CHAPTER ONE: Domestic violence in feminism and policy: late nineteenth century

‘Not ...changing responses to a constant problem but ... a redefinition of the problem itself’ (Gordon 1989: 27-8).

As I established in the Introduction, one of the most remarkable features of the feminist engagement with domestic violence in the early 1970s was its apparent ‘discovery’, after an initial lag in attention, by feminists in the reinvigorated phase of the women’s movement. I have identified these circumstances as one of two fundamental aspects of the domestic violence policy process, and argued that they make the initiation of the late twentieth century feminist and policy responses to domestic violence a dramatic example of the redefinition and re-construction of an ancient set of ‘disturbing social conditions’ (Gordon 1989: 27-8; Bacchi 1999: 3, 9). They also establish the significance of the ‘location-specific and history-specific’ context in which that re-construction occurred through both feminist analysis and policy activism (Bacchi 1999a: 7).

In this chapter I begin to chart the political history of domestic violence in Australian feminism and public policy. That investigation also provides an account of the policy constructions of domestic violence into which feminist policy activism intervened. It begins by examining the ways in which the circumstances later named domestic violence were framed by feminism and policy in the last decades of the nineteenth century. The period covered by this chapter begins a century before the main thesis period and ends as women achieved the right to vote in each of the colonies and the new Australian Commonwealth, between 1894 and 1908, and as the first policy steps were taken in the creation of an Australian welfare state, also in the early years of the new century (Oldfield in Caine 1998: 497; Dickey 1980: 96-141). It was a time of energetic and widespread feminist organisation around the issue of women’s franchise. Key developments were also occurring in areas of policy relevant to women suffering domestic violence, namely social policy and the criminal and civil legal and justice systems. The jurisdictional location for this chapter is NSW, with reference to material from elsewhere when useful for contrast or corroboration. The following
chapter, after introducing the circumstances of the feminist ‘discovery’ of domestic violence in the early 1970s, continues the history of the political, including policy, framings of domestic violence in the intervening period.

This chapter also begins exploration of the other identified main themes of the thesis. Investigation of the construction of domestic violence in late nineteenth century feminism and policy demonstrates the significance of contexts both of opportunity and of representation, including the second fundamental aspect of the domestic violence process, identified in the Introduction as the access of women to the capacity to form autonomous households. This study introduces issues of feminist policy engagement, and makes it possible to consider whether, and if so how, feminists still striving for the right to vote, and so without any form of direct parliamentary representation or formal policy presence, could be said to have engaged in policy activism. It also investigates the relationship between the feminist response to the circumstances of domestic violence and the strategies of the concurrent broad feminist policy enterprise, and the connections between feminist constructions and the representations evident in related policy provisions.

The analysis undertaken in this chapter is built largely on secondary historical accounts of Australian feminism and legal and social policy in this period; the historians to whose work I refer will be identified as the discussion proceeds. In addition to analysis of the feminist response to domestic violence, this important work contributes to the thesis in two ways. To begin with, the information provided makes it possible to assess the resources available to women suffering partner violence at the end of the nineteenth century and the use women were making of those resources. Secondly, this material is repositioned in order to analyse, in the sense of Bacchi’s ‘What’s the Problem?’ approach, the representational constructions of domestic violence implied by the relevant policy instruments. It is interesting to note here that no detailed history of feminist and policy engagement with domestic violence, and consequently no representational history of this kind of violence, of the kind produced by Barbara Pleck (1983, 1987) and Linda Gordon (1989) for the USA, Gillian Walker for Canada (1990) or Emerson and Robert Dobash (1980, 1992) for the UK and the USA, has been undertaken in Australia. This thesis initiates such an analysis in order
to establish the feminist and policy representational context for the feminist recognition and policy activism which are the primary theme of the thesis.

In the sections which follow, I first investigate the policy options available to women suffering domestic violence at the end of the nineteenth century, the use women were making of those resources, and their representational implications. Then, making reference to the contextual information provided by the policy section, the feminist response to domestic violence in the chapter period is examined and located. That section also begins the task of addressing why it was that Australian feminists in the second half of the twentieth century, like those of related Western democracies, felt as if they were making the first ever feminist and policy recognition of domestic violence.

POLICY OPTIONS AND REPRESENTATIONAL IMPLICATIONS

As has already been noted, women striving to survive violent partners, whether by negotiating to change the perpetrator’s behaviour or by trying to escape the violent relationship, need both legal and economic resources. They may seek justice, but their primary needs are protection from the violent man, either temporarily or permanently, and, if they have chosen to leave him, the means of legal separation, and economic resources to re-establish a viable life, that is to form an autonomous household for themselves and their children. So the records of the resources available to such women in the late nineteenth century, and of their survival efforts, are those of the criminal and civil justice systems, including the divorce courts, and those of agencies of social support. The legal resources will be considered first.

