exculpatory weight in men's trials for child homicide at the CCC as they were one hundred years earlier. Men's criminal history, substance abuse and drug addiction are considered key risk factors in the most current and in-depth studies of paternal filicide in the United Kingdom.[617] While the majority of men tried for child homicide in the CCC today have prior criminal convictions and a history of substance abuse or dependency, very few men in my study had prior criminal convictions and only a small minority were drunkards. Where

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[617] Sandra Flynn, Jenny Shaw and Katherine Abel, 'Filicide: Mental Illness in Those who Kill Their Children', *PLOS One* 8, no. 4 (2013): no pag; Mary Barnish, *Domestic Violence: A Literature Review* (London: HM Inspectorate of Probation, September 2004), 19–20, http://webarchive.nationalarchives.gov.uk/+/http:/www.justice.gov.uk/inspectorates/hmi-probation/docs/thematic-dv-literaturereview-rps.pdf, accessed 1st June, 2016; Kate Cavanagh, R. Emerson Dobash and R. P Dobash, 'Men Who Kill Children In and Outside the Family', *British Journal of Social Work* 35 (2005): 667–688. International research support key correlations between paternal filicide and drug abuse, criminal history and mental illness. See Thea Brown, Danielle Tyson, and Paula Fernandez Arias, 'Filicide and Parental Separation and Divorce.' *Child Abuse Review* 23, no. 2 (March 2014): 79-88; Danielle Tyson, *Sex, Culpability and the Defence of Provocation* (Abingdon, U.K.: Routledge, 2013); Myrna Dawson, 'Canadian Trends in Filicide by Gender of the Accused, 1961–2011', *Child Abuse and Neglect* 47 (2015): 162–174; Mensah Adinkrah, 'Men who Kill Their Own Children: Paternal Filicide Incidents in Contemporary Fiji, Child Abuse and Neglect 27 (2003): 557–568.

criminal history or alcohol abuse was raised as a mitigating aspect to men's crimes, these factors were consistently attributed less evidentiary weight than men's socio-economic circumstances. Despite this shift in focus, it is recognised that the majority of men tried for child homicide in England in the early twenty-first century are of the working-classes.[618]

While social reforms ameliorated some of the key external motivations for men to kill their children and substance abuse has emerged as a key contributor to all forms of domestic violence, there have been continuities over time. Mental illness, marital conflict, family violence and poverty or financial instability continue to feature heavily in modern-day criminal, sociological and psychiatric typologies of male-perpetrated child homicide.[619]

My findings raise important questions about, and provide new understandings of, how paternal filicide has historically been conceptualised and responded to in court, parliament, press and wider society. They highlight the diversity of defences to child homicide and variability of juridical responses to male perpetrated child homicide. I show how entrenched culturally specific expectations of masculinity and fatherhood were in juridical and cultural understandings of and responses to these men's crimes. My detailed analysis of previously unexamined primary material contributes a fresh perspective on existing understandings of how class and gender are mobilised in the conceptualisation and treatment of male-perpetrated child homicide.

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[618] For example, Ania Wilczynski identified 70 per cent of her sample as 'working class' and 'not in paid employment' (*Child Homicide*, London: Greenwich Medical Media, 1997, 71).

[619] 'Filicide: A Literature Review', The National Confidential Inquiry into Suicide and Homicide by People with Mental Illness. Centre for Suicide Prevention. (Manchester: University of Manchester, 2009).

Glossary

Homicide Offences

Statutory definitions of murder and manslaughter operating in the late nineteenth and early twentieth century were set out in the *Offences against the Person Act*, 1861 (24 &25 Vict, c. 100). According to the Act, an indictment[620] for murder charged that 'the Defendant did feloniously, wilfully, and of his Malice aforethought kill and murder the Deceased'.[621] It was not necessary to identify the manner or means by which the victim's death was caused in an indictment for murder, only that the defendant acted intentionally, maliciously and with forethought to cause the death of another person.[622] Under Victorian and Edwardian English law the act of killing carried the presumption of both a malicious intent and capacity for reason and discretion. However, the jury had to be satisfied beyond a reasonable doubt that the killing was committed maliciously and intentionally without just cause or excuse to justify a murder conviction.

