

‘UNENLIGHTENED EFFICIENCY’:
THE ADMINISTRATION
OF THE
JUVENILE
CORRECTION SYSTEM
IN
NEW SOUTH WALES
1905-1988

Thesis for Doctorate of Philosophy
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Peter Quinn, January, 2004

Certification

I certify that this work has not been submitted for a degree to any other university or institution and, to the best of my knowledge and belief, contains no material previously published or written by any other person, except where due reference has been made in the text.

Peter Quinn

January, 2004.

ABSTRACT

This work traces the history of the juvenile correction system in twentieth century New South Wales, focusing on the evolution of major reforms aimed at curbing delinquency. The study begins in 1905 with the Neglected Children and Juvenile Offenders Act. It concludes in 1988, when another set of significant reforms, designed to deal with perceived inadequacies of the established system, commenced. The main focus of the thesis is the government system of corrections. Although there was an active non-government correction system, this sector was increasingly absorbed by the larger public sphere.

The principal argument is that, although there were sporadic periods during which changes to the system were made, its progress through most of the twentieth century was characterised by an underlying attitude which regarded the boys and girls it dealt with, particularly those committed to institutions, as belonging to an inferior, delinquent class. As such, they were treated as the progeny of a criminal class destined for the most part to remain part of that class. This idea of a delinquent class coloured all aspects of the way juveniles were treated, specifically lack of resources, the dominance of economic considerations over the welfare of children, excessive regimentation, harsh discipline and illegal punishments. When management problems arose they were met with increased coercion. Although lip-service was paid to the ideal of child saving, reality did not match the rhetoric. Programs which ostensibly

were meant to individualise treatment so that it was tailored to suit each child, were carried out perfunctorily. Periodic and well-meaning efforts at reform were stifled by bureaucratic inertia, political considerations, and the entrenched belief that incarceration was preferable to treatment.

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ABBREVIATIONS

HMSO	Her Majesty's Stationery Office
JLC	Journal of the Legislative Council of New South Wales
JRAHS	Journal of the Royal Australian Historical Society
JVPLCLA	Joint Volumes of Papers presented to the Legislative Council and Legislative Assembly of New South Wales
ML	Mitchell Library, Sydney
NSWPDLA	New South Wales Parliament Parliamentary Debates: Legislative Assembly
NSWPDLC	New South Wales Parliament Parliamentary Debates: Legislative Council
V&PLANSW	Votes and Proceedings of the Legislative Assembly of New South Wales
V&PLCNSW	Votes and Proceedings of the Legislative Council of New South Wales
NSWPP	New South Wales Parliamentary Papers
SCRB	State Children's Relief Board
SMH	Sydney Morning Herald
SR	State Records of New South Wales

CHAPTER 1

INTRODUCTION

The juvenile corrections system in Britain and Australia underwent radical reform throughout the nineteenth century. Up to the middle of the century, both in Britain and Australia, children convicted of criminal offences were imprisoned in adult gaols. In 1833, there were more than ten thousand children under the age of sixteen years in such prisons in Britain.¹ Legislation to establish separate corrective institutions, exclusively for children, was introduced in England in 1854.² Similar laws were enacted in New South Wales in 1866.³ The effect of this change, in both Britain and New South Wales, was that juvenile offenders, as well as those thought to be in the early stages of delinquency, were increasingly detained in large congregate care institutions for juveniles, instead of prisons.

New South Wales was not alone in taking this course. It was much the same in other Australian colonies, where, in the 1860s, hulks began to be used for boys in Victoria, South Australia and Queensland.⁴ Barrack style institutions were established for both boys and girls in all Colonies by the 1860s. This was done for reasons of economy, in preference to placement in the community or the use of cottage homes in charge of a married couple (often referred to as the 'family system'). This

¹ J A F Watson & P M Austin The Modern Juvenile Court Shaw & Sons, London, 1975, p 1

² Youthful Offenders Act, 1854 (UK).

³ Industrial Schools Act, 1866 (NSW) and Reformatory Schools Act, 1866 (NSW).

⁴ A R Shorten 'Nautical School Ships in Australia 1850- 1920', Journal of Australia New Zealand History of Education Society vol. 5 no 2 ,1976.

was despite the fact that the family system had been used at Red Hill, a reformatory in London, at Mettray in France, as well as at the Rauhe Haus in Germany. Family systems had also been successful in America in the 1850s.⁵ As Constance Davey and Margaret Barbalet have shown, there were those who protested at this, pointing to the European experience which favoured cottage homes, but their protests fell on deaf ears.⁶

In the latter part of the nineteenth century, this situation also began to change. Just as the contaminating effects of putting children in prison had been condemned, reformers began to claim that large institutions harmed children they housed.⁷ This led to the emergence of the boarding out system, under which deprived children were placed in foster care instead of institutions. In Australia, boarding out was first used as an alternative to congregate institutional care in South Australia in the 1860s, under the influence of social reformer Catherine Helen Spence.⁸ Other Colonies followed. In New South Wales, boarding out began in the 1870s with the efforts of a group of women, followed by the establishment of the State Children's Relief Board by legislation in 1881.⁹ The new system was a great success. Within a few years, some very large charitable institutions had been closed. In association with boarding out,

⁵ Evidence given by Matthew Davenport Hill and George Bunsen: 'Report from the Select Committee on Criminal and Destitute Children', 1852 -53, British Parliamentary Papers, Crime and Punishment, Juvenile Offenders, vol. 3, p. 44 and p.174. Rev. Sydney Turner, chaplain at Red Hill also gave evidence that both systems had been tried at Red Hill and that the family system was greatly preferable. See 'Report from the Select Committee on Criminal and Destitute Children', 1852 -53, British Parliamentary Papers, Crime and Punishment, Juvenile Offenders, vol. 3, p. 247. In relation to America, see A M Platt The Child Savers, University of Chicago Press, Chicago, 1977, p. 63; L Ashby Saving the Waifs: Reformers and Dependent Children 1890- 1917, Temple University Press, Philadelphia 1984, p.39.

⁶ C M Davey Children and their law-makers, Griffin Press, Adelaide, 1956, p.5. See also M Barbalet Far from a low gutter girl: The forgotten world of state wards, South Australia 1887-1940, Oxford University Press, Melbourne, 1983, p.188.

⁷ 'Second Report of the Royal Commission on Public Charities of the Colony' 29 May, 1874, V&PLANSW 1873-1874, vol., p. 40.

⁸ L Brown et al., A Book of South Australia: Women in the First Hundred Years Rigby, Adelaide, 1936, p. 136.

there were also attempts to accommodate those children for whom institutional care was necessary, in small cottage style homes, known as the ‘family system’.¹⁰

The period from the 1880s until the first decade of the new century was an era of progressive reform. In this work, several people are referred to as ‘progressive’.¹¹ This term refers to their desire to find innovative solutions to old problems. In the case of Sir Charles Mackellar, his advocacy of probation and children’s courts are examples of his attempts to divert children away from institutional treatment, with its detrimental effects. It is not intended to suggest any analogy with ‘progressivism’, which flourished in America at the beginning of the twentieth century.¹² Stuart McIntyre and Michael Roe have suggested that there was an echo of this movement in Australia, but there is no hard evidence of any direct connection with child welfare reform in New South Wales.¹³

The reforms were driven initially by Arthur Renwick, the foundation President of the Board, and then by his successor, Charles Mackellar. They culminated in the passage of the Neglected Children and Juvenile Offenders Act of 1905. The significant

⁹ W Phillips ‘James Jefferis in Sydney, His Ministry at Pitt Street Congregational Church 1877-1889’ Church Heritage vol. 2., no. 2, September, 1981, p. 135. The legislation was the State Children Relief Act, 1881 (NSW).

¹⁰ Dr. A Renwick, Annual Report, State Children’s Relief Board, 1883, V&PLANSW 1883, vol. 2, p. 867.

¹¹ The expression is used in relation to Sir Charles Mackellar, President of the State Children’s Relief Board at the beginning of the twentieth century. Charles Wood was also progressive, in his attempts to promote greater co-ordination between government and non-government child welfare services. William Langshaw also qualifies, because of his attempts at diverting children away from both institutional care and from the judicial system, in the 1970s.

¹² For details of the progressive movement, see S P Caine ‘The Origins of Progressivism’ in L L Gould (ed.) The Progressive Era Syracuse University Press, New York, 1974; B P de Witt The Progressive Movement Macmillan, New York, 1915; P G Filene ‘An Obituary for the ‘The Progressive Movement’ American Quarterly vol XXII Spring 1970 no 1; L L Gould (ed) The Progressive Era Syracuse University Press, New York, 1974; J M Holl Juvenile Reform in the Progressive Era Cornell University Press, London, 1971; G C Mowbray The Californian Progressives University of California Press, Los Angeles, 1951; D K Pickens Eugenics and the Progressives Vanderbilt University Press, Nashville, 1968; S Schlossman & S Wallach ‘The Crime of Precocious Sexuality: Female Delinquency in the Progressive Era’ Harvard Educational Review February 1978, Vol 48, no 1.

¹³ S McIntyre Winners and Losers: The pursuit of social justice in Australian history Allen & Unwin, Sydney, 1985; See also M Roe Nine Australian Progressives: Vitalism in Bourgeois Social Thought 1890-1960 University of Queensland Press, Brisbane, 1984.

reforms of this period included State intervention to rehabilitate dysfunctional families through the probation system, the creation of alternatives to institutional care, children's courts, professional assessment of children, individualisation of treatment, and better classification.

The importance of the reforms of this era have been seen by a number of historians as laying the foundations for the twentieth century system of juvenile corrections in Australia.¹⁴ This thesis contests this view. It argues that, after Mackellar retired as President of the Board in 1914, the process of innovation and progressive reform ceased. As the Board was slowly weakened and its activities were absorbed by the bureaucracy, the administration of the juvenile correction system reverted to the institutional practices more characteristic of the middle of the nineteenth century.