The work of three historians is valuable here. These are Hilary Golder, principal historian of divorce law in nineteenth century NSW (Golder 1979, 1985, 1995); Judith Allen, whose doctoral research into crimes involving women in NSW between 1880 and 1939 and the body of work built from it has lead the way in analysis of the implications for women of the construction of crimes of violence in that period (Allen 1982, 1986, 1987, 1990); and Kay Saunders, who, like Allen, worked from court records to reach the stories of invisible and inarticulate women in her paper on ‘the nature and ramifications of domestic violence involving both de facto and de jure
relationships among Europeans in colonial Queensland’ between 1859 and 1900 (Saunders 1984, quotation: 68).

The information provided by these historians reveals that significant policy developments, driven explicitly by concern about women at risk from violent husbands, were directed to divorce law and the criminal law of assault in the final decades of the nineteenth century. Their findings also indicate that such efforts were restricted by both culturally and pragmatically embedded expectations about the capacity of women to form an autonomous household.

To begin with, Allen and Saunders both demonstrate a strong pattern of class division in the choice of legal resources made by women with violent partners. Each provides evidence, as does Hilary Golder, that wife abuse occurred across all social classes in colonial Australia (Saunders 1984: 73; Allen 1990: 46-52; Allen 1982: 8; Golder 1985: 138). But while almost all the women appearing in divorce or judicial separation proceedings were middle class, working class women were the majority of those appearing in criminal assault proceedings and before magistrates (Saunders 1984: 73-4; Allen 1981: 121-2,125; 1990: 46-51). The historians explain this partly in terms of the cost of a divorce action, partly through middle class fear of the shame of a criminal action, but also because of the inadequacy of alimony provisions as a route to an autonomous household. In practical terms, divorce was of use only to women divorcing well-off husbands or who had other, usually family, means of support (Saunders 1984: 73-4; Golder 1979:51, 54-5, 275; 1985: 117-40, 185; Allen 1990: 50-1).

With the strategic value of divorce effectively structured by the economic realities of most women’s lives, the divorce law reforms in this period are also instructive. Colonial marriage law was grounded in British law, and hence in the principle expressed notoriously by Blackstone in the late eighteenth century that:

... the very being or legal existence of the woman is suspended during marriage, or, at least, is incorporated or consolidated into that of the husband (Blackstone 1765:442, quoted Saunders 1984:73).
One consequence of this was that the property of a married woman, whether inherited or earned, became the property of her husband. Most married women in NSW only received the right to ownership of their own property and earnings after passage of Married Women’s Property legislation in NSW in 1879 (Lake 1999: 39). A husband’s legal rights also included ‘total and exclusive access to his wife’s body’, which meant that adultery on her part was an offence against his property rights, both sexual and reproductive (Saunders 1984: 73). These principles were the underpinning for the powerful ‘double standard’ of sexual morality, which recognised adultery by a wife as a much graver offence than that of a husband. This assumption was enshrined in the first British divorce law, the 1857 Matrimonial Causes Act, which made a wife’s adultery a sufficient ground for divorce, but required a woman to prove adultery aggravated by a further offence, for example violence, bigamy or desertion, on the part of her husband (Rover 1970: 41-3; Golder 1985: 8).

These terms were duplicated in the first NSW divorce law, the 1873 Matrimonial Causes Act (Golder 1985: 8). A further eight Matrimonial Causes Act Amendment Bills were debated in NSW before amendments in 1881 gave women an equal right with men to sue for divorce on grounds of adultery alone (Golder 1985: 167-9; 324-6). A further amendment in 1892, which established simple desertion (after three years), drunkenness and cruelty as grounds for divorce, whether or not associated with adultery, recognised for the first time that violence could be an appropriate grounds for a woman to seek to end her marriage (Golder 1985: 215-6; 327-9). Nevertheless, while the 1892 amendment resulted in what Hilary Golder describes as a ‘divorce boom’, apparently representing a ‘backlog’ of women waiting for simpler terms of divorce, it was of limited use for violence sufferers (Golder 1985: 237-44). The amendment required as proof of marital violence a recent court finding that the husband was guilty of aggravated assault (Allen 1982: 16). The outcomes of such criminal cases indicate that this was a requirement which was beyond the reach of most abused women.

If the moves in divorce law policy in NSW in this period are read in terms of Carol Bacchi’s ‘What’s the Problem ...represented to be?’ approach (Bacchi 1999a: 1), they indicate significant movement from presumption that the central problem addressed by marriage and divorce law is the protection of the property, including the sexual and
reproductive property, of men, to recognition that a wife might have rights, including the right not to be assaulted, which went beyond her implications for or as the property of her husband. But it is also evident that those who drafted the 1892 amendment either mistrusted the evidence a beaten wife might give, or did not understand that they had set an unrealistic standard of proof.