Manslaughter was the unlawful and felonious killing of another without malice. It could be voluntary, for example, when a person immediately killed someone who has greatly provoked them – usually through personal violence. Manslaughter was considered involuntary when a person killed another by accident while perpetrating an unlawful (though not felonious) act, such as reckless driving.[623]

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[620] An indictment is defined as a written accusation of crime against one or more persons, written upon his or her majesty's request, presented upon oath and preferred by a grand jury.

[621] Offences against the Person Act, 1861, c. 100 (Regnal. 24 & 25 Vict., s. 6), http://www.legislation.gov.uk/ukpga/Vict/24-25/100/, accessed 14th July, 2014.

[622] John Frederick Archbold, Sir John Jervis, William Feilden Craies, Guy Stephenson, *Archbold's Pleading, Evidence & Practice in Criminal Cases With the Statutes, Precedents of Indictments, &C*, 23rd ed., (London: Sweet & Maxwell, 1905): 780 – 781. The Making of Modern Law, Gale Cengage Learning. 6th April 2016.

[623] Thomas William Saunders, *The Criminal Law Consolidation Acts, 1861: the Other New Criminal Statutes and Parts of Statutes of the Sessions 1861 and 1862: Together with a Digest of the Criminal Cases Decided by*

Defences based on the concept of provocation in cases of child homicide did not appeal to a statutory exemption, but to common law precedence allowing for the Court's discretion in determining the extent to which provocation could reduce criminal responsibility. Provocation could not render homicide justifiable or excusable, but provocation could reduce a charge of murder to manslaughter. A defendant had to rebut the presumption of malicious prepense to prove that the extenuating circumstances amounted to provocation so considerable as to reduce murder to manslaughter. The use of a deadly weapon or evidence of malicious aforethought significantly reduced the likelihood the Court would accept provocation by 'words or gestures' as grounds to reduce a charge of murder to one of manslaughter.[624]

Distinctions were drawn between deliberate revenge, committed after 'sufficient cooling time for passion to subside and reason to interpose' and killings committed in the 'heat of blood'.[625] The mode or method of killing too was taken into consideration; killing with a deadly weapon required far greater provocation to extenuate murder to manslaughter, while the use of a typically non-lethal instrument required a lesser degree of provocation.[626] Finally, and perhaps most importantly, the state of the person's mind and the effect of the provocation on the persons mind when committing the act was considered in assessing the exculpatory weight of the provocation.[627] The

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the Court of Criminal Appeal, the Superior Courts, the Central Criminal Court, and on the Circuits, from 1848 to 1862 / by T.W. Saunders and Edward W. Cox. 2nd ed. London, 1862. The Making of Modern Law, Gale Cengage Learning. 6th April 2016.

[624] Archbold et al, *Archbold's Pleading,* 794.

[625] Ibid.

[626] Ibid, 793.

[627] Ibid.

mode of resentment had to be in proportion to the provocation to reduce murder to manslaughter, but if the response to the provocation appeared out of character or out of proportion to the provocation itself, it could provide a basis for an insanity defence.

Legal Standards of Criminal Responsibility

The establishment of a standard to determine criminal responsibility in capital cases was driven by a desire to reconcile 'on the one side … a kind of inhumanity towards the defects of human nature' and 'on the other, too great an indulgence given to great crimes'.[628] However, the difficulty in establishing a universal standard for criminal insanity resulted in the practice of assessing the mental condition of prisoners on a largely individual basis within the parameters of common law tests of criminal insanity.