Ramsland claims that the barracks system was the main official child saving method until 1881, when the boarding out program intensified.¹⁵ There is no denying the impact of the boarding out system on the care of dependent children, but institutional treatment remained the preferred treatment for delinquent children. Barrack institutions continued to operate after 1881 at Parramatta, South Head, Cockatoo Island, Eastwood and on the industrial school ships in Sydney Harbour, despite the opposition of reformers like Mackellar to this kind of institution. Just before Mackellar retired in 1914, a decision was made to establish a very large new barrack institution at Gosford. After his retirement others followed at Raymond

¹⁴ R Van Krieken Children and the State Allen and Unwin, Sydney, 1991, p. 112; R Van Krieken 'State Bureaucracy and Social Science 1915-1940' Labour History no 58 May, 1990, p. 18; S Garton 'The Rise of the Therapeutic State: Psychiatry and the System of Criminal Jurisdiction in New South Wales 1890-1940' Australian Journal of Politics and History vol. 32, no 3, 1986, p. 382; J Ramsland Children of the Back Lanes: Destitute and Neglected Children in Colonial N S W, NSW University Press Sydney, 1986, p 164; J Ramsland & G A Cartan 'The Gosford Farm Home for Boys Mt. Penang, 1912-1940' JRAHS vol. 75 part 1 June 1989, pages 76 and 78.

¹⁵ J Ramsland Children of the Back Lanes: Destitute and Neglected Children in Colonial N S W, p. 183.

Terrace, Yanco, La Perouse and Narara, even though preference for cottage homes remained official policy. When, later in the twentieth century, cottage homes were claimed to have been established, the ideal of a 'family system' was dissipated by considerations of cost. These homes were required to hold many more children than was consistent with family living.

The probation system, designed to keep children away from the damaging effects of incarceration, also became perfunctory. Assessment was often carried out by non-professionals, and covered only a small segment of delinquents. There was no effective treatment for severely disturbed children in institutions. Child inmates were subjected to very harsh, repressive regimentation. There were many instances of ill-treatment. Illegal punishment was endemic in the system, and persisted into the 1980s. Rebellious behaviour and absconding was dealt with by increased coercion, and frequently imprisonment, either in institutions (Tamworth and Hay) which were really juvenile prisons, or in adult gaols.

This study documents the way in which the reforms to the juvenile correction system promoted by Sir Charles Mackellar at the beginning of the century were ignored and reversed. Between 1914 and 1923, the State bureaucracy secured full control over what had previously been a dual system. Key bureaucrats such as Walter Bethel instituted a return to custodialism. Leading Departmental officials presented a facade of continuous improvement, increasing professionalisation, emphasis on 'character training' and the purported use of 'cottage home' accommodation, when in fact, the real agenda was to operate the system as cheaply as possible, while presenting a public appearance of effectiveness. Even the diversionary programs of the 1970s, while potentially beneficial, were driven by the need to save money.

Mary Tenison Woods, speaking of efforts to reform the juvenile correction system in New South Wales, observed: ‘We ask for bread and are given stone’.¹⁶ The noted reform activist’s description of that system was an apt one for much of the twentieth century. There were some notable twentieth century attempts at progressive reform. Charles Wood tried to improve the professionalism of the system, and promote greater involvement of the non-government sector in the 1930s. William Langshaw in the 1970s provided non-institutional alternatives, as well as substantially reducing the standard period of detention. For the most part, however, bureaucratic considerations were dominant, driven by disdain for the delinquent class, as well as a continual preoccupation with the need for economy. This introductory chapter outlines some of the major historiographical interpretations of juvenile corrections in relation to the system in New South Wales. It begins by defining the concepts of ‘juvenile’ and the ‘delinquent class’ since these are central to an understanding of the evolution of the system in the twentieth century.

The meaning of ‘juvenile’

The concept of the juvenile, as it relates to delinquency and corrections, is a comparatively recent one. The boundaries between childhood, adolescence and adulthood have also been ill-defined and constructed in specific historical contexts. Under Roman law a child was regarded as legally incompetent up to seven years of age. This distinction seems to have been preserved under ecclesiastical law, since it was the age at which a child was regarded as being capable of committing sin.¹⁷ Philippe Aries has claimed that, in medieval society, the idea of childhood did not exist. Thus,

¹⁶ SMH 5 February, 1944.

¹⁷ D Nicholas ‘Childhood in medieval Europe’ in J M Hawes & N R Hiner (eds.) Children in historical and comparative perspective Greenwood Press, Westport, USA, 1991, p. 33.

as soon as a child was able to function without having to rely on its mother or a nurse, somewhere between five and seven, it was regarded as an adult.¹⁸ According to Aries, it was not until the seventeenth century, when schooling became conventional for children of the upper and middle classes, that childhood began to be seen as extending into the adolescent years, another concept invented in the late nineteenth century.¹⁹

Aries' views have been criticised in recent years by a number of historians who have suggested that he relied too heavily on unrepresentative segments of society.²⁰ Urban Holmes has pointed out that, in the middle ages (contrary to Aries) there was a recognised progression from birth to adulthood, divided into three stages, birth to seven years, seven to fourteen and fourteen to twenty-one.²¹ There is, however broad agreement among historians that childhood is a 'social construction, varying over time in accordance with...the changing views of various groups of adults'.²² It also varies in accordance with 'class, gender and ethnicity'.²³ In a similar fashion to the emergence of childhood as a concept, adolescence also came to be regarded in the nineteenth century 'as much a cultural construct as childhood'.²⁴

The age at which a minor became a full adult at law has also varied over time. In the middle ages in Europe, the 'age of majority' was commonly twelve years, but was raised by Papal edict in 1356 to eighteen.²⁵ However, in the modern era, the legal

¹⁸ P Aries Centuries of Childhood Jonathon Cape, London, 1962, p. 128.

¹⁹ ibid., p. 331.

²⁰ J Kociumbas 'Childhood history as ideology' Labour History vol. 47, November, 1984, p. 13.; J M Hawes & N R Hiner (eds.) Children in historical and comparative perspective, p. 2; S R Johansson 'Centuries of Childhood/Centuries of Parenting; Philippe Aries and the modernization of privileged infancy' Journal of Family History, vol. 12, 1987, p. 343; C Heywood A History of Childhood, Polity Press, Cambridge, 2001, pp. 12-14; A Wilson 'The infancy of the history of childhood: an appraisal of Philippe Aries' History and Theory, vol. 19 1980, pp. 150-152; J R Gillis Youth and History Academic Press, New York, 1981, pp. 1-2; U T Holmes 'Medieval childhood' Journal of Social History vol. 2, 1968-69 pp. 164-172.

²¹ U T Holmes 'Medieval childhood', p. 165.

²² J Kociumbas 'Childhood history as ideology', pages 7 and 14.

²³ C Heywood A History of Childhood, p. 4. See also J R Gillis Youth and History, pp. 5-6.

²⁴ U T Holmes 'Medieval childhood' p. 164.

²⁵ D Nicholas 'Childhood in medieval Europe', p. 33.

ages under British law for marriage, military service, contractual capacity, succession, consent to sexual intercourse, voting, criminal offences, compulsory school attendance, have all been different over time, and have varied according to gender and class. The age at which a minor reached full age therefore depended very much on the nature of the activity and sometimes on the sex of the child. For example, up until the early nineteenth century in England, there was no fixed minimum age of marriage.²⁶

Similarly, under common law,

the age at which minors might, under certain circumstances, leave home was different, depending on the sex of the minor. Boys could leave home at fourteen, girls at sixteen.²⁷ Thus it can be seen that the notion of the juvenile, and consequently the status of juveniles under the law, was still quite fluid in the nineteenth and twentieth centuries, and varied considerably, depending on which aspect of law was in issue.

The legal historian, John Seymour, has argued that the age of criminal responsibility reflected ‘a vague feeling that the very young should be shielded from the rigours of the criminal law’.²⁸ For centuries, English law generally recognised that very small children should not be regarded as being capable of serious crime, although this was left to judicial discretion. By the seventeenth century, however, it had become accepted at common law that a child under the age of seven years was conclusively presumed to be incapable of committing an offence. This applied more strictly to felonies rather than misdemeanours.²⁹ It had also become accepted that,

²⁶ Marriage Act, 1829 (UK) made any marriage where either party was under sixteen void. See Halsbury’s Laws of England, 2nd edition, vol. 16, Butterworth, London, 1933, paragraph 843, p. 564

²⁷ See J C Litherland The Law Relating to Child Welfare, Affiliations and Adoptions Law Book Company, Sydney, 1940, p. 103. Litherland quotes Higginbotham CJ in the case of R v. Wigmore (1890) 16 VLR 123, and also ex parte McDonald (1898) 14 WN (NSW) 176 and ex parte Ashcroft (1908) 8 SR (NSW) 599. See also Halsbury’s Laws of England, second edition, vol. 7, p 667.

²⁸ J A Seymour ‘Aspects of Child Welfare Law in Australia’ Proceedings of the Institute of Criminology, no 49: ‘Child Welfare in the 80s’, p. 12.

²⁹ A W G Kean ‘The History of the criminal liability of children’ Law Quarterly Review vol. 53, 1937, p. 364 et seq. See also P W Tappan Crime Justice and Correction McGraw Hill, New York, 1960, p. 387.

between the ages of seven and fourteen, children were presumed to be incapable of committing an offence, but this could be rebutted if it could be shown in evidence that the child acted with malice.³⁰ Thus, instead of an objective test of criminal responsibility, it was determined rather on the circumstances of the case, and the way the child behaved. Until the establishment of industrial and reformatory schools in Britain in the middle of the nineteenth century, the penalties prescribed by law for children convicted of offences were much the same as for adults.