Assaulted women who turned to the justice system in this period soon discovered the presumptions about marital assault implicit in the practice of legal and policing policy. The NSW Handbook for Police and Police Magistrates for 1905 made them clear:

Police should not interfere in domestic quarrels, unless there is, or is likely to be a serious assault committed. Husbands should not be taken into custody for minor assaults on their wives, but the latter should apply to a magistrate for a summons (Quoted Allen 1982:10).

Allen also demonstrates that police arrested violent husbands most often in densely populated urban areas, deducing that such intervention was more about controlling disorder than protecting assaulted women (Allen 1982: 10).

These policing policies begin the representational placement of domestic violence in public policy in this period. The formal construction was that spousal violence was a crime, and that the state carried the same responsibilities in response, including for the protection of the victim citizen, as it did for any other assault. But the policy in practice shifted the responsibility of response from the state to the victim, who was expected both to initiate and pay for an individual action before a magistrate. What actually happened in the courts added to these complexities.

Allen’s examination of court records shows that the rate of arrest for marital assault in NSW between 1880 and 1909 was low and that prosecutions were dismissed by magistrates in most cases involving married couples. Often the female victim did not appear, denied her previous evidence, or begged the magistrate to show leniency to the accused perpetrator because the family was dependent on his earnings (Allen 1986:121-2). Similar outcomes followed when women applied for a summons against the perpetrator. Once again many complaints were withdrawn, while those heard usually resulted in the accused being ‘bound over to keep the peace’ (Allen 1986:
These outcomes suggest that applications for summons were used by women in the late nineteenth century much as they were a century later, as negotiating tactics in attempts to end the violence (See conclusions of NSW BCSR 1975: 23).

Moves driven by concern about men assaulting women and children were made in 1883 and 1889 to increase the maximum sentence for assault from six to twelve months. They failed, on the grounds that it was inappropriate for a British citizen to face such a heavy sentence on the decision of a magistrate rather than a jury. In any case, the increase may have made little difference as Allen’s evidence demonstrates that magistrates were reluctant to gaol men who were providers for their wives and children (Allen 1986:122). In addition, as working class feminist Louisa Lawson pointed out:

> When the brute is released ... she is still the felon’s helpmate and companion ... to run the gauntlet of his blows [and] offer him another opportunity for a more surely delivered thrust (The Dawn 1888, quoted Allen 1986: 121).

As with the concurrent divorce reforms, the attempts to strengthen assault sentences represent a significant challenge to ruling assumptions about wife assault. Their defeat indicates that the rights of British men, the abiding political identity of the colonial middle class, were seen as more important than a public policy response to male violence against women and children. But it is also clear that, like the divorce reformers, those who pressed for the reform had little idea of the realities, in this case the economic realities of dependence on a male wage, faced by the women and children they sought to protect.

These hard realities are equally clear in the stories of the women who appeared in spousal murder trials. To begin with, these cases establish the prevalence and severity of domestic violence. Consistently across Allen’s research period, the majority (63%) of women indicted for spouse murder killed after a long history of violence by their husbands. At the same time half of the wife murders were the result of beatings that went too far (Allen 1982:4). Equally revealing is Allen’s demonstration that most of the women who killed were between the ages of 40 and 60, having apparently waited until their children
were no longer dependant. Allen sums up this situation: ‘The sexual division of labour largely explains men’s relative safety from violence at the hands of women’ (Allen 1982: 3).

The responses of the courts to these killings also reveal telling patterns. Twice as many women as men were convicted as charged, with the men receiving lesser convictions and more frequent acknowledgement of mitigating circumstances, including provocation (Allen 1982: 11). Two representational conclusions are suggested: that it was presumed to be a worse offence for a woman than for a man to murder a spouse, and that the defence of provocation was more available to the angry man than to the woman who endured until her children had grown.

Clearly, the women who killed to escape, like those who took their husbands to court but then withdrew, knew that they had little real hope of economic survival, especially if they had children, unless they could rely on a man’s income. The social economy in which they lived endorsed their conviction. They had no ready access to effective birth control; the average family size in NSW in the 1880s was seven children (Allen 1996:119). The labour market they faced was as rigidly gender segmented in employment opportunities as it was in wage levels. This persisted despite the fact that a combination of compulsory education with industrial development and the growth of service industries, for example retail sales and telegraphy, as well as establishment of the caring professions of teaching and nursing, steadily increased job opportunities for women of all classes (Ryan and Conlon 1975: 30-49; Kingston 1975; McMurchy et al 1983: 38-41; Brennan 1998a: 21-3). None of these jobs, whether old or new, were readily available to women with children: much of it, including domestic service, nursing and often shop assistance, was live-in work for single women; there was no acceptable means of care for the children of working mothers (Brennan 1998a: 23-5). In late nineteenth century Australia Ann Shola Orloff’s standard of the capacity of women to maintain an autonomous household was an option open to a very few fortunate or remarkable women (Orloff 1993: 319).