Prior to the mid-1880s, there was no national standard practice for determining criminal insanity in prisoners awaiting trial for capital offences. In 1884, the Attorney-General, Sir Henry James, reported the Home Office's concern to the House of Commons that in some capital cases involving alleged insanity, the facts were not presented to the jury, nor were questions regarding the prisoner's sanity raised until after the trial. To remedy the situation. the Attorney-General proposed that

> Whenever an accused person is brought before justices on a capital charge, the magistrate's clerk shall communicate with the Solicitor of the Treasury, and that that officer shall take charge of the prosecution, unless he finds that some competent private person or local body has the conduct of it; but in the absence of such proper conduct, it will be the duty of the Treasury Solicitor, acting as Director of Public Prosecutions, to see that the evidence in every case be fully brought before the jury. I have also requested that, in those cases where insanity in the accused is alleged, full inquiry shall be made, and, in the absence of his, or his friends', ability to produce witnesses, the Treasury Solicitor shall secure their attendance.[629]

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[628] Archbold et al, *Archbold's Pleading,* 25.

[629] Sir Henry James, HC Debate, 17th March, 1884, 'Law and Justice – The Director of Public Prosecutions – Prosecutions in Capital Cases', vol. 286 cc 40-1, accessed28th August, 2014.

This practice appears to have been adopted in the cases examined in this study. The Court's treatment of men in this study does not support contemporary fears expressed in parliament that insanity pleas in capital cases were routinely dismissed, or that large numbers of men were reprieved on grounds of insanity after conviction.

Chief Prison Medical Officers' took on increasingly pivotal roles as medical examiners and expert witnesses in the late nineteenth century. In every capital case, the Director of Public Prosecutions was required to appoint experts to examine prisoners of questionable sanity. The PMO was placed in charge of observing the prisoner and preparing a report to Treasury on the mental condition of the prisoner while under observation.[630] If the PMO was of the opinion that the prisoner was of unsound mind, he would submit his opinion as a witness to the court.

[630] At times individuals were considered so manifestly and unquestionably insane at the time of their arrest that they were immediately transferred from police custody to a mental institution. However, this occurred in a very limited number of cases and certainly by the late nineteenth century, the vast majority of individuals of questionable sanity arrested by police were processed through the courts.

M'Naghten Rules

This thesis uses the spelling, *M'Naghten Rules*, most commonly used in historical scholarship on nineteenth- century and twentieth-century English criminal law. *M'Naghten Rules*, were based on a panel of judge's responses to questions provided to the House of Lords in consequence of Daniel McNaughtan's case (note the different spelling between the case and the Rules). Controversially, McNaughtan was found not guilty by reason of insanity after his defence counsel used the recently enacted Prisoner's Counsel Act (1836) to inform the jury that McNaughtan had committed murder, but had acted upon delusion. Many, including the Queen, believed the McNaughtan acquittal was too lenient. The judges of the Queen's Bench were convened to answer five questions about the law on insanity and these answers formed the substance of *M'Naghten Rules*.

Although the judge's discussion of insanity in law was not intended to establish a standard for criminal insanity, their responses have generally been adopted as legal definition of insanity in relation to criminal responsibility. However, they were subject to much consideration and heavy criticism by contemporary legal and medical writers,[631] the most well-known associated with Sir James Stephen and Dr Henry Maudsley. Indeed, according to Wood Renton,

> every barrister who has gone on circuit knows that "the rules in MacNaghten's [sic] case" are, avowedly, manipulated by judges, and, if need be, defied by juries in order that injustice may not be done to the innumerable prisoners whose mental disease refuses to conform to any of the orthodox types with alone are nominally recognized by English law[632].

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[631] Archbold et al, *Archbold's Pleading,* 27.

[632] Alexander Wood Renton, 'The Legal Test of Lunacy,' *Medico-Legal Journal*, vol. 8 no. 2 (1890–1891): 99. HeinOnline, accessed July 17, 2014.

