*Shurlee Swain**

THE STATE AND THE CHILD

A concern with child welfare came early to Australian colonial governments. However this initial concern constructed children more as threats to public order than as victims of cruelty or neglect. In the aftermath of the mass immigration of the gold rush era, a combination of economic and demographic factors served to make children increasingly visible, particular in the growing urban centres.[1] Here the presence of large numbers of children, apparently unsupervised in the dangerous liminal zone of the street, aroused fears amongst the more respectable classes who in turn used their influence to have governments take action to bring these children under control. Neglected children's legislation, modelled on the *Industrial Schools Act* 1857 (UK), was introduced in all the Australian colonies in the years 1864 to 1874, empowering the state to remove such children from negligent parents in order to transform them into "good and useful citizens".[2]

Such legislation, Jaggs has argued, placed child welfare firmly within a criminal justice framework, by applying to children the vagrancy provisions used to keep threatening adults in control. The *Neglected and Criminal Children's Act* 1864 (Vic) permitted, but did not require, police to intercept children found begging, wandering or sleeping out, residing

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1 These changes are discussed in detail in Van Krieken, *Children and the State: Social Control and the Formation of Australian Child Welfare* (Allen & Unwin, Sydney 1991) Ch4, and in Jaggs, *Neglected and Criminal: Foundations of Child Welfare Legislation in Victoria* (Phillip Institute of Technology, Melbourne 1986) Ch1. Canadian historian, Karen Swift, argues for a similar confluence of factors, two decades later, in bringing child welfare before Canadian legislatures: Swift, "An Outrage to Common Decency: Historical Perspectives on Child Neglect" (1995) 74 *Child Welfare* 72.

2 Van Krieken, *Children and the State* p6. Mellor, *Stepping Stones: The Development of Early Childhood Services in Australia* (Harcourt Brace Jovanovich, Sydney 1990) p18.

BRITAIN	AUSTRALIA
Industrial Schools Act 1857 (UK)	*Industrial and Reformatory Schools Act and the Training Schools Act* 1864 (Qld)
	Neglected and Criminal Children's Act 1864 (Vic)
	Industrial Schools Act 1864 (WA)
	Destitute Persons Relief Act 1866 (SA)
	Better Care of Destitute Children Act 1866 (NSW)
	Public Charities Act 1873 (Tas)

Table 1: Early colonial child welfare legislation

with known or reputed thieves, prostitutes, drunkards or vagrants, as well as juvenile offenders and children labelled as uncontrollable by their parents or guardians. Such children were to be taken before the court and committed to the Department of Industrial and Reformatory Schools for periods of up to seven years, with their parents liable to contribute to their support. The new Department was empowered to establish a series of institutions which would train such children in habits of industry so that they would no longer pose a threat to society on their release.[3]

This paper is concerned not with this first round of legislation but with a second, which occurred in the Australian colonies around the turn of the century. This legislation constituted children not as potential threats but as future citizens entitled to protection from those who would do them harm; protection which extended beyond the public streets and into the private

3 Jaggs, *Neglected and Criminal* pp25-27. The New South Wales and Queensland legislation contained almost identical provisions: Ramsland, *Children of the Backlanes: Destitute and Neglected Children in Colonial New South Wales* (University of New South Wales Press, Sydney 1986) pp114-115; Finch, *The Classing Gaze: Sexuality, Class and Surveillance* (Allen & Unwin, Sydney 1993) p74.

home. It will focus particularly on the role of philanthropic organisations in framing and implementing this legislation but will argue that the strength of pre-existing statutory children's departments blunted their impact and limited the effectiveness of the legislation in protecting children at risk; largely because instances of physical and sexual abuse were buried under a mountain of far more visible poverty-induced neglect cases.