In Australia in the late nineteenth century the possibilities of social action later identified as a ‘welfare state’ were just entering the community, and policy, imagination. Whether explored through the anti-pauperisation theories of scientific
philanthropy discussed at the great Australasian Charity Conferences of the 1890s, or framed by the social liberal principles of the responsibility of the ethical state to ensure citizen access to the positive liberty of means of effective opportunity, as embraced by such Australian politicians as Alfred Deakin and Andrew Fisher, the challenge involved in the stirrings of a nascent social policy was about deciding which citizens warranted assistance (Roe 1988: 1-2; Sawer 1993: 5-9; Sawer 2003: 9-49).

Help for the old and the sick, and for men unemployed through no fault of their own, were relatively easy decisions; but sole mothers were the ultimate, and a representationally revealing, conundrum (Roe 1988: 2-3; Dickey: 1980: 96-140, in particular 82-7, 127; O’Brien 1988: 102-19).

This dilemma is illustrated by the options available to a woman with children trying to escape from a violent partner. For desperate one-off assistance on the night of an assault, and while her assailant sobered up, a working class woman in Sydney might find shelter in George Ardill’s Night Refuge (O’Brien 1988: 203-4; Dickey 1980: 108-10; Allen 1990: 114). Any further help from philanthropy meant a grilling to establish her moral worthiness, and the danger of the loss of her children either to a large orphanage, like the Destitute Children’s Home run by the Benevolent Society, or, after 1881, by ‘boarding out’ (effectively fostering) with a respectable family, with support from public funds and under the supervision of the State Children’s Relief Board (Ramsland 1974; O’Brien 1979: 97-103; 1988: 32-50; Godden 1987; Dickey 1980: 59-64, 80-7).

The only other support available to the escaping mother was a policy consequence of the notorious colonial problem, in an economy dependent on itinerant labour, of the deserted wife. In 1840, during a colonial depression, the NSW Maintenance of Deserted Wives and Children Act enabled deserted wives to apply to a magistrate for maintenance from their husbands under compulsion. In 1858 an amendment to this measure provided that ‘a wife compelled to leave her husband’s residence under reasonable apprehension of danger to her person’ could be ‘deemed and taken to have been deserted without reasonable cause’; this circumstance was described as 'constructive desertion' (O’Brien 1979: 99; Golder 1985: 39). The be-laboured title speaks of the conceptual struggle involved in accepting that a woman might have unavoidable grounds for leaving her proper means of economic support. This measure
certainly implied recognition of domestic violence; but the remedy offered was limited. It took two magistrates to determine whether there was ‘reasonable’ cause for the woman’s ‘desertion’; in only a minority of cases were men actually ordered to pay pitiful amounts of maintenance; and it was all too easy for ex-husbands to slip across porous colonial borders (O’Brien 1979: 96-100; Allen 1986:123-4). The implication that the appropriate role of the state was to enforce support from the man on whom a woman was definitionally dependent, is clear.

In 1896, in response to another severe depression, the NSW government enacted an amendment to the Boarding Out legislation to permit payment of an allowance to a deserted or ‘constructively deserting’ woman and, as it were, to ‘board out’ children with their own mother. This policy took the hitherto unimaginable step of providing state support for an able bodied adult in recognition of her responsibilities of care. The enormity of the step was reflected in the supremely un-generous conditions involved. The single mother had to prove that she was ‘deserving’ and that her ‘desertion’ was either real or adequately ‘constructive’; from 1896 to 1916, between a quarter and a third of the single mothers applying were not judged to be worthy of assistance. If granted funding, the mother and her quality of care were stringently supervised by the State Children’s Board (O’Brien 1979, pp.103-4; 1988, p. 38; 104-11). These meagre provisions speak of a society in which a single mother faced not only profound practical difficulties, but also a cultural representation which barely tolerated a variation to female financial dependence on men.

For those women escaping violence who fell through the many cracks in these provisions, or who found them intolerable, Anne O’Brien, historian of poverty in colonial Sydney, found evidence that the most usual strategy for deserted wives (she identifies ‘women deserted by husbands or left in the sole care of an illegitimate child’ but not violence survivors) was seeking help from family members, friends and neighbours. But the stories she found in the records of the NSW Benevolent Asylum and the State Children’s Board suggest that there were often time limits on such support (O’Brien 1979, p. 102-4; 1988: 102-119).
The practical and representational implications of the policy resources open to women suffering partner violence provide the context in terms of which late nineteenth century feminism, including the response of feminists to domestic violence, were framed.