A key issue that arose from McNaughtan's case was that of partial insane delusion. In this state, a person held insane delusion regarding one or more specific subjects, but was in other aspects capable of understanding the unlawfulness of the alleged crime at the time of its commission. This raised the question of whether a person was criminally responsible for illegal acts, perpetrated knowingly, but 'with a view, under the influence of insane delusion, of redressing or revenging some supposed grievance or injury, or of producing some public benefit.'[633] According to *M'Naghten Rules*, a person committing a crime under partial insane delusion was culpable if 'he knew, at the time of committing such crime, that he was acting contrary to law.[634]

Moreover, the nature of delusion was subject to consideration under *McNaghten Rules*. If a person killed another person while labouring under the insane delusion that the person killed was trying to kill them, the delusional perpetrator would be exempted from punishment on the grounds of self-defence. However,

> If his delusion was that the deceased had inflicted a serious injury to his character and fortune, and he killed him in revenge for such supposed injury, he would be liable to punishment.[635]

Late nineteenth-century and early twentieth-century legal tests of insanity required to determine criminal responsibility were not legislatively defined, but were based on common law interpretations of *M'Naghten Rules* and precedence set by judges' and juries' exercise of juridical discretion.

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[633] Archbold et al, *Archbold's Pleading,* 25.

[634] Ibid.

[635] Ibid, 27.

Rulings of Criminal Insanity

Prisoners found to be criminally irresponsible by reason of mental defect were pronounced 'guilty, but insane' or 'unfit to plead'. The difference between prisoners found unfit to plead or guilty, but insane was a matter of proceedings at Assizes and Quarter Sessions, where serious crimes, such as homicide, were tried. If a bill of indictment was preferred by a Grand Jury, the prisoner was formally accused or arraigned before a petty jury, and at this stage the jury would investigate questions concerning the prisoner's sanity at the time of arraignment. If the jury found that the prisoner was insane and unfit to plead to the indictment, criminal proceedings against the prisoner would cease and the prisoner would be detained during Her (or His) Majesty's pleasure. If the jury found the prisoner was sane and fit to plead, the case would proceed to trial. At trial by jury, the prisoner could be acquitted, convicted or receive a special verdict of guilty, but insane, which meant that the prisoner was guilty of the act as charged, but was insane at the time of committing the act. If found to be guilty, but insane, the prisoner would be detained at Her (or His) Majesty's pleasure.

In cases of murder, prisoners found unfit to plead or guilty, but insane were usually detained at Broadmoor Asylum for a minimum of ten years, with an average stay of above twenty years or life (homicidal Majesty's pleasure patients were more likely to die at Broadmoor than receive conditional or absolute release).[636]

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[636] Based on analysis of figures showing the length of detainment at Broadmoor Asylum for patients detained at Her (or His) Majesty's pleasure following a criminal charge of murder for the years 1889 – 1913 in *Judicial Statistics* produced by the Home Office for the House of Commons. For example, of a total of 58 discharges from Broadmoor Asylum listed in the *Judicial Statistics* for 1895 (p.108), 21 had died in Broadmoor, 28 were removed to another asylum or to prison, 11 were conditionally released and 2 "set at large". Of the 610 criminal lunatics that remained, 413 had been confined for more than 10 years and over 30 percent of these patients had been confined for twenty years or longer. Criminal lunatics charged with violent crimes against the person served significantly longer periods of confinement at Broadmoor. This finding resonates with Jade Shepherd's research showing an average detainment of ten to twenty years for Majesty's pleasure patients following charges of murder, particularly paternal filicide in her study of Broadmoor records from 1863 to 1900.

Appendix

Appendix A

Occupation of Male Defendants Indicted for Child Homicide (CCC, 1889–1913).