Children convicted of offences in Britain were sent to prison and there mixed with adult criminals of all kinds. The same applied in New South Wales from 1788, since English common law was in force as soon as white settlement began. It was not until the passing of legislation establishing industrial and reformatory schools in New South Wales that the upper age of childhood (for criminal purposes) was fixed at sixteen.³¹ This too followed the precedent set by similar legislation in England.³² The minimum age of criminal responsibility was raised, from the common law age of seven, to eight in 1939 and ten in 1977.³³

In New South Wales, the upper limit, fixed at sixteen in 1866, was raised to eighteen in 1923.³⁴ The significance of the upper age limit was that crime committed by a person under that age would generally be dealt with under the specific legislation relating to juvenile crime. Juveniles were still able to be punished as adults, at the discretion of the courts, but this usually was reserved for serious crimes. There are still variations in the upper age of juvenile jurisdiction in other States of Australia.³⁵

³⁰ G L Williams 'The criminal responsibility of children' Criminal Law Review 1954, p. 493.

³¹ See Industrial Schools Act, 1866 (NSW) , section 4 , and Reformatory Schools Act, 1866, (NSW) section 4.

³² Youthful Offenders Act, 1854 (UK).

³³ See Child Welfare Act, 1939, section 126; Child Welfare (Amendment) Act, 1977 (NSW) .

³⁴ See Child Welfare Act, 1923 (NSW), section 3.

³⁵ In New South Wales it was set at sixteen by section 5 of the Neglected Children and Juvenile Offenders Act, 1905 (raised to eighteen in 1923). For Victoria, Queensland and Tasmania it was

As to the age at which a child might be dealt with on non-criminal matters such as neglect or destitution in New South Wales, in the nineteenth century, the upper age had been fixed by the Industrial Schools Act, 1866, at sixteen. This was the same as the criminal limit. Both were raised to eighteen in 1923. The 1866 legislation set no minimum age. However, the Neglected Children and Juvenile Offenders Act, 1905, set a minimum age of five years, while preserving the maximum of sixteen. The minimum age of five was apparently set in the expectation that existing legislation such as the Infant Protection Act, 1904, would cover these situations. In practice, it created problems and there were complaints by the police and others, shortly after the 1905 Act came into force, seeking the removal of the lower limit, although this was not done until 1923.³⁶

In summary, the notion of 'juvenile' was a fluid one, which had different values, depending on the particular aspect of the concept involved. It also changed in accordance with shifts in community attitudes. Throughout the nineteenth century, however, the efforts of reformers established conventions for distinguishing between infants who were free from criminal responsibility and juveniles who had a limited responsibility but were best dealt with in systems away from adult criminals.

The 'delinquent class'

Changing societal attitudes to childhood and adolescence in the nineteenth and early twentieth centuries were reflected in the reforms made to juvenile corrections. There were, however serious differences between the official, 'child saving' aims of the

seventeen, see section 2 of the Children's Court Act 1906 (Vic), section 2 of the Children's Courts Act, 1907 (Qld) and section 4 of the Children's Charter, 1918 (Tas). In Western Australia, the age was set at eighteen. See section 4 of the State Children's Act, 1907 (WA).

³⁶ See 'Amendments to Neglected Children and Juvenile Offenders Act' SR 5/7750.2. See also Section 3, Child Welfare Act, 1923.

system, and the way it was actually administered. In practice, juvenile delinquents were treated as inferior beings, a 'delinquent class' whose descent into a criminal life was likely. Such a concept could never be openly conceded by politicians or officials because it would have been contrary to humanitarian ideologies that dominated public discourse on child welfare reform. A good example of this appears in the Annual Report of the Girls Industrial School, Parramatta for 1914. The Superintendent refers to the girls there as 'a low-class human type --- a mere bundle of appetites of animalism', and then went on to argue that the program transformed them into worthwhile citizens.³⁷ Ministers and officials continued publicly to espouse the idea that every child was capable of being saved, if only the proper treatment could be found. The actions and attitudes of those who managed or operated the juvenile correctional system, however, belied the rhetoric.

The notion of a delinquent class was derived from Britain, where in the early nineteenth century, there was great public apprehension at a perceived increase in juvenile crime, and the creation of a dangerous, self-perpetuating class of professional criminals in the large cities, particularly in slum areas of London. The high concentration of Irish in areas like St. Giles and Seven Dials was blamed for their degenerate state.³⁸ The juvenile criminals who lived in these rookeries, as they were called, constituted 'a separate entity, with its own creed, language and symbols... out of the control and care of society's jurisdictions'.³⁹ There were similar developments in

³⁷ A W Thompson Annual Report, Girls Industrial School and Training Home for Girls, Parramatta, NSW Government Printer, Sydney, 1914, p. 1.

³⁸ P Ackroyd London: the biography Random House, Sydney, 2001, pp. 137-143.

³⁹ H Shore, Artful Dodgers: Youth and Crime in early nineteenth-century London, Boydell Press, Woodbridge, UK, 1999, p. 1 and p. 35. See also W A Miles Poverty, Mendacity and Crime upon which the report was founded, Shaw & Sons, London, 1839, p. 45 and W D Morrison Crime and Its Causes, London, 1891, pp. 141-142, as well as evidence given to the Select Committee on Police, 1828, British Parliamentary Papers, 1828, vi, p. 45, quoted in J J Tobias Crime and Industrial Society in the Nineteenth Century, Pelican, London, 1967, p. 59-60.

America.⁴⁰ The situation in Sydney was perceived to be similar, based on the assumption that a substantial part of those transported were members of a criminal class which lived entirely off the proceeds of crime. That view has been challenged by Michael Sturma, who quotes evidence to support the view that most transportees were not members of such a class.⁴¹ In the 1850s, Parliamentary Select Committees claimed that there existed in Sydney a ‘criminal class’ associated with lodging houses full of young men. The juvenile members of this class ‘infested the streets of Sydney, and were growing up to be ‘a curse to society’, and the situation was ‘pregnant with the most dangerous consequences to society’.⁴² In fact, there was apprehension that, in the space of one lifetime, life on Sydney streets was reproducing all the worst features of life in the cities of the old world.⁴³

In 1851, after transportation of convicts ceased, it was estimated that ex-convicts accounted for fifty per cent of those tried for serious offences.⁴⁴ Because six times as many men were transported as women, there was also a gender imbalance.⁴⁵ As a result, there was a contemporary perception that many convict women engaged in

⁴⁰ P Parsloe *Juvenile Justice in Britain and the United States: The balance of rights and needs* Routledge & Kegan Paul, London, 1978, pp. 3-4. See also A M Platt, *The Child Savers*, pp. 27-34 and p. 139.

⁴¹ See D Philips *Crime and Authority in Victorian England: The Black Country 1835-60* Croom Helm, London, 1977, p. 287, quoted by M Sturma *Vice in a Vicious Society*, University of Queensland Press, St Lucia, 1983, p. xi.

⁴² ‘Report of the Select Committee on the Proposed Nautical School’ 24 November, 1854, *V&PLCNSW* 1854 vol. 2, pp. 137-138; ‘Report of the Select Committee on Destitute Children’, 1 December, 1854, *V&PLCNSW* 1854, vol. 2, p. 175; ‘Report from Commission of Inquiry into the state of schools in New South Wales’, *V&PLCNSW* 1855, vol. 1, p. 1024; ‘Report of the Select Committee on the Condition of the Working Classes in the Metropolis’ *V&PLANSW* 1859-60 vol. 4, p. 1267. See also Evidence of John McLerie, Superintendent of Police for the city of Sydney, 1 September, 1852, ‘Progress Report of the Select Committee on Destitute Children’, vol. 2, p. 1; ‘Report of the Select Committee on the Condition of the Working Classes in the Metropolis’, pages 6 and 12, also the evidence of the Inspector-General of Police, John Mc Lerie, at pp. 1289-90 and p. 1452. See also *SMH* 26 May, 1859.

⁴³ ‘Report of the Select Committee on the Condition of the Working Classes in the Metropolis’, p. 10. In 1863, when a Bill to establish reformatories was tabled in the New South Wales Parliament, its preamble referred to the ‘prevalence of youthful depravity, vagrancy and crime in our cities’. Richard Sadleir, speaking on the introduction of a Bill for the establishment of Juvenile Reformatories, 29 December, 1863. See *SMH* 9 January, 1864.

⁴⁴ See evidence of Stuart Donaldson to Select Committee on Transportation(UK) *Parliamentary Papers*, 186, vol. 13, (286) p. 72.

prostitution, and passed on the tradition to their children. Robson estimated that about one fifth of all Irish females transported were prostitutes.⁴⁶ Not all historians agree with this view. Michael Sturma, for example, has disputed the incidence of prostitution, pointing out that the identification of prostitutes was shaped by the moral attitudes of the ruling class, which were very different from those of the lower orders. Thus, a woman living with a man outside marriage was still regarded as a prostitute.⁴⁷ The convict system was marked by extremes of violence by both convicts and their gaolers, so it was hardly surprising that those administering the juvenile correction system in the nineteenth century managed inmates of institutions by using a coercive system based on military discipline.⁴⁸

There is also the fact that a significant proportion of those transported were Irish. In 1837, it was estimated that about a third of the population of New South Wales was Irish, nearly all of them convicts or emancipated convicts.⁴⁹ The Irish were commonly regarded by the English and colonial authorities as savages. Irish convicts regarded themselves as victims. Irish female convicts were very poorly treated because, as Dixon has pointed out, the standing of women generally in society in Ireland itself was extremely low and this tended to be reproduced in the new world, especially since they had to be seen as 'standing lower' than Irish male convicts.⁵⁰ Much of the evidence about juvenile delinquency given to select committees referred to that part of

⁴⁵ L L Robson The Convict Settlers of Australia Melbourne University Press, Melbourne, 1965 (1994 edition) p. 4

⁴⁶ M Dixon The Real Matilda: woman and identity in Australia 1788 to the present Penguin, Melbourne, 1976 (1982 edition), p. 134. L L Robson The Convict Settlers of Australia p. 67.

⁴⁷ H Mayhew & H Bracebridge 'The Prostitution Class Generally' in H Mayhew (ed.) London Labour and the London Poor, London, 1862, vol. 4, pp. 35-36, quoted in M Sturma 'The eye of the beholder: The stereotype of women convicts, 1788-1852' Labour History no 34, May, 1978, p. 6.