The violence suffered by many women at the hands of male partners was a clearly identified issue for late nineteenth century Australian feminists. Vivid demonstrations of this can be found in two political cartoons reflecting the women's suffrage campaign, the first of which, titled ‘Voters and Voteless’, appeared in *The Australian Woman’s Sphere* in October 1900, and the other, by B. E. Minns, in *Theobald's Women's Suffrage Journal* in December 1891 (*Australian Woman’s Sphere*, Oct. 1900, in Mackinolty and Radi 1979: ii; *Theobald's Women's Suffrage Journal*, 15 Dec. 1891, in Roberts 1993: 69). The *Women’s Sphere* cartoon presents a ‘voteless’ woman graduate surrounded by a selection of undesirable male voters, including ‘the Wife Kicker’. The Minns version shows a woman tethered by a chain labelled 'Woman's Sphere', as she strains towards a heavy club labelled 'The Ballot', in order to protect herself and her children from a pack of enormous snakes, while a group of men, one of whom represents 'Cruelty', stand by watching. Significantly, the violent man is not shown as a labouring class drunkard but as a well-groomed middle class man in a three piece suit (Roberts 1993: 69).

The message of the cartoons is that women needed the vote to defend themselves, and that they were helpless without it. But other feminist responses to partner violence at this time went well beyond the suffrage strategy. A forceful critique of marriage, including identification of the connections between the economic dependence of wives and the cruelty and brutality of some husbands, framed the analyses of many leading suffrage feminists. Working class feminist Louisa Lawson, who had separated from a feckless and probably drunken husband and built her autonomous household as a boarding house keeper and tailoress, made divorce law reform a theme of her newspaper, *The Dawn* (Roberts 1993: 51-2; Golder 1985: 229; *The Dawn* 5 March 1890, 1 September 1892). There was ‘nothing sacred in binding a good woman to a
sot, felon or brute’, she wrote (Allen 1994: 88). She wrote also about women laying ‘a white sheet of silence’ over their husband’s abuse: ‘If she is pinched or bruised or injured, if things are broken in a fit of temper, she will swear it was not he, it was the result of accident purely’ (Allen 1994: 89). Lawson added to this a cry for recognition of the labour of women as housekeepers and mothers, which she placed in a powerful editorial during the decade of shearsers’ and wharfies’ strikes that shaped the Australian labour movement: ‘10000 WIVES CALLED OUT!! Mass Meeting of the Amalgamated Wives’ Association!! … What would you say if you saw these headlines in your morning paper? …if you have ever seen a beaten woman, of you have seen a woman exhausted by housework, if you have seen one broken down by perpetual suppression …., you may understa nd in what manner the great Strike Question presents itself to a woman’ (The Dawn 5 November 1890: 1-2).

Maybanke Wolstenholme (later Anderson), like Lawson a foundation member of the NSW Womanhood Suffrage League (WSL) launched in 1891 and its President from 1893 to 1897, also experienced the failure of a disastrous marriage (Roberts 1993: 64-7; 39). She built an autonomous household for herself and her sons on the resources of her education and her home by opening first a boarding house and then a private school for girls (Roberts 1993: 39; 54-6). She, too, published a feminist newspaper, The Woman’s Voice, to spread her views on the urgent need for women’s suffrage and divorce reform, and against war, capital punishment and what she called ‘compulsory motherhood’ (Roberts 1993: 40, 72-8). In a statement made in her first feminist speech, in 1891, Wolstenholme/Anderson summed up her opinion of the implications for women of marriage and the double standard of morality:

A woman’s position is full of contradictions. She has power, yes, the power of a favourite and devoted slave… A woman needs only to be obliged to move a little way out of the narrow path that men have marked out for her to feel the weight of the fetters with which law and custom have encumbered her (Roberts 2002: 24).

Resonant as these themes are with late twentieth century feminism, there are significant differences in the strategic positioning the earlier feminists gave to domestic violence. Feminists at the end of both centuries identified economic dependence as the central problem for women in achieving self-determining
independence (for example, The Dawn 1 August 1892: 12). But while the late twentieth century analysis placed male violence as the ultimate demonstration of the consequences of that dependence, nineteenth century feminists gave the equivalent place to marital sexual compulsion. That stand, in effect for the right of a wife to say ‘No’ to sex, can be heard, for example, in Lawson’s references to the marital bedroom as 'a chamber of horrors', in the connections between the politics of sex and marriage which were a constant theme of Wolstenholme/Anderson’s newspaper, and in the analysis of marriage as ‘an iniquitous sexual contract’ which was a passionate concern in the private, if not public, writing of their unmarried activist colleague Rose Scott (Roberts 1993: 39, quoting The Dawn March 1890, 72-8; Allen 1994: 96, 270). This was a strongly contextually located analysis, given the absence of effective birth control and high levels of childbirth injury and mortality, the economic as well as social implications of the double standard of morality, and the very real danger that the concurrent prevalence of sexually transmitted diseases meant the risk of infection through the marriage bed to wives and to the children they might bear (Lake 1999: 19-20; Allen 1994: 91-4, 123, 270).