Occupation[637]	Manslaughter: Individual	Manslaughter: Joint	Murder: Individual	Murder: Joint	Total
Architect	1	-	-	-	1
Baker	-	1	1	-	2
Bricklayer	2	2	1	-	5
Brushmaker	-	1	-	-	1
Butcher	-	1	1	-	2
Carpenter/Builder	2	-	-	-	2
Chemist	-	-	1	1	2
Cleaner[638]	1	-	1	-	2
Clerk	1	1	1	-	2
Confectioner	-	1	1	-	2
Domestic service[639]	1	-	-	1	2
Driver[640]	9	1	5	-	15
Electrician	-	-	1	-	1
Factory worker[641]	2	1	1	-	4
French Polisher	-	-	2	-	2
Glass blower	-	-	1	-	1
Horsekeeper	1	1	-	-	2
Labourer[642]	4	10	8	-	22
Lamp lighter	-	-	1	1	2
Metal worker[643]	1	2	1	-	4
Military Serviceman[644]	-	-	3	1	4
None stated	-	3	3	-	6

[637] Stated occupation – does not imply actual employment and casually employed men at times worked between trades.

[638] Bottle washer, cab cleaner.

[639] Groom, errand boy.

[640] Carman, coachman.

[641] Brewery worker, foreman, machinist.

[642] Often the type of labour was not specified so dock and building labourers are included in this general category.

[643] Coppersmith, hammerman, iron monger.

[644] Soldiers, commissionaires and army pensioners included in this general category.

Painter	-	3	2	-	5
Picture-frame maker	-	-	1	-	1
Plumber	-	1	-	-	1
Porter[645]	-	-	1	-	1
Printer	2	1	1	-	4
Salesperson[646]	3	4	3	-	10
Seaman	-	1	1	-	2
Shoe-maker	-	-	1	-	1
Stoker	1	-	1	-	2
Student	2	-	-	-	2
Tutor	-	-	-	2	2
Upholsterer	-	-	1	-	1
Wheelwright	-	-	1	-	1
Wood carver	-	1	-	-	1
TOTAL	30	36	46	6	118

[645] Coal porter, hotel porter.

[646] Includes hawkers, general dealers, shop assistants, green grocers, cellarman, fishmonger.

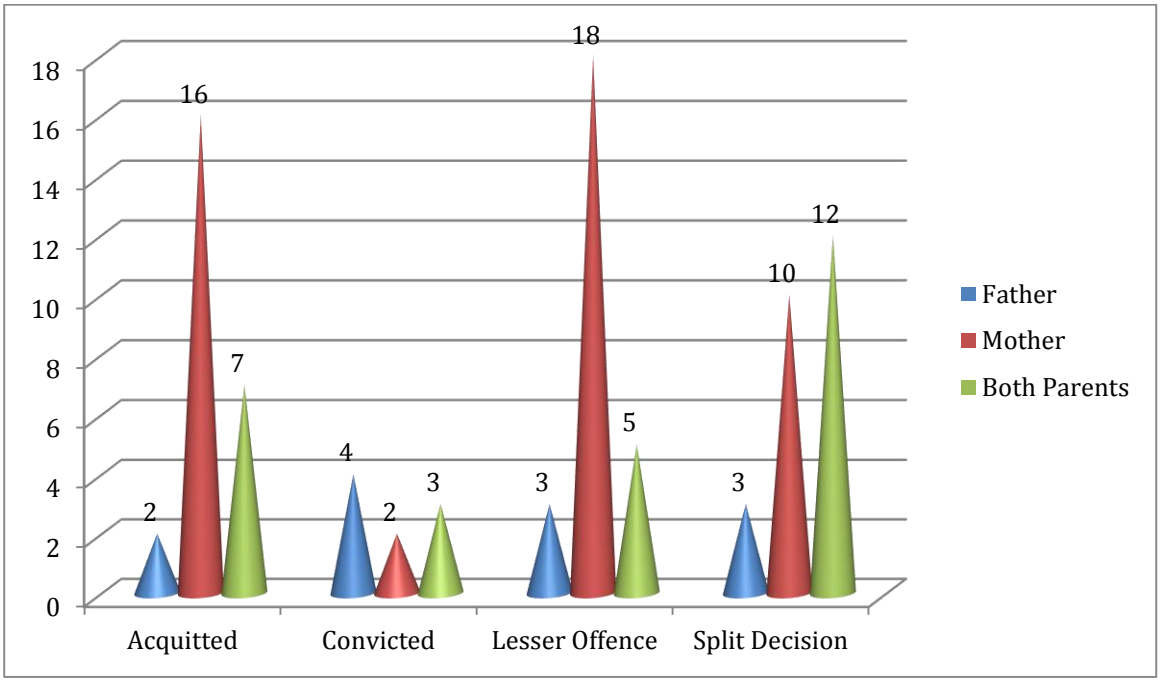
Appendix B

Residential Distribution of Male Offenders Tried for Child Homicide (CCC, 1889–1913).