⁴⁸ H Reynolds 'Violence in Australian History' in D Chappell et al (eds.) Australian Violence. Contemporary Perspectives Australian Institute of Criminology, Canberra, 1991, p. 13.

⁴⁹ J D Lang Transportation and Colonization, or the causes of the comparative failure of the transportation system in the Australian Colonies ; with suggestions for ensuring its future efficiency in subserviency to extensive colonization, A J Valpy, London, 1837, pp. iv-v.

Sydney in the Rocks and Kent Street areas, near the wharves, where there was a concentration of Irish. One survey undertaken by the police even included the religion of those surveyed. About 60 per cent were Catholic, a much higher percentage than in Sydney generally.⁵¹ Thus the idea of a delinquent class was well established in colonial political culture. Entrenched fears of offenders, even juvenile offenders, shaped policing and punishment. This thesis argues that these attitudes continued to shape juvenile corrections throughout the twentieth century.

Scope of the thesis

During the period covered by this thesis, the New South Wales juvenile correction system experienced a considerable increase in the numbers of children passing through it. In the first year of operations of the Neglected Children and Juvenile Offenders Act, 1905, only about twelve hundred children appeared before children's courts.⁵² By the 1980s, annual figures of up to sixteen and a half thousand appearances were being recorded.⁵³ There was thus a very large expansion of the system during this period. By the 1980s, it amounted to a very large State undertaking.

Not a great deal has been written about juvenile corrections in the twentieth century, particularly the period from 1940 onwards. Most historians have regarded the

⁵⁰ M Dixon The Real Matilda: Woman and Identity in Australia 1788 to the present pages. 143, 155, 167.

⁵¹ Evidence by John McLerie: Return of Prostitutes and Vagrants under 16 years of age. 'Report of the Select Committee on the Condition of the Working Classes in the Metropolis', p. 1380.

⁵² In the Annual Report of the State Children's Relief Board, it was recorded that between October, 1905 and 30th April, 1906, 728 children appeared before courts. An extrapolation of this figure to a full year yields about 1200. Annual Report, State Children's Relief Board 1906, NSWPP 1906, vol. 1, p 745 et seq., p. 19. The figures for 1907 were 1,608 and 1,401 for 1908. See Annual Report, State Children's Relief Board 1908, NSW Government Printer, Sydney, 1909, p. 26.

⁵³ Figures quoted in the Annual Report for 1987 were as follows: 1975: 19,500 appearances, 1985: 16,500 and 1987: 14,500. See Annual Report Department of Youth and Community Services 1987 NSWPP 1986-87-88, vol. 35, no 6565, p.22.

nineteenth century as the period of significant change.⁵⁴ Despite that emphasis, some have touched on aspects of juvenile corrections in the twentieth. This has often been in works dealing with much broader themes of child welfare, social welfare, poverty and the law relating to children.⁵⁵ A number of journal articles have dealt with particular aspects of the system, for example those which have referred to developments in juvenile corrections as they related to the wider fields of eugenics, criminal justice and State bureaucracy.⁵⁶ Others have dealt with the operation of selected institutions such as Gosford, Newcastle, Biloela and Parramatta, during particular periods of time.⁵⁷

⁵⁴ B Dickey "The Establishment of Industrial Schools and Reformatories in N S W 1850- 1875" JRAHS vol. 54 part 2 June 1968; R Van Krieken 'Children and the State: Child Welfare in New South Wales 1890-1915, Labour History, no 51, November 1986; G Scrivener 'Rescuing the Rising Generation'. Industrial Schools in New South Wales 1850-1910' Ph.D. Thesis, University of Western Sydney, 1996; J Ramsland, Children of the Back Lanes: Destitute and Neglected Children in Colonial N S W NSW University Press Sydney, 1986; J Ramsland 'Mary Carpenter and the Child- Saving Movement' Australian Social Work vol. 33, no 2, June, 1980; J Ramsland 'The Development of Boarding- out Systems in Australia: A Series of Welfare Experiments in Child Welfare 1860-1910' JRAHS vol. 60 part 3 September 1974; S Garton 'Frederick William Neitenstein: Juvenile Reformatory and Prison Reform in New South Wales 1878-1909' JRAHS vol. 75 part 1 June 1989;

⁵⁵ B Dickey No Charity There: A Short History of Social Welfare in Australia Nelson, Melbourne, 1981; R Van Krieken Children and the State; R J Lawrence Professional Social Work in Australia ANU Press, Canberra, 1965; D Peyser 'A Study of the History of Welfare Work in Sydney from 1788 to about 1900' JRAHS vol. 25, parts 1 and 2, 1939; E S L Govan 'Public and Private Responsibility in Child Welfare in N S W 1788- 1887' Ph.D. Thesis, University of Chicago 1951; A O'Brien, Poverty's Prison: The Poor in New South Wales 1880-1918 Melbourne University Press, Melbourne, 1988; C Picton & P Boss Child Welfare in Australia: An Introduction Harcourt Brace Jovanovich, Sydney, 1981; S Garton Out of Luck Allen & Unwin, Sydney, 1990; R D Blackmore The Children's Court and Community Welfare in New South Wales Longman Cheshire. Melbourne, 1989; J A Seymour, Dealing with Young Offenders Law Book Coy, Sydney, 1968.

⁵⁶ B Dickey, 'Care for Deprived, Neglected and Delinquent Children in New South Wales 1901-1915' JRAHS vol. 63, 1977; S Garton 'Sir Charles Mackellar: Psychiatry, Eugenics and Child Welfare in New South Wales 1900-1914' Historical Studies vol. 22 no 86 April 1986; S Garton 'The Rise of the Therapeutic State: Psychiatry and the System of Criminal Jurisdiction in New South Wales 1890-1940' Australian Journal of Politics and History vol. 32 no 3, 1986; R Van Krieken 'State Bureaucracy and Social Science 1915-1940'; M Mowbray 'Restructuring Child Welfare: Deinstitutionalisation and Austerity in the NSW Department of Youth and Community Services' Australian Social Work September 1983, vol. 3 no 3; J A Seymour 'Children's Courts in Australia' in A Borowski & J M Murray Juvenile Delinquency in Australia Methuen, North Ryde NSW, 1985.

⁵⁷ J Ramsland & G Cartan, 'The Gosford Farm Home for Boys Mt. Penang, 1912-1940' JRAHS vol. 75 part 1 June 1989; G Cartan 'Farm Home for Boys, Gosford 1912- 1939'. B. Ed Studies Thesis, University of Newcastle 1986; A R Shorten 'Nautical School Ships in Australia 1850- 1920'; N Williamson 'Hymns, Songs and Blackguard Verses' Life in the Industrial and Reformatory Schools for Girls in NSW Part I: 1867 to 1887' JRAHS vol. 67, part, March 1982; N Williamson 'Laundry Maids or Ladies? Life in the Industrial and Reformatory Schools for Girls in NSW Part II: 1887 to 1910' JRAHS vol. 68, part, March 1983.

Nevertheless, no comprehensive history of the development of the system in the twentieth century exists, and it is this gap that the present work aims to fill.

Different interpretations of the juvenile correction system

There are a number of schools of thought in the historiography of juvenile corrections. The ones examined here are the child saving model, the social control model, a Foucaultian interpretation, the therapeutic approach and also a bureaucratic model. These schools are by no means mutually exclusive. For example, a leading historian of American child welfare, Anthony Platt, while paying due deference to the role of the child saving idealism of a number of reformers, claimed that systemic changes were fundamentally based on motives of social control. Nonetheless, dividing the historiography into various schools of thought helps clarify some of the major ways in which historians have seen the history of juvenile corrections.

The deliberate focus of this work is the juvenile correction system. That system cannot, however, be separated easily from the broader canvas of social welfare services. As the thesis shows, both criminal and non-criminal juveniles were mixed together in industrial schools, despite the legislative intent, embodied in the 1866 statutes, that this should not be the case. That legislation established the State, for the first time, as a major player in the provision of juvenile corrective services, a trend which was accentuated by the demise of the State Children's Relief Board in 1923. The new Child Welfare Department then began to expand into broader social welfare services. This inevitably led to a decline in the parallel services provided by the non-government sector, especially since all subsidisation for them ceased in 1922. With a

couple of exceptions, they avoided the juvenile corrections area and concentrated on broader social welfare activities, especially the care of dependent children.⁵⁸

Child saving

A number of historians have argued that the establishment of juvenile correction systems in the middle of the nineteenth century, both in New South Wales as well as other Australian colonies, was a consequence of the growth of a child saving ideal.⁵⁹ In the nineteenth century, a strong child saving movement developed in the United States and Britain. American child welfare historians have highlighted the conventional liberal view that the reforms to the juvenile correction system were generated by members of the child saving movement.⁶⁰ Other historians have also seen reforms at the beginning of the twentieth century such as juvenile courts as inspired by child saving humanitarian principles, linked to the Progressive movement in America.⁶¹

British historians have seen similar child saving ideals as instrumental in the reform of the juvenile correction system. To them, the nineteenth century child reform movement was humanitarian and evangelical in nature. These views tend to accept

⁵⁸ The exceptions included the Magdalenes at Ashfield and Tempe run by the Catholic Church, and Pallister Girls Home, operated by the Anglican Church at Greenwich.

⁵⁹ See B Dickey *No Charity There: A Short History of Social Welfare in Australia* Allen & Unwin, Sydney, 1987, p. 99 and p. 119; J Ramsland 'Henry Parkes and the development of industrial and reformatory schools in colonial New South Wales' *Australian Social Work*, vol. 35, no 4, December, 1982, p.3; S Garton 'Frederick William Neitenstein: Juvenile Reformatory and Prison Reform in New South Wales 1878-1909', p. 53; J A Seymour, *Dealing with Young Offenders*, p. 49 and p. 186.