Similar emphasis on the sexual politics of their context can be found in the feminist campaigns known as ‘Social Purity’, which attacked prostitution by working to increase the female age of consent and by opposition to introduction in Australia of legislation modelled on the notorious British Contagious Diseases Acts. Feminists objected to such legislation for the double standard of morality implied by the harsh mistreatment of working class women in order to protect the clients of prostitution (Lake 1999: 57, Allen 1994: 115-7, 82, 188-9, Saunders 1995). The place of this emphasis in the politics of the widely appealing feminist temperance movement can be found in the words of a Woman’s Christian Temperance Union (WCTU) organiser quoted in the Women’s Voice: ‘[T]he common prostitute is far freer than the wife who nightly is the victim of the unholy passion of her master, who frequently further inflames his brain by imbibing stimulants’ (Roberts 1993: 74; for the equivalent analysis in the UK, as encapsulated in the militant suffragette slogan, 'Votes for Women and Chastity for Men', see Jeffreys 1985, quotation 47).

While the place of marital sexual compulsion, rather than violence per se, as the touchstone of the late nineteenth century feminist analysis of marriage and economic
dependence is one significant difference between feminist priorities at that time and those of later Australian feminists, the initiatives adopted in response to that analysis are another. The stern principles ruling philanthropy and the doubtful status of ‘constructive desertion’, together with the difficulties faced by women, and particularly mothers, in achieving an autonomous household, explain why strategies encouraging women to leave violent men were beyond the pragmatic feminist imagination. At the same time, the clumsy early steps towards welfare state provisions explain why their policy related activism was shaped by the expectation that the state made policy through legislation, rather than as a provider of services and support.

Rather than proposing women’s refuges as a first step in a new life, the members of the Womanhood Suffrage League worked to increase women’s access to economic independence through educational opportunities, to improve women’s work place conditions and to redress the injustices embedded in the laws of marriage and divorce (Allen 1994: 139-40, 144; Lake 1999: 20-3, 36-40). Their objectives, in addition to divorce reform, included the right of married women to own property, mothers’ access to custody of their children, and the right of widows and children to support from the husband’s estate, whatever the terms of his will (Lake 1999: 39, 84-6, 73; Atherton 1995). All of these campaigns were culturally difficult, resisted in terms of the established economics of marriage and socially risky for the women who pursued them. Mothers’ equality in child custody rights was not provided by Commonwealth law until 1934; the NSW Testator’s Family Maintenance Act of 1916 provided widows with the opportunity to apply for court determined assistance from the estate of a neglectful husband, but gave them no rights of redress (Lake 1999: 86; Atherton 1995: 181-5).

The one strategic location for response to violence within marriage which received broad social approval in this period was the feminist temperance movement. From its beginning as an organised movement in the USA in the early nineteenth century, temperance provided an important political location for women identifying the unreliability and violence of their husbands with cheap and easily available alcohol. In Australia, as in related countries, the alliance between temperance and feminism represented by the WCTU, lead by the iconoclastic Frances Willard, brought a massive body of support into the campaign for the women’s vote (Blocker 1985: 461-2; 474; Marilley 1993:135; Allen 1984: 76; Lake 1999:23-4; Pixley 1998: 501-3;
Hyslop 1976). Temperance provided culturally palatable activist opportunities for women on behalf of an analysis entirely consistent with the dominant contemporary social discourse. Its direction was for moral rather than social change, focussed on the liquor industry rather than the privileged institution of marriage. The success of these strategies is evident in both claims that it inspired 'the largest political mobilisation of women in Western history' (Allen 1994: 85; see also Blocker 1985: 460-1, Pleck 1987, 49-66), and in Linda Gordon’s observation, in the US context but equally valid in Australia, that 'in the work of the Women's Christian Temperance Union, drinking was a veritable code word for male violence' (Gordon 1989: 254).

The success of temperance as the one clear activist location for response to partner violence within late nineteenth century feminism raises the question of the relationship between that response and the rest of the contemporary feminist project. The connection between the popularity of temperance and increased impetus to the suffrage movement has been noted. The primary concern of those behind the attempts to increase sentences for assault and in the successful introduction of cruelty as a ground for divorce, also noted above, was the protection of women and children from men who were violent as a result of drunkenness (Golder 1985: 166, 222, 227-30; Allen 1986:123). But the positioning of some prominent feminists with regard to the temperance movement suggests other issues, which will be pursued here through the three feminists who have been mentioned in this chapter. Louisa Lawson, inspired possibly by the place of alcohol in the failure of her marriage and its notorious contribution to the problems of her son, was a committed temperance advocate. Nevertheless, she does not appear to have located herself within the WCTU, preferring to work through the Dawn Club she started as a political discussion group for working women, and her journal, The Dawn (Allen 1994: 76; Roberts 1993: 51-52; Oldfield 1992: 75-8). Wolstenholme/Anderson, despite the role of her husband’s drunkenness in the failure of her first marriage, also placed herself carefully with regard to the temperance movement. Her biographer records that Wolstenholme/Anderson ‘tried hard to work with the WCTU’, and that she met with the prominent US temperance speaker, Jessie Ackerman, during Ackerman’s visit to Sydney in 1892. Later Wolstenholme/Anderson recorded that her group, including Lawson and Scott, had considered joining the WCTU when they determined to work for women’s suffrage. But, significantly, they decided that a new and separate
organisation would have a better chance of reaching a broader base of support (Roberts 1993: pp 84, 190-2, quoting Sydney Morning Herald 13 May 1925). Rose Scott, as the Secretary and longest term officer bearer of the WSL, would seem to have been party to this decision (Allen 1994: 125, 130; Roberts 1993: 66). Leading members of the WCTU were invited to join the League at its foundation and to take executive office, but this did not eventuate.