Deploying the concept of the disciplinary mechanisms first analysed by Michel Foucault,[4] Jacques Donzelot, Nikolas Rose and Harry Hendricks have argued for this shift of focus as central to the process by which the family, and ultimately the individual, came to police the self. The working-class family, according to Donzelot,

> was forged on the basis of a *turning back* of each of its members onto the others in a circular relation of vigilance against the temptations from outside ... it was dispossessed of everything that situated it in a field of exterior forces. Being isolated, it was now exposed to the surveillance of its deviations from the norm. ... The problem in regard to the working-class child was ... excessive freedom - being left to the street - and the techniques employed consisted in limiting this freedom, in shepherding the child back to spaces where he could be closely watched.[5]

Voluntary child rescue organisations functioned as philanthropic "shepherds"; "agents for conveying the norms of the state into the private sphere".[6] To Rose, such "shepherds" were simply "moral entrepreneurs", appropriating existing "social anxieties ... in order to establish and increase their empires".[7] Establishing community norms on the basis of their claim to expertise, they brought about change in working-class families, "not through the threat of violence or constraint, but by way of the persuasion inherent in its truths, the anxieties stimulated by its norms, and the attraction exercised by the images of life and self it offers."[8]

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4 The concept of disciplinary mechanisms was first outlined in Foucault, *Discipline and Punish: The Birth of the Prison* (Allen Lane, London 1977).

5 Donzelot, *The Policing of Families* (Pantheon, New York 1979) pp45, 47.

6 At p58.

7 Rose, *Governing the Soul: The Shaping of the Private Self* (Routledge, London 1989) p123.

8 At p10.

BRITAIN	AUSTRALIA
Prevention of Cruelty to, and Protection of, Children Act 1889 (The Children's Charter)	*Infant Life Protection Act* 1890 (Vic)
	Children's Protection Act 1892 (NSW)
	Children's Protection Act 1896 (Qld)
	Children's Protection Act 1899 (SA)
	State Children Act 1907 (WA)
	Infants Act 1908 (New Zealand)
	Children of the State Act 1918 (Tas) (The Children's Charter)

Table 2: Child Protection Legislation

Such an analysis positions working-class families as passive victims of philanthropic intervention. However, as Boyer has argued, effective social change builds upon "a nexus of shared social assumptions and aspirations linking the 'controllers' and the 'controlled'".[9] To the degree that these reforming organisations, both voluntary and statutory, brought about change, they did so because working-class families shared the organisations' notions of what childhood should be about, not as a result of an alien subjectivity, internalised in response to an undermining of class-

9 Boyer, *Urban Masses and Moral Order in America, 1820-1920* (Harvard University Press, Cambridge, Mass 1978) p59.

specific norms. Such families were active agents in the remaking of working-class childhood, adopting interventions which they saw as advancing their hopes for their children, and rejecting those which they saw as unreasonable and unwarranted.

As Hendrick has demonstrated, the division between the child as a threat and the child as a victim is an artificial one.[10] The new protective legislation which constituted children as victims also contained punitive elements which served to control children as threats, just as the earlier legislation designed to target children as threats had been accessed by children and their parents anxious to obtain help in situations where they were more accurately constituted as victims. Although a child had to be neglected in order to come within the scope of these Acts, the category "neglect" proved to be very flexible indeed. The statutory children's departments established to deal with the threat of juvenile crime, actual or potential, increasingly functioned as a juvenile Poor Law, providing accommodation for those children whose parents were unable or unwilling to care for them.[11]

This similarity to the English Poor Law was not lost on Australia's first generation of child rescuers. Fervent Evangelical Christians, they recognised in the local Neglected Children's Departments the same deficiencies that Dr Barnardo had identified in the Poor Law provision for children: the failure to seek out children at risk, the emphasis on deterrence and a low standard of care.[12] Although almost all of the colonial governments had, during the 1870s, abandoned institutional care in favour of boarding-out, they still tended to deal in bulk with children committed to their care, forbidding them from contact with parents who nevertheless were rigorously pursued for maintenance payments. The departments, child rescuers believed, acted as the last resort of the poor and the desperate rather than as a haven for the children of the "dissolute and degenerate" who stood in greatest need of rescue.

