'UNENLIGHTENED EFFICIENCY':

THE ADMINISTRATION

OF THE

JUVENILE

CORRECTION SYSTEM

IN

NEW SOUTH WALES

1905-1988

Thesis for Doctorate of Philosophy

University of Sydney

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

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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The late Patrick Humphrey also kindly allowed me to read the diaries of Alexander Thompson, a former Secretary of the Child Welfare Department. Ms Valerie Rubie, who recently published *Sent to the Mountain*, a history of the Farm Home for Boys at Gosford, was also of great assistance. We collaborated happily, sharing the fruits of our research. Mr. Leo Hunt, a relative of Mrs. Walter Bethel, and also private secretary to Harold Hawkins, the first Minister for Child Welfare, supplied useful information. Many other former employees of what is now the Department of Community Services supplied valuable insights on events mentioned in the thesis. Michael Fitzpatrick in particular provided me with a copy of his observations on the ‘lover system’, which he compiled following a period when he was on the staff at the Girls Training School, Parramatta. My children, Andrew, Roderic, Catriona and Angela, together with their partners, Rosalind, Tim and Rob, kindly read chapters of the thesis.

Finally, I thank my wife Margaret for putting up with my absences, and the disruptions of five years of research and writing.
**ABBREVIATIONS**

<table>
<thead>
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<th>Description</th>
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<tr>
<td>HMSO</td>
<td>Her Majesty’s Stationery Office</td>
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<td>JLC</td>
<td>Journal of the Legislative Council of New South Wales</td>
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<td>JRAHS</td>
<td>Journal of the Royal Australian Historical Society</td>
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<tr>
<td>JVPLCLA</td>
<td>Joint Volumes of Papers presented to the Legislative Council and Legislative Assembly of New South Wales</td>
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<tr>
<td>ML</td>
<td>Mitchell Library, Sydney</td>
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<tr>
<td>NSWPDLA</td>
<td>New South Wales Parliament Parliamentary Debates: Legislative Assembly</td>
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<tr>
<td>NSWPDLC</td>
<td>New South Wales Parliament Parliamentary Debates: Legislative Council</td>
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<tr>
<td>V&amp;PLANSW</td>
<td>Votes and Proceedings of the Legislative Assembly of New South Wales</td>
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<td>Votes and Proceedings of the Legislative Council of New South Wales</td>
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<td>NSWPP</td>
<td>New South Wales Parliamentary Papers</td>
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<td>SCRB</td>
<td>State Children’s Relief Board</td>
</tr>
<tr>
<td>SMH</td>
<td>Sydney Morning Herald</td>
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<td>SR</td>
<td>State Records of New South Wales</td>
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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

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\(^{1}\) 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).
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. 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.

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. 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. 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. The new system was a great success. Within a few years, some very large charitable institutions had been closed. In association with boarding out,

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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.


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

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’. 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. 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.

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

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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).
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.
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.\textsuperscript{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.\textsuperscript{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


\textsuperscript{15} J Ramsland \textit{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’. 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. Philippe Aries has claimed that, in medieval society, the idea of childhood did not exist. Thus,

16 SMH 5 February, 1944.
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. 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.

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. 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. 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’. It also varies in accordance with ‘class, gender and ethnicity’. 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’.

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. However, in the modern era, the legal

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19 ibid., p. 331.
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,

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.\textsuperscript{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.\textsuperscript{31} This too followed the precedent set by similar legislation in England.\textsuperscript{32} The minimum age of criminal responsibility was raised, from the common law age of seven, to eight in 1939 and ten in 1977.\textsuperscript{33}

In New South Wales, the upper limit, fixed at sixteen in 1866, was raised to eighteen in 1923.\textsuperscript{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.\textsuperscript{35}

\textsuperscript{31} See Industrial Schools Act, 1866 (NSW) , section 4 , and Reformatory Schools Act, 1866, (NSW) section 4.
\textsuperscript{32} Youthful Offenders Act, 1854 (UK).
\textsuperscript{34} See Child Welfare Act, 1923 (NSW), section 3.
\textsuperscript{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

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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. 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. 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’. There were similar developments in

America. 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. 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’. 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.

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

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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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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 Dixson 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.\textsuperscript{50} Much of the evidence about juvenile delinquency given to select committees referred to that part of

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{45} L L Robson \textit{The Convict Settlers of Australia} Melbourne University Press, Melbourne, 1965 (1994 edition) p. 4
\item \textsuperscript{48} H Reynolds ‘Violence in Australian History’ in D Chappell et al (eds.) \textit{Australian Violence, Contemporary Perspectives} Australian Institute of Criminology, Canberra, 1991, p. 13.
\item \textsuperscript{49} J D Lang \textit{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.
\end{itemize}
\end{footnotesize}
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.  