⁶⁰ A M Platt, *The Child Savers*, p. xiv; S Schlossman & S Wallach, 'The Crime of Precocious Sexuality: Female Delinquency in the Progressive Era' *Harvard Educational Review* February 1978 Vol. 48 no 1, p.68; L Ashby, *Saving the Waifs: Reformers and Dependent Children 1890- 1917* p. 39; P Parsloe *Juvenile Justice in Britain and the United States: The balance of rights and needs*, p. 107.

⁶¹ A T Scull, *Decarceration: Community Treatment and the Deviant: a Radical View*, Prentice Hall, Englewood Cliffs, N J , 1977, pp. 146-149; S P Caine, 'The Origins of Progressivism' in L L Gould (ed.) *The Progressive Era*, Syracuse University Press, New York, 1974, p. 26; M J Sedlak, 'Youth Policy and Young Women 1870-1972' *Social Services Review* vol. 56 no 3 September, 1982, p. 456; C Kelsey, 'The Juvenile Court of Chicago and its work' *Annals of the American Academy of Political and Social Science* vol. 17 March 1901, p. 299; B Flexner, 'The Juvenile Court-Its Legal Aspect' *Annals of the American Academy of Political and Social Science* vol. 36, July-December, 1910, p. 49.

uncritically the accounts of participating reformers. This was despite the fact that in the period leading up to the major reforms of the mid nineteenth century, there was considerable evidence to support motives of social control being the dominant factor.⁶² As late as 1946, in the official Curtis Report to the United Kingdom Government, child saving principles were still being emphasised.⁶³

The child savers believed delinquent children were the product of undeserving and immoral families, exacerbated by poverty, alcohol, and slum life. They concluded that children could be saved by removing them from the evil influence of their environment and training them in habits of industry, which would enable them to become worthwhile adults. They pointed to the supposedly excellent results achieved in reformatories for delinquent children established in the early 1800s in a number of countries in Europe. Particularly influential were the Agricultural Colony at Mettray in France and the Rauhe Haus in Germany. By 1884, child savers in Britain had established almost two hundred and reformatories and industrial schools.⁶⁴ Politicians sympathetic to these ideals considered the child savers were responsible for a substantial reduction in juvenile crime. They were credited with ending the training of boys as professional thieves, and breaking up the gangs in London and the larger towns.⁶⁵

Attempts to set up some form of juvenile correction system in New South Wales were inextricably linked to changes in the way juvenile offenders were dealt with in

⁶² M May, 'Innocence and Experience: The Evolution of the Concept of Juvenile Delinquency in the mid-Nineteenth Century' *Victorian Studies* vol. XVII no 1 September 1973, pp. 7-8 and p. 12; D E Lord, 'Changes in Attitudes Towards the Treatment of Juvenile Offenders in Great Britain 1823-1908' *Australia and New Zealand Journal of Criminology*, vol. 1, no. 4, December 1968, p. 201; P Parsloe, *Juvenile Justice in Britain and the United States: The balance of rights and needs*, p. 107; P Bartley, *Prostitution, Prevention and Reform in England 1860-1914* Routledge, London, 2000, p. 39.

⁶³ Great Britain Home Office, *Report of the Care of Children Committee* (M Curtis, chair), Cmnd 6922, HMSO, London, 1946, p. 14.

Britain. Thus, the model of industrial and reformatory schools adopted for New South Wales followed the scheme used in Britain from the 1850s. There was, however, a major departure from that model, which otherwise served as the template for the local system. In Britain most industrial and reformatory schools were run by charitable organisations, with the government subsidising on a per capita basis. The same system might have been feasible here, but the move for establishment of reformatories coincided with a major sectarian conflict over the withdrawal of funding from church schools, and the establishment of a secular state education system. In part, the withdrawal of funds from Roman Catholic schools was fuelled by fears about the Irish element in the community. Antagonism to state funding of denominational education, and consequently church homes for children, persisted for more than a century. When the possibility of subsidising church homes to care for delinquent girls was raised in 1902, and later by Mackellar, it had to be abandoned because of sectarian opposition.⁶⁶ So, even though the 1866 legislation, like its English model, included nominal provision for private industrial schools, no funds were provided, and several proposals by the Catholic Church to establish them were refused.⁶⁷

This was in marked contrast, not only to the system operating in Britain, but in all other Australian colonies. There, industrial schools, and some reformatory schools, were generally operated by non-government organisations, mostly churches, up to the

⁶⁴ Great Britain Home Office, Report from the Commissioners on Reformatories and Industrial Schools 1884, British Parliamentary Papers: Crime and Punishment : Juvenile Offenders, vol. 4, Irish University Press, Shannon, 1970, p. ix.

⁶⁵ ibid., p. x.

⁶⁶ Sir Arthur Renwick and Sir Normand McLaurin. NSWPDLC 22 October, 1902, pp. 3652-54. See also C K Mackellar The Treatment of Neglected and Delinquent Children in Great Britain, Europe and America, NSW Government Printer, Sydney, 1913, p. 6.

⁶⁷ B R Wise, 15 October, 1902, NSWPDLC, p. 3355. See also Archbishop Polding to State Governor Sir John Young 16 September, 1861, SR 4/988.2; 'Orphan Schools, Parramatta' V&PLANSW 1885-86 vol. 2, p 801 et seq. ; E S L Govan 'Public and Private Responsibility in Child Welfare in New South Wales 1788-1887', p. 207.

middle of the twentieth century.⁶⁸ So the New South Wales system was one which featured State control, and as it expanded in the twentieth century, it became a large centralised bureaucratic unit.

There is no doubt that the latter part of the nineteenth century and the first few years of the twentieth have frequently been characterised as a period during which there was a movement in Australia directed towards ‘child saving’.⁶⁹ A number of prominent Australian historians, including Brian Dickey, John Ramsland, Stephen Garton and John Seymour, have drawn attention to the child-saving origins of the child welfare reforms of the nineteenth century.⁷⁰

Historians are however divided on when the child saving ideal began to wane. Robert Van Krieken maintains that the influence of the child saving ideal declined after 1914 and although the policies of Alexander Thompson sustained it through the 1930s, it was extinguished by 1940.⁷¹ Many other historians have argued that the child saving ideal was influential until the 1970s. It was then that a ‘new scepticism’ encouraged governments to abandon the child saving ideal and embrace the juvenile justice model,

⁶⁸ In relation to Victoria, see D Jaggs, Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria, Phillip Institute of Technology, Melbourne, 1986, p. 72. See also M Carroll ‘Juvenile Justice in Victoria’ Criminology Australia, vol. 4, no 1, July/August 1992p. 2. For South Australia, see C M Davey Children and their law-makers, pp. 23-24. In relation to Western Australia, see F Tay, ‘The Administration of Social Service Provisions for Under-privileged children in Western Australia 1947-54’, in Roe J (ed.) Social Policy in Australia; Some Perspectives 1901-1975, Cassell, Sydney, 1976, p. 303. For Tasmania, see S Petrow ‘Arabs, Boys and Larrikins: Juvenile Delinquents and their treatment in Hobart 1860-1896’, Australian Journal of Legal History vol. 2, no 1, 1996, p. 51. For Queensland, see L Forde (Chair) Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions, Queensland Government Printer, Brisbane, 1999, p. 41, and also M Carroll ‘Juvenile Justice in Queensland’, Criminology Australia vol. 4, no 1, July/August 1992, p. 5.

⁶⁹ A M Platt, The Child Savers, p. xiv; D E Lord, ‘Changes in Attitudes Towards the Treatment of Juvenile Offenders in Great Britain 1823-1908’ pp. 201-206; M May, ‘Innocence and Experience: The Evolution of the Concept of Juvenile Delinquency in the mid-Nineteenth Century’, p.7.

⁷⁰ Dickey’s remarks refer to the period 1880 to 1914. B Dickey No Charity There: A Short History of Social Welfare in Australia, p. 99 and p. 119; J Ramsland ‘Henry Parkes and the development of industrial and reformatory schools in colonial New South Wales’, p.3; S Garton ‘Frederick William Neitenstein: Juvenile Reformatory and Prison Reform in New South Wales 1878-1909’, p. 53; J A Seymour, Dealing with Young Offenders, p. 49 and p. 186.

⁷¹ R Van Krieken, Children and the State, p. 111. For his views on Thompson, see R Van Krieken ‘State Bureaucracy and Social Science 1915-1940’, p. 32.

which emphasised parity with adults in sentencing and procedural fairness.⁷² This work shows that child saving remained the official policy goal, underpinning all child welfare legislation from 1905 to the 1960s. The preservation of the child saving ideal was, however, superficial and there was a serious divergence between the official aims of the juvenile corrections system and the way it was administered.

Social control

In contrast to the 'child saving' historians, a substantial body of historians have sought deeper motives behind publicly stated ideals. They see the desire for social control at the heart of juvenile correction policy. Stanley Cohen has defined social control as 'the organised ways in which society responds to behaviour and people it regards as deviant, problematic, worrying, threatening, troublesome or undesirable in some way or other'.⁷³

A number of British historians have placed social control at the core of child welfare reform initiatives. They acknowledge the importance of the child saving and humanitarian ideals shaping reforms, but argue that social control was the dominant motive for the reforms of the mid nineteenth century.⁷⁴ The purpose of humanitarianism

⁷² J A Seymour, *Dealing with Young Offenders*, p. 163. In relation to Tasmania see M Carroll 'Juvenile Justice in Tasmania' *Criminology Australia* vol. 4, no 1, July/August 1992, p. 11. For Western Australia, see M Bosworth 'Child welfare and the law: "Dependent", "neglected" and "delinquent" children in Western Australia 1907-1990' in P Hetherington & P Maddern (eds.) *Sexuality and Gender in History* Optima Press, Perth, 1993, p. 256, and also M Carroll 'Juvenile Justice in Western Australia' *Criminology Australia*, p. 14. In relation to Queensland, see I O'Connor 'Juvenile Justice: New Queensland Legislation' *Legal Service Bulletin* vol. 10, no 2, April, 1985, p. 76. In relation to Victoria, see D Jaggs *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria*, p.2. See also S L R Anleu 'Lifting the Lid: Perspectives on social control, youth crime and juvenile justice' in C Simpson & R Hil *Ways of Resistance: Social control and young people in Australia* Hale & Iremonger Sydney, 1995, p. 24.