Offenders stated place of residence	Number of offenders	Area of London
Stoke-on-Trent	1	Staffordshire
Wandsworth	2	South-west
Lewisham	3	South-east
Barking	2	East
Lambeth	5	South
Leyton	2	East
Newham	13	East
Shoreditch	3	East
Peckham	1	South-East
Greenwich	2	South-East
Fulham	1	South-west
Ealing	1	West
Westminster	4	South-west
Cambden town	1	North
Southwark	6	South
Islington	6	North
Tower Hamlets	5	East
Harlesden	1	North-west
Enfield	3	North
Merton	1	South-west
Chiswick	1	West
Hackney	4	North-west
London (precise location unknown)	8	
TOTAL	76	

Appendix C

Implications of Gender on Outcomes in Felony Trials involving Paternal Negligence (CCC, 1889–1913).



I have included in this graph sentencing patterns for individual and joint indictments of parents for the manslaughter of their children through parental negligence. Split decisions in joint cases in which one parent was acquitted or received a lesser sentence than the other parent named on the indictment is represented by grouping the number of cases in which fathers (3) or mothers (10) were found more criminally culpable.

Appendix D

Age of Victims in Cases of Male-Perpetrated Child Homicide Tried on an Individual Indictment (CCC, 1889 – 1913).

Age	Murder (Individual)	Manslaughter (Individual)	Total
1 day - 1 week	2	-	2
1 week -1 month	2	1	3
1 month - 2 months	1	-	1
2 months - 3 months	3	-	3
3 months - 4 months	2	-	2
4 months - 5 months	1	1	2
5 months – 6 months	4	-	4
6 months - 7 months	2	1	3
7 months - 8 months	-	1	1
8 months – 10 months	4	-	4
10 months – 11 months	-	2	2
11 months - 12 months	-	1	1
1 year	3	1	4
2 years	11	1	12
3 years	7	-	7
4 years	7	3	10
5 years	6	3	9
6 years	1	3	4
7 years	2	3	5
8 years	3	2	5
9 years	2	2	4
10 years	3	2	5
11 years	1	-	1
12 years	2	2	4
13 years	1	-	1
"Infant"	-	2	1
Total number of victims	69	31	100

Appendix E

Age of Male Defendants Tried for Child Homicide Offences at the CCC, 1889 – 1913.

	Murder (Individual)	Murder (Joint)	Manslaughter (Individual)	Manslaughter (Joint)	Total
9 - 20	3	1	5	4	13
21 – 30	20	-	6	10	36
31 – 40	13	1	6	14	34
41 – 50	9	2	6	6	23
51 – 80	1	2	6	1	10
Unknown	-	-	1	1	2
	46	6	30	36	118

Appendix F

Sentences of Men Convicted on Indictments for Child Homicide (CCC, 1889 – 1913).

Sentence	Murder (Individual)	Murder (Joint)	Manslaughter (Individual)	Manslaughter (Joint)	Total
Sentence respited	-	-	-	1	1
Released on sureties	-	-	2	4	6
Released on recognizances, no sureties	1	-	3	2	6
Imprisonment, second division	-	1	3	3	7
Imprisonment	-	-	4		4
Hard labour	1	1	5	7	14
Penal servitude	4	-	1	2	7
Detained in custody as criminal lunatic	27	1		1	29
Death	5	-	-	-	5
Death, respited	6	-	-	-	6
	43	3	18	20	85

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1894 57 & 58 Vict. c. 41 Prevention of Cruelty to Children Act

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