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. By the 1980s, annual figures of up to sixteen and a half thousand appearances were being recorded. 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

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50 M Dixson The Real Matilda: Woman and Identity in Australia 1788 to the present pages. 143, 155, 167.
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.
nineteenth century as the period of significant change.\textsuperscript{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.\textsuperscript{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.\textsuperscript{56} Others have dealt with the operation of selected institutions
such as Gosford, Newcastle, Biloela and Parramatta, during particular periods of time.\textsuperscript{57}


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.\textsuperscript{58}

\textit{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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

\textsuperscript{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.


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

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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. 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.

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

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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.
middle of the twentieth century. 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’. 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.

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. 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,
which emphasised parity with adults in sentencing and procedural fairness. 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’.

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. The purpose of humanitarianism


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. 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’. Moreover, this class re-produced itself, because juvenile criminals were both the progeny and the progenitors of professional criminals.

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. 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. Other historians, including Andrew Scull, have asserted that social control


motives were behind not only the reforms of the nineteenth and early twentieth centuries, but also the later diversion reforms of the 1960s.\textsuperscript{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.\textsuperscript{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.\textsuperscript{82} Certainly influential members of the British government regarded colonial society as a ‘monstrous excrescence’.\textsuperscript{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’.\textsuperscript{84} In fact, reformers feared that, in the space of one lifetime, life on Sydney streets was reproducing all the worst features of


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

\textsuperscript{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.

life in the cities of the old world.\textsuperscript{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’.\textsuperscript{86} Similar fears were expressed by the Attorney General, B R Wise, during the debate on a State Children’s Bill in 1902.\textsuperscript{87}

\textit{Foucaultian interpretation}

Stanley Cohen has observed that ‘to write today about punishment and classification without Foucault, is like talking about the unconscious without Freud’.\textsuperscript{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.\textsuperscript{89} Foucault himself made no claim to any general theory explaining juvenile corrections.\textsuperscript{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,

\textsuperscript{85} Report of the Select Committee on the Condition of the Working Classes in the Metropolis, p. 10.
\textsuperscript{86} J Kociumbas \textit{Australian Childhood: A History}, p. 112.
\textsuperscript{87} NSWPDLC 15 October, 1902, p. 3355.
\textsuperscript{88} S Cohen \textit{Visions of Social Control: Crime, punishment and classification}, p. 10.
surveillance and resistance.\textsuperscript{91} Power, in Foucault’s view, was not imposed from above, but was diffuse, generated by a multiplicity of small localised actions.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{95} He particularly applied this view to the pioneer French juvenile reformatory, Mettray.\textsuperscript{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

\begin{footnotes}
\footnote{Danaher G, Schirato T & Webb J \textit{Understanding Foucault} Allen & Unwin, Sydney, 2000, p. 61 ; \ B Smart \textit{Michel Foucault }, p. 77.}
\footnote{M Foucault \textit{Discipline and Punish}, p. 26 and p. 138.}
\footnote{S Cohen \textit{Visions of Social Control: Crime, punishment and classification}, p. 24; \ B Smart \textit{Michel Foucault}, p. 24; \ M Foucault \textit{Discipline and Punish}, pp. 78-82.}
\end{footnotes}
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.  

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. 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.

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. In Britain, the work of the noted psychiatrist, Cyril Burt, was

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96 M Foucault Discipline and Punish, p. 294.
97 ibid., p. 178 and pp. 297-305.
98 ibid., pp. 149-155 and p. 294.
very influential in the 1930s.\textsuperscript{101} Somewhat later, John Bowlby drew attention to the role of maternal deprivation as a cause of delinquency.\textsuperscript{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.\textsuperscript{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’.\textsuperscript{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.\textsuperscript{105}

\textsuperscript{101} C Burt \textit{The Young Delinquent} University of London Press, London, 1931, p.124.
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. 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. 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. 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,
avoidance of embarrassing public exposure, unwillingness to experiment, and a general preference for administrative convenience.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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
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. 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. 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. 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


inmate labour.\textsuperscript{115} Departmental facilities generally were in very poor condition by the early 1940s.\textsuperscript{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.

\textit{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

\textsuperscript{115} D H Drummond \textit{NSWPDLA} 20 December, 1934 p. 5071.
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.