⁷³ S Cohen *Visions of Social Control: Crime, punishment and classification* Polity Press, Cambridge, 1985, p. 1.

⁷⁴ R Harris & D Webb *Welfare, Power and Juvenile Justice: The Social Control of Delinquent Youth*, Tavistock, London, 1987, p 7 & p. 11; S Magarey 'The Invention of Juvenile Delinquency in Early Nineteenth Century England' *Labour History* vol. 34 May 1978, p. 11; A Morris & M McIsaac *Juvenile Justice ? The Practice of Social Welfare* Heinemann, London, 1978, p. 7. Masud Hoghughi, Peter King, Michelle Cale held similar views. M Hoghughi 'Democracy and Delinquency: A note on increasing demand for secure accommodation for persistent delinquents' *British Journal of Criminology* vol. 18 (4) 1978, p 393; P King 'The rise of Juvenile Delinquency in England 1780-1840: changing patterns of

was to achieve a stable social order, deference to authority and social progress, through class co-operation rather than class conflict.

In the early nineteenth century in Britain, witnesses at Parliamentary inquiries claimed there were thousands of boys under seventeen years 'daily engaged in the commission of crime' in London.⁷⁵ Reformers feared that a dangerous class of professional criminals was being created. Such a class constituted 'a separate entity, with its own creed, language and symbols... out of the control and care of society's jurisdictions'.⁷⁶ Moreover, this class re-produced itself, because juvenile criminals were both the progeny and the progenitors of professional criminals.⁷⁷

American historians, most notably Anthony Platt and Phyllida Parsloe, have also supported the social control approach, arguing that the ruling classes were alarmed by the existence of a criminal class.⁷⁸ In relation to the early twentieth century, David Rothman has drawn attention to the fact that adherents of the progressive movement were quite open about expanding social control in the interests of improving society generally.⁷⁹ Other historians, including Andrew Scull, have asserted that social control

perception and prosecution' Past & Present no 160 August, 1998, . 165; M Cale 'Girls and the perception of sexual danger in the Victorian reformatory system' History 1993, vol. 78.

⁷⁵ 'Second Report from the Committee on the state of the police of the metropolis' (ordered to be printed by the House of Commons, July, 1817) British Parliamentary Papers, 1817 p. 327. See also British Parliamentary Papers 1819, vol. 7, pp. 158-162, quoted in L L Robson, The Convict Settlers of Australia, p. 14.

⁷⁶ H Shore, Artful Dodgers: Youth and Crime in early nineteenth-century London, p. 1 and p. 35. See also W A Miles Poverty, Mendacity and Crime upon which the report was founded, p. 45 and W D Morrison Crime and Its Causes, London, 1891, pp. 141-142, as well as evidence given to the Select Committee on Police, 1828, British Parliamentary Papers, 1828, vi, p. 45, quoted in J J Tobias Crime and Industrial Society in the Nineteenth Century, p. 59-60.

⁷⁷ H Worsley Juvenile Depravity, pp. 119-120. M Carpenter 'On the importance of statistics... with returns from female reformatories' Journal of the Royal Statistical Society, vol. 20, 1857, p. 35.

⁷⁸ A M Platt, The Child Savers, p. xx, pp. 27-34 and p. 139; P Parsloe Juvenile Justice in Britain and the United States: The balance of rights and needs, pp. 3-4; J M Holl Juvenile Reform in the Progressive Era, Cornell University Press, London, 1971, p. 13; K W Jones Taming the troublesome child: American families, Child Guidance, and the limits of psychiatric authority Harvard University Press, Cambridge, Mass., 1999, p. 35; S Schlossman Love and the American Delinquent University of Chicago Press, Chicago, 1977, p. 36.

⁷⁹ D J Rothman Conscience and Convenience, Little, Brown & Coy, Boston, 1980, p. 6.

motives were behind not only the reforms of the nineteenth and early twentieth centuries, but also the much later diversion reforms of the 1960s.⁸⁰

Australian historians, including Anne O'Brien and John Seymour, have argued that the dominant motive behind the juvenile correction system in both the nineteenth and twentieth century Australia was social control.⁸¹ In New South Wales in the middle of the nineteenth century there was a perception that there existed a class of incorrigibles that was beyond influence.⁸² Certainly influential members of the British government regarded colonial society as a 'monstrous excrescence'.⁸³ It was claimed that, as in London, there existed in Sydney a 'criminal class', the juvenile members of which were growing up to be 'a curse to society', and the situation was 'pregnant with the most dangerous consequences to society'.⁸⁴ In fact, reformers feared that, in the space of one lifetime, life on Sydney streets was reproducing all the worst features of

⁸⁰ A T Scull Decarceration: Community Treatment and the Deviant: a Radical View, p. 161. John Hylton, James Austin and Barry Krisberg have made similar observations. J H Hylton 'Rhetoric and reality: A critical appraisal of community correctional programs' Crime and Delinquency vol. 28, no 2, 1982, pp. 341-373; J Austin & B Krisberg 'The unmet promise of alternatives to incarceration' Crime and Delinquency vol. 28 no 3, 1982, pp. 374-409.

⁸¹ A O'Brien Poverty's Prison: The Poor in New South Wales 1880-1918, p. 145 and p. 165; J A Seymour Dealing with Young Offenders, p. 35. See also I O'Connor & P Sweetapple Children in Justice Longman Cheshire, Melbourne, 1988, p. 6; C Picton & P Boss Child Welfare in Australia: An Introduction, p. 169; N Williamson 'Factory to Reformatory: the founding and the failure of industrial and reformatory schools for girls in nineteenth century New South Wales', Educational Enquiry vol. 1, no 3, November, 1978, p. 128; E Windshuttle 'Discipline, domestic training and social control: the female school of industry, Sydney, 1826-1847' Labour History no 39, November, 1980, pp. 1-2; G Scrivener 'Parental imposition or police coercion? the role of parents and police in committals to the industrials schools in New South Wales 1867-1905' JRAHS vol. 86, part 1, June, 2000, p. 36; In relation to Victoria, see D Jaggs Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria, p. 2, and R J W Selleck 'The origins of industrial schooling in Melbourne 1864-1866' Education, Research and Perspectives vol. 15, no, June, 1988, p. 25. For South Australia, see M Barbalet Far from a low gutter girl: The forgotten world of state Wards, South Australia 1887-1940, p. 191; For Queensland, see L Forde (chair) Report of the Commission of Inquiry into abuse of children in Queensland institutions, p. 40. In relation to Tasmania, see S Petrow 'Arabs, Boys and Larrikins: Juvenile Delinquents and Their Treatment in Hobart, 1860-1896' p. 37; J Kociumbas Australian Childhood: A History, Allen & Unwin, Sydney, 1997, p. 112.

⁸² J B Hirst Convict Society and its enemies: A history of early New South Wales, pp. 71-72.

⁸³ J B Hirst Convict Society and its enemies: A history of early New South Wales, p. 25; P Robinson The Hatch and Brood of Time, Oxford University Press, Melbourne, 1985, p. 3.

⁸⁴ 'Report of the Select Committee on the Condition of the Working Classes in the Metropolis' V&PLANSW 1859-1860 vol. 4, p. 1267 et seq., pages 6 and 12, and the evidence of the Inspector-General of Police, John Mc Lerie, at pp. 1289-90 and p. 1452. See also 'Report of the Select Committee on the Proposed Nautical School' V&PLANSW 1854, vol. 2, , p. 138.

life in the cities of the old world.⁸⁵ Jan Kociumbas, writing of the 1870s, claimed there was a belief then that urban waifs engaged in street trading were ‘an alien menace, while those in institutions were virtually a race apart’.⁸⁶ Similar fears were expressed by the Attorney General, B R Wise, during the debate on a State Children’s Bill in 1902.⁸⁷

Foucaultian interpretation

Stanley Cohen has observed that ‘to write today about punishment and classification without Foucault, is like talking about the unconscious without Freud’.⁸⁸ Historians have analysed Foucault’s approach to the development of the juvenile correction systems in the nineteenth and twentieth centuries, including the decarceration initiatives of the 1960s.⁸⁹ Foucault himself made no claim to any general theory explaining juvenile corrections.⁹⁰ A central theme of his work, however, distinguishes his views from those of the social control historians. Foucault considered that institutions did not repress people labelled as deviants but instead produced ‘types’ (criminals, delinquents, lunatics) who were inscribed in relationships of knowledge, power,

⁸⁵ Report of the Select Committee on the Condition of the Working Classes in the Metropolis, p. 10.

⁸⁶ J Kociumbas Australian Childhood: A History , p. 112.

⁸⁷ NSWPDLC 15 October, 1902, p. 3355.

⁸⁸ S Cohen Visions of Social Control: Crime, punishment and classification , p. 10.

⁸⁹ S Cohen ‘Social Control Talk: Telling Stories about Correctional Change’ in Garland D & Young P (eds.) The Power to Punish: Contemporary Penalty and Social Analysis Heinemann, London, 1983, and Visions of Social Control: Crime, punishment and classification ; S Cohen & A T Scull Social Control and the State Martin Robertson , Oxford, 1983; A T Scull Decarceration: Community Treatment and the Deviant: a Radical View, and ‘Community Corrections: Panacea, Progress or Pretence ?’ in Garland D & Young P (eds.) The Power to Punish: Contemporary Penalty and Social Analysis ; D Garland Punishment and Welfare: A History of penal strategies Gower, Aldershot, 1985 and Punishment and modern society: a study in social theory Clarendon Press, Oxford, 1990; J Donzelot The Policing of Families, Pantheon, New York, 1979; R Castel The Psychiatric Society Columbia University Press, New York, 1981; N Kittrie The right to be different, Johns Hopkins Press, Baltimore, 1971; T Szasz The Manufacture of madness Dell, New York, 1970; M L Gross The Psychological Society Simon & Schuster, New York, 1978; P Schrag Mind control Marion Boyers, London, 1980.