These careful political decisions suggest the dilemma of temperance within broader suffrage feminism, and are resonant with the distinctions which Suzanne Marilley identifies in the North American movement. Making use of Judith Sklar’s proposal of a dualism within liberalism between a ‘liberalism of rights’ and a ‘liberalism of fear’, Marilley identifies temperance feminism as a ‘feminism of fear’, and, as such, distinct from the suffrage movement ‘feminism of rights’ (Marilley 1993: 125-6, referring to Sklar 1989 and Pateman 1988). She also argues that Frances Willard was responsible for the successful amalgamation of the temperance politics of protection and fear with much of the women's suffrage movement and its feminism of rights (Marilley 1993:126). The careful strategic choices made by the Australian suffrage feminists considered above suggest that the amalgamation was not complete, and that the significant distinction between a politics of rights, and possibly autonomy, and of fear, and possibly a primary emphasis on women as victims, persisted. It seems likely that the choices made by the women identified here indicate their recognition of the validity and the strategic appeal of the temperance movement and its discourse, but that they were also alert to the restrictions of that alliance. To the extent that their personal political positioning reflects an awareness of the ‘rights’/ ‘fear’ dichotomy, around which they were carefully and consciously pursuing a broader agenda, these late nineteenth century feminists were expressing a sensitively tuned activist balance which connects them explicitly with feminist consideration of male violence a century later.

The contextual location of the representational and policy strategies of late nineteenth century Australian feminism having been strongly indicated, the question remains of whether and to what extent the activism of the feminists of the late nineteenth century can be identified as a form of ‘policy activism’. It has been noted that such a conclusion might seem unlikely, in the case of women who could not vote or seek
either direct representation or employment in a policy context. This doubt appears to be supported by the observation of Hilary Golder, the primary historian of divorce law in NSW that feminists were not involved in the formal processes which achieved the significant NSW divorce reforms made in 1881 and 1892. Golder concluded that the campaigners for equal grounds for divorce in the 1870s appeared as interested in demonstrating the vibrancy of colonial radicalism as in improving the lot of either women or men, and that 'the small influential group of lawyers and doctors' responsible for the later amendments hoped to assist deserted wives by providing them with the means of remarrying promptly rather than becoming a burden on the public or charitable purse (Golder 1979: 43-4; 1985: 222-3, 225-6).

On the other hand, when it is recognised that the ‘small influential group’ Golder identifies was a community of serious political and intellectual friends which included a number of leading Sydney feminists, it seems likely that a different conclusion could be drawn. Key players in the public policy processes which achieved marriage and divorce reforms were William Windeyer, who was responsible as Attorney General for the Married Women's Property reform in 1879, and whose later experiences as a divorce judge prompted him to urge his friend, Chief Justice Alfred Stephen, to work for the 1881 and 1892 divorce law amendments (Roberts 1993: 37, 40-8). Rose Scott, Maybanke Wolstenholme/Anderson and Louisa Lawson were close friends of both men, and of Windeyer’s wife, Mary Windeyer, who was the first President of the WSL. Also included in their group were the wives of the editors of two Sydney newspapers, Matilda Curnow and Lucinda Gullett, and their husbands; Louisa MacDonald, the first Principal of the Women's College at Sydney University; and Professor Francis Anderson, eventually the second husband of Wolstenholme/Anderson (Roberts 1993: 42-52, 101, 106-8, 125). The women of the group were foundation members of a discussion club for women, the Women's Literary Society, instigated by the two editors' wives in 1889, which then became the context for initiation of the Womanhood Suffrage League in May 1891 (Roberts: 60-2). In a milieu like this it seems unlikely that the women of the circle would not have taken part in discussion on all the issues with which they were concerned, but particularly those which concerned them as closely as the implications of marriage and divorce law reform. This would seem to be borne out by their friend Maybanke Wolstenholme’s need for and prompt use of both the Married Women’s Property and
divorce reforms; she secured ownership of her home and divorce on terms of desertion almost immediately after passage of each relevant piece of legislation (Roberts 1993: 37).