⁹⁰ M Foucault Discipline and Punish Penguin, London, 1977, p. 138; B Smart Michel Foucault Ellis Horwood, Chichester, 1985, p. 80; M Cousins & A Hussain Michel Foucault Macmillan, London, 1984, p. 2.

surveillance and resistance.⁹¹ Power, in Foucault's view, was not imposed from above, but was diffuse, generated by a multiplicity of small localised actions.⁹²

Cohen and Barry Smart have both highlighted Foucault's rejection of the 'humanitarian' interpretation of the new penalty, in favour of the notion that the real object of the change was not to punish less, but better.⁹³ Both assert that Foucault's analysis of individualisation of treatment through the use of social sciences such as social work and psychiatry sees new treatment policies not as a humanitarian or scientific advance, but rather another configuration of power.⁹⁴ Foucault clearly shares the scepticism of social control historians about humanitarian reforms. Where the social control historians, however, see the reformers as the instigators of a coercive, dominant ideology, Foucault sees the humanitarian discourses and practices as the consequence of diverse experiments in the government of populations.

Foucault makes it clear that one purpose of modern incarceration is to use labour and work discipline to correct indiscipline. It was not something that should be seen as having been imposed by a dominant class upon an inferior one, but as something that received general assent from society.⁹⁵ He particularly applied this view to the pioneer French juvenile reformatory, Mettray.⁹⁶ His observations on Mettray are of special importance, because of the way in which the regime there was revered and copied in Britain and America, and later in other countries. Even if individual systems in other countries did not follow every Mettray practice, many of its essentials were

⁹¹ Danaher G, Schirato T & Webb J Understanding Foucault Allen & Unwin, Sydney, 2000, p. 61 ; B Smart Michel Foucault , p. 77.

⁹² M Foucault Discipline and Punish , p. 26 and p. 138.

⁹³ S Cohen Visions of Social Control: Crime, punishment and classification , p. 24; B Smart Michel Foucault, p. 24; M Foucault Discipline and Punish , pp. 78-82.

⁹⁴ S Cohen Visions of Social Control: Crime, punishment and classification , pages 36, 101, 158; B Smart Michel Foucault , p. 25; M Foucault Madness and Civilization: A History of Insanity in the Age of Reason Tavistock, London, 1977, p. 227.

emulated. For Foucault, Mettray was an example of a ‘carceral archipelago’, that is, a power system under which regimes in prisons also developed contemporaneously in other institutions, including the school, the army, workshops, hospitals, and reformatories, legitimising and making normal the power to punish.⁹⁷

Specifically, Mettray placed inmates under ‘permanent observation’, and controlled them through a rigid timetable. There was also regimentation of bodily movements and training in habits of industry, the general object being to produce ‘docile and capable’ adults.⁹⁸ The views of Australian historian Robert Van Krieken are close in sentiment to this school, but he has drawn attention to an important distinction. This is, that although there might appear to be strong support for a ‘social control’ explanation of the juvenile correction system, there was a difference. He claims that increased State intervention in the lives of the under-privileged class, for example, the removal of children from dysfunctional families, a feature of the early twentieth century, was in fact assented to by the very class of people affected.⁹⁹

Therapeutic model

In the early twentieth century, as Garton has pointed out, there were movements in many countries which sought to bring criminal behaviour within the scope of a medical model of treatment.¹⁰⁰ In Britain, the work of the noted psychiatrist, Cyril Burt, was

⁹⁵ M Foucault *Discipline and Punish*, p. 81 and p. 102; Danaher G, Schirato T & Webb J *Understanding Foucault* p. 65; S Cohen *Visions of Social Control: Crime, punishment and classification* , p. 25; B Smart *Michel Foucault* , p. 21.

⁹⁶ M Foucault *Discipline and Punish*, p. 294.

⁹⁷ *ibid.*, p. 178 and pp. 297-305.

⁹⁸ *ibid.*, pp. 149-155 and p. 294.

⁹⁹ R Van Krieken ‘Children and the State: Child Welfare in New South Wales 1890-1915’, p. 34 and p. 52.

¹⁰⁰ S Garton ‘The Rise of the Therapeutic State: Psychiatry and the System of Criminal Jurisdiction in New South Wales 1890-1940’ , p.382.

very influential in the 1930s.¹⁰¹ Somewhat later, John Bowlby drew attention to the role of maternal deprivation as a cause of delinquency.¹⁰² A number of historians have pointed to the existence in the late nineteenth and early twentieth centuries of the notion that delinquency was a condition caused by a combination of family dysfunction and environmental factors. Thus it could be treated therapeutically through the professional assessment of individual cases by psychologists, psychiatrists, social workers.¹⁰³

Others have seen the medical model as merely a more sophisticated form of social control. Historians such as Christopher Lasch and David Rothman, have also pointed to the way in which in the late nineteenth and early twentieth centuries, there was increasing utilisation of doctors, psychologists, psychiatrists and social workers in the juvenile correction system. This happened in America (where the influence of the Progressive movement was significant) as well as elsewhere. This has sometimes been referred to as the 'medical model'.¹⁰⁴ Other historians, notably Smart, showed that the promise of more scientific treatment had not been achieved. In practice, the rhetoric did not match reality.¹⁰⁵

¹⁰¹ C Burt The Young Delinquent University of London Press, London, 1931, p.124.

¹⁰² J Bowlby Child Care and the Growth of Love Penguin, London, 1953, pp. 13-14.

¹⁰³ A M Platt, The Child Savers, p. 45; A Morris & M McIsaac, Juvenile Justice ? The Practice of Social Welfare, p. 5; M H Langley , H R Graves & B Norris ; 'The Juvenile Court and Individualized Treatment', Crime and Delinquency, vol. 18, no 1, January, 1972, p. 80.

¹⁰⁴ C Lasch Haven in a Heartless World: The Family Besieged, Basic Books New York 1977, p. 15; D J Rothman, Conscience and Convenience , p. 66. Laurence Moore, Platt, Schlossman, Sedlak, held similar views. R L Moore 'Directions of thought on Progressive America' in L L Gould (ed.) The Progressive Era, p.40; A M Platt, The Child Savers, p. 18; S L Schlossman Love and the American Delinquent , pp. 58-60; M J Sedlak 'Youth Policy and Young Women 1870-1972', p. 456.

¹⁰⁵ B Smart 'On Discipline and Social Regulation: A Review of Foucault's Genealogical Analysis' in Garland D & Young P (eds.) The Power to Punish: Contemporary Penalty and Social Analysis , p. 264. See also A T Scull 'Community Corrections: Panacea, Progress or Pretence ?' in Garland D & Young P (eds.) The Power to Punish: Contemporary Penalty and Social Analysis Heinemann, London, 1983 p. 155, and Decarceration: Community Treatment and the Deviant: a Radical View, p. 52; D J Rothman Conscience and Convenience, p. 10; K W Jones Taming the Troublesome child: American Families, Child Guidance, and the Limits of Psychiatric Authority , p. 22.

Australian historians have seen therapeutic practices as significant. Garton and Van Krieken have claimed that in the years following the 1905 legislation, the system became more professional and there was greater emphasis on scientific treatment of children, in furtherance of the individual treatment ideal.¹⁰⁶ Garton also considered that during the early twentieth century a medical model began to be used in relation to juvenile delinquents in Australia, particularly Mackellar's efforts to secure proper assessment of children coming before the Children's courts..¹⁰⁷ Van Krieken agreed that there was some 'attempt to render (work in the juvenile correction system) more scientific ...' between 1923 and 1940. He considered that the attempt was superficial, however, and had little real impact.¹⁰⁸ This work will argue that Mackellar's 1905 reforms, such as psychological assessment of children appearing before the courts, and attempts at better classification and so more individualised treatment, were attempts at a more scientific approach. However, after his departure in 1914, even though the bureaucracy continued to claim that treatment was progressively becoming more scientific, in practice this was not the case.

Bureaucratic interpretation

Historians David Gil, Anthony Scull and David Rothman have argued that the conduct of juvenile correction systems was determined more by bureaucratic considerations than humanitarianism or therapeutic ones. They emphasise the insistence on economy,

¹⁰⁶ S Garton 'Sir Charles Mackellar: Psychiatry, Eugenics and Child Welfare in New South Wales 1900-1914', pp. 28-32; S Garton 'The Rise of the Therapeutic State: Psychiatry and the System of Criminal Jurisdiction in New South Wales 1890-1940', p. 382. R Van Krieken *Children and the State*, p. 112; R Van Krieken 'State Bureaucracy and Social Science 1915-1940', *Labour History* no 58, May 1990, p. 128.

¹⁰⁷ S Garton 'The Rise of the Therapeutic State: Psychiatry and the System of Criminal Jurisdiction in New South Wales 1890-1940', p. 382 and also his 'Sir Charles Mackellar: Psychiatry, Eugenics and Child Welfare in New South Wales 1900-1914' p. 21. See also J A Seymour *Dealing with Young Offenders*, pp. 133-134; M C Tenison-Woods *Juvenile Delinquency: With Special Reference to*

avoidance of embarrassing public exposure, unwillingness to experiment, and a general preference for administrative convenience.¹⁰⁹ Australian historians, notably Dickey and Van Krieken, argue that child welfare services, although founded by philanthropists and reformers, were gradually absorbed into the bureaucratic apparatus of the State.¹¹⁰ As suggested above, however, New South Wales differed from the other Australian States in one important aspect. In relation to juvenile corrections, the State took a more dominant role, right from the inception of industrial and reformatory schools in the 1860s. In other States, the charitable sector had greater control of juvenile corrective institutions and this persisted until the middle of the twentieth century.¹¹¹ Entrusting the management of delinquent institutions to the churches would have saved a lot of expense. This was certainly the experience in other States.