At the same time, clear evidence exists that Rose Scott made strategic use of her friendship group in furthering her political and social concerns. In addition to the familiar lobbying tactics of letters, speeches, newspaper articles, committees, petitions and deputations, Scott turned her drawing room into an activist location by establishing a regular 'salon' in her home, to which she invited men with policy power. While campaigning for improvements in the working conditions of girls working as shop assistants, for example, she took the radical step of inviting some of the young women to socialise with her friends from parliament and the Cabinet, trusting the real life contact to do more than her words could effect to persuade them. It was claimed that the 1898 Early Closing Bill was drafted on her rosewood dining table (Allen, 1994: 76 - 80; 150).

Given the direct policy participation of the men in the group which has been described, and their location in a political context in which personal interests and contacts were as important as the emerging political party system, I believe it can be argued that the women of their circle engaged in a type of well-informed and strategically directed policy engagement through influence which can validly be placed on the continuum of policy activism.

**CONCLUSIONS**

Consideration of Australian feminism in the late nineteenth century makes it clear that feminists engaged in the campaign for women’s suffrage were well aware of, and abhorred, the violence suffered by substantial numbers of women within their homes and at the hands of their marriage partners. The positioning of this knowledge by suffrage feminists, and their activist proposals in response to it, were fundamentally shaped by both the practical realities and the representational framing of their social context. This framing included the nature and possibilities of public policy as they knew it, and as shaped by and expressing the same broader realities and representations. While offering a vivid illustration of the relevance of representational
contexts and constructions to the framing and practical outcomes of policy proposals, this investigation has also demonstrated the extent to which policy possibilities and directions are determined, not only by the way in which representational discourse shapes the choice and framing of social issues, but also by the related contextual understanding of the nature of policy itself, and so of what it can be believed, or imagined, that policy might do.

In a context in which it was extremely difficult for most women, especially those with children, to achieve tolerable economic survival apart from dependence on a male wage, and in which the means of restricting child bearing were only just becoming accessible, it is not surprising that feminists did not encourage women suffering violence to leave the violent men and to seek an independent and autonomous existence. With no social policy models before them apart from the demeaning temporary refuge offered by philanthropy and the first ambivalent measures to provide state support for women with children, it is also not surprising that they produced no equivalent of the late twentieth century women’s refuge, and did not conceptualise anything like a sole parent pension. Feminists must have known, too, about the failure of the justice system to provide an effective response to battered women, with its formal identification of wife assault as a crime and a state responsibility but implication in practice that it was a matter for the individual initiative of the victim. Australian feminists, unlike some of their contemporaries in the USA and England, who proposed measures varying from an assaulted wife’s right to sue the liquor vendor or to separate from violent husbands to the public flogging of offenders (Pleck 1983: 458-63; 1987:88-121; Dobash and Dobash 1980: 70-4; Allen 1994: 82), sought no innovations in this direction. All of these factors help to explain why late nineteenth century feminism neither made an analysis nor sought policy responses to domestic violence in the terms taken up by feminists a century later.

Instead, and in an accurate response to their circumstances, late nineteenth century feminists, in Australia as elsewhere, worked to improve the situation of women in relation to marriage. Their response to violence within marriage had to work in these terms, too. They worked to improve the dignity and autonomy of women, and to achieve protection from the life-threatening effects of excessive child bearing, by using the analogy of prostitution to expose the hypocritical insult of a double standard.
of morality coupled with a doctrine of uncontrollable male sexuality. They sought the right to economic autonomy through married women’s property rights, equal access to education and the professions, and improvements in the conditions of women’s work. They campaigned for respect, in fact as well as ideology, for the socially crucial contribution of mothering and to counter the unrecognised drudgery of housework. They worked, by the most effective means available to them, to open the freedom of divorce to women in intolerable marriages, for custody of their children and for support from a husband’s estate. Many of them opted for the temperance solution of identifying cheap and accessible alcohol as an explanation for male brutality, and worked for the apparent solutions of prohibition or early closing to control trade in alcohol. Others saw such a strategy, with its focus on fear, protection and moral improvement, as a constriction of their broader agenda of social and economic rights and reforms. All campaigned for the vote which symbolised equal status for women as citizens, and the potential of direct policy influence.

Late nineteenth century feminists shared with those a century later a sophisticated attention to contemporary policy processes, and to activism within them. Late nineteenth century feminists had as yet no formal relationship with public policy, having the right neither to vote, to sit in a parliament, or to employment in the realm of policy making. Nevertheless, women who exercised the right to participation and influence in the political-intellectual discussions of policy power brokers, together with those playing a role in the early union and labour movements, can validly be placed within the continuum and the broad flexibility of engagement encompassed by the concept of ‘policy activism’. For all the differences of context, analysis and strategy, the Australian feminist history of both representational and policy activist response to domestic violence validly begins here.