However, this never took place in New South Wales, where sectarian conflict was more

Institutional Treatment, Melbourne University Press, Melbourne, 1937, p. 15; R Sanson-Fisher 'The Case against Juvenile Corrective Institutions' Australian Social Work vol. 31 no 4, December 1978, p. 7.

¹⁰⁸ R Van Krieken 'State Bureaucracy and Social Science 1915-1940', p. 18 and p. 30.

¹⁰⁹ D G Gil 'Institutions for children' in A L Schorr (ed.) Children and Decent People George Allen & Unwin, London, 1975, p. 69. A T Scull Decarceration: Community Treatment and the Deviant: a Radical View, p. 78, pp. 135-138; D J Rothman Conscience and Convenience, p. 10. Similar views were expressed by Sedlak, David Taylor, Samuel Barrows. M J Sedlak 'Youth Policy and Young Women 1870-1972', p. 458; D Taylor Crime, Policing and Punishment in England 1750-1914, Macmillan, London, 1998, pages 157 and 163; S J Barrows Children's Courts in the United States U S Government Printing Office, Washington, 1904, p. xvi.

¹¹⁰ B Dickey No Charity There: A Short History of Social Welfare in Australia, Allen & Unwin, Sydney, 1987, pp. 99-100 and p. 154, and 'Care for Deprived, Neglected and Delinquent Children in New South Wales 1901-1915', pp. 167-168; R Van Krieken Children and the State, p. 112 and 'State Bureaucracy and Social Science 1915-1940', p. 17 and p. 33. See also M Barbalet Far from a low gutter girl: The forgotten world of state Wards, South Australia 1887-1940, p. 153; S L R Anleu 'Lifting the lid: Perspectives on social control, youth crime and juvenile justice', p. 24; A O'Brien, Poverty's Prison: The Poor in New South Wales 1880-1918, p. 226; M Mowbray 'Restructuring Child Welfare: Deinstitutionalisation and Austerity in the NSW Department of Youth and Community Services', p. 2; D Weatherburn 'Appellate Review, Judicial Discretion and the Determination of Minimum Periods' Australian and New Zealand Journal of Criminology (1985) vol. 18, p. 274; J B L Chan 'Decarceration and Imprisonment in New South Wales: A Historical Analysis of Early Release' University of New South Wales Law Journal vol. 13 no 2, 1991, p. 395; J Ramsland Children of the Back Lanes: Destitute and Neglected Children in Colonial N S W, p. 169; R J W Selleck 'The origins of industrial schooling in Melbourne 1864-1866', pp. 24-29.

¹¹¹ In relation to Victoria, see R J W Selleck 'The origins of industrial schooling in Melbourne 1864-1866', p. 20. In relation to Queensland, see L Forde (Chair) Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions, p. 45; For Western Australia, see F Tay 'The Administration of Social Service Provisions for Under-privileged children in Western Australia 1947-54', p. 303. For South Australia, see C M Davey Children and their law-makers, pp. 23-24. For

entrenched. A succession of governments declined to support church reformatories because this would have meant subsidisation of religious organisations.

Historians such as O'Brien and Ramsland have drawn attention to the way in which economic considerations dominated decision-making in relation to the care of the disadvantaged.¹¹² Annual reports invariably included the per capita annual costs for each institution, an indication that economical operation was a priority. For the same reason details of the value of farm operation and manufactured goods as well as the number of laundry articles processed were included.¹¹³ Nearly all the various government inquiries which affected the operation of the juvenile correction system were prompted by concerns about the exercise of due economy.¹¹⁴ In the years between the wars, very little was spent on the improvement of facilities in institutions, with much of the maintenance and even building construction work being undertaken using

Tasmania, see S Petrow 'Arabs, Boys and Larrikins: Juvenile Delinquents and their treatment in Hobart 1860-1896', pp. 49-51.

¹¹² A O'Brien Poverty's Prison: The Poor in New South Wales 1880-1918, pages 163 and 226; J Ramsland Children of the Back Lanes: Destitute and Neglected Children in Colonial N S W, p. 169. See also

I Pinchbeck & M Hewitt Children in English Society from the Eighteenth Century to the Children Act, 1948, Routledge & Kegan Paul, London, 1973, p. 482; A Salt These Outcast Women: The Parramatta Female Factory 1821-1848 Hale & Iremonger, Sydney, 1984, p.50 and pp. 66-67; M Barbalet Far from a low gutter girl: The forgotten world of state Wards, South Australia 1887-1940, pp. 187 -188; R J W Selleck 'The origins of industrial schooling in Melbourne 1864-1866', p. 29; J Godden 'Philanthropy and the Woman's Sphere Sydney 1870-circa 1900' Ph D Thesis, Macquarie University, 1983, p. 124; M Mowbray 'Restructuring Child Welfare: Deinstitutionalisation and Austerity in the NSW Department of Youth and Community Services', p. 3; J B Hirst Convict society and its enemies, p.83; J B L Chan 'Decarceration and Imprisonment in New South Wales: A Historical Analysis of Early Release', p. 395.

¹¹³ See annual reports of the State Children's Relief Board and the Child Welfare Department, until the 1960s.

¹¹⁴ Public Service Board to Under Secretary, Chief Secretary's Department, quoting the Premier, 5 September, 1905, 'Public Service Board Investigations as to the Re-organization of the Chief Secretary's Department 1904-1907' SR 8/384; 'Further Progress Report of Select Committee' 6 September, 1916 JVPLCLA 1916, vol. 2, p. 1017; G M Allard 'First Sectional Report of the Royal Commission to inquire into the New South Wales Public Service', 3 November 1918, NSWPP, 1918, vol. 4, p. 373 et seq., p 9; 'W M Fincham: Gosford Farm Home for Boys: Papers Concerning Inquiry held by W M Fincham, Special Magistrate, Children's Court Sydney Concerning the Punishment of Joseph Bayliss'. Legislative Assembly of New South Wales: Tabled Papers 1923/422; 'Public Service Board Inquiry into the Child Welfare Department 1926', SR 8/751; J M Harvey 'Report of the Royal Commission to Inquire into Matters relating to the Administration of the Child Welfare Department' in NSWPP 1927, vol. 2.; J E McCulloch Child Welfare Department. Report on the General Organization, Control and Administration of, with Special Reference to State Institutions NSW N S W Government Printer, Sydney, 1935

inmate labour.¹¹⁵ Departmental facilities generally were in very poor condition by the early 1940s.¹¹⁶

In seeking to understand the development of the juvenile correction system in the twentieth century, each of the different schools of thought has some validity. While they represent conflicting interpretations, there were often a variety of factors involved. For example, the fact that Van Krieken has arguably adopted some aspects of Foucaultian theory is quite compatible with his views on the therapeutic development of the system in the early part of the twentieth century. The point is that in the case of most initiatives, there was a combination of motives. Nevertheless, the preoccupation with cost reduction which had been a feature of colonial administration from its inception had become, by the beginning of the twentieth century, ingrained into the operations of the New South Wales bureaucracy. By the 1920s, this priority had become the dominant force in the operations of the juvenile correction system.

The main argument of this thesis

In this study of twentieth century juvenile corrections, I will argue that although humanitarian, social control and therapeutic ideals were at times influential, the paramount influence after the departure of Sir Charles Mackellar in 1914, was that of the bureaucracy. The capacity of the State Children's Relief Board to continue reformist ideals was greatly diminished by Mackellar's retirement and the influence of the bureaucracy thereafter intensified. In particular the actions of bureaucrats were dominated by an attitude that they were dealing with a 'delinquent class' of inferior

¹¹⁵ D H Drummond NSWPDLA 20 December, 1934 p. 5071.

¹¹⁶ M Tenison-Woods Report on the Girls Industrial School, Parramatta Melbourne University Press, Melbourne, 1945; V A Heffernan 'Notes on the History of Mt. Penang': unpublished typescript, 1989, p. 25.

children. In the words of the American historian, David Gil, there was an ‘expectation of failure...built into...institutions for delinquent children’.¹¹⁷

This attitude affected every aspect of their administration of the system. Of course, it can never be conclusively proved that such an attitude prevailed. However, I contend that it is an irresistible inference which should be drawn from the ways in which officials administered the system. These included the way in which economic evidence invariably prevailed over ideals of rehabilitation and reform. There was also the resistance to any suggestion of outside scrutiny or interference in operations, the resort to coercion as the standard response to rebellious behaviour, and the fact that delinquents in institutions, especially girls, were often ill-treated and punished illegally.

Chapter 2 outlines the reforms sponsored by Mackellar, not merely those contained in the legislation of 1905, but also his attempts to move away from the nineteenth century emphasis on incarceration, as well as greater individualisation of treatment and increased professionalism. In Chapter 3 the bureaucratic struggle for control of the child welfare system, which raged from 1914 to 1923, is examined. The struggle culminated in the abolition of the State Children’s Relief Board. The reversal of Mackellar’s progressive policies, under the increasing influence of bureaucrats in the Department of Public Instruction, is also described. Chapter 4 examines the effects of the bureaucratic dominance through the focus of inquiries into the ill-treatment of institutions inmates at Gosford and Yanco, as well as a wide-ranging review of the whole Department which followed the Yanco inquiry.

There follows, in Chapter 5 an analysis of the attempts by Charles Wood between 1934 and 1938 to return to more progressive policies. These included greater involvement of the non-government sector, better staff training and professional

¹¹⁷ D G Gil ‘Institutions for children’, p. 73. See also S Jenkins ‘Child welfare as a class system’ in A L

assessment of children. It also catalogues the descent into chaos, marked by riots and mass abscondings, which followed Wood's departure, in the period 1938 to 1945.

Chapter 6 deals with the administration of Richard Hicks, during which the system was rescued from disarray, but at the cost of a more coercive and institutions-based approach. Another period of reform is examined in Chapter 7. Under the leadership of William Langshaw, there were determined attempts to provide alternatives to incarceration, and work began on new legislation. In Chapter 8 we examine another period of chaotic administration, during which there were several unsuccessful experiments with new forms of treatment. The government quickly retreated from its reform agenda and in 1988, the new legislation came into force.