Hugh Cunningham has argued that the anxieties of child rescuers need to be read in relation to the constructions of childhood current at the time. Central to his understanding is the notion of competing discourses with different images of childhood produced for different purposes. While not denying that childhood has a biological basis, he argues that the relationship between the biological, the social and the psychological is a

10 Hendrick, *Child Welfare: England 1872-1989* (Routledge, London 1994) pp7-8.
11 Jaggs, *Neglected and Criminal* p40.
12 Hendrick, *Child Welfare* p79.

complex one which cannot be understood independently of the society of which the child is a part.[13] Child rescuers constituted themselves within a romantic story which was itself a product of the industrial age:[14]

> The more adults and adult society seemed bleak, urbanised and alienated, the more childhood came to be seen as properly a garden, enclosing within the safety of its walls a way of life which was in touch with nature and which preserved the rude virtues of earlier periods of the history of [hu]mankind ... the child was "the other" for which one yearned.[15]

The Societies for the Prevention of Cruelty to Children, which typically represent a second generation of child savers, sought to establish a different position from both the statutory departments and the voluntary child rescue societies; they argued for a definition of child cruelty which was independent of poverty-induced neglect. In an era when changing upper-class sensibilities had succeeded in criminalising cruelty towards animals, they sought to use the same legislation to highlight the plight of children subjected to ill-treatment.[16] As Henry Bergh, founder of the American Society for the Prevention of Cruelty to Animals, argued, "[t]he child is an animal. If there is no justice for it as a human being it shall at least have the rights of a stray cur in the street. It shall not be abused."[17] In 1875, the Society's young lawyer, Eldridge T Gerry, used animal cruelty laws to intervene on behalf of Mary Ellen Wilson, and on the basis of his success went on to found the New York Society for the Prevention of Cruelty to Children (SPCC), the first such society in the world.

Expanding beyond its American origins, the SPCC reached its peak in Britain where it was to become a national organisation unchallenged in its leadership of the child protection movement. On the initiative of a local merchant a branch of the SPCC was founded in Liverpool in April 1883, a

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13 Cunningham, *Children and Childhood in Western Society Since 1500* (Longman, London 1995) Ch1. See also Hendrick, "Constructions and Reconstructions of British Childhood" in James & Prout (eds), *Constructing and Recontructing Childhood: Contemporary Issues in the Sociological Study of Childhood* (Falmer Press, London 1990) p36.

14 Cunningham, *The Children of the Poor* p9.

15 At p2.

16 Gordon, *Heroes of Their Own Lives* (Virago, London 1989) p34.

17 Quoted in Clement, "The City and the Child, 1860-1885" in Hawes & Hiner (eds), *American Childhood: A Research Guide and Historical Handbook* (Greenwood Press, Westport, Connecticut 1985) p262.

move which was replicated in London in the following year.[18] The London SPCC was quick to seize control of the movement, persuading committees in thirty-one other centres to come under its umbrella in 1889.[19] It assumed the status of a National Society (NSPCC) with Queen Victoria as its figurehead, and embarked on a campaign marked by "legislative action, wrenching propaganda and organisational growth".[20]

Capitalising on the "re-discovery" of poverty epitomised in the work of such social researchers as Charles Booth,[21] the Society enjoyed early success. It claimed as its own the *Prevention of Cruelty to, and Protection of, Children Act* 1889 (UK), which instituted penalties for anyone who wilfully ill-treated, neglected, abandoned or exposed, a boy under 14, or a girl under 16, in their custody, in a way likely to cause unnecessary suffering or injury to health. It also outlawed begging, performing or peddling in public houses and on the streets, removed the necessity for child victims to give evidence under oath and instituted changes which allowed wives to testify against their husbands. Hailed by the NSPCC as "the Children's Charter", the Act defined the limits of parental power and licensed the Society's inspectors to investigate cases of abuse, remove children to places of safety and, after the conviction of the parents, to arrange an alternative placement.[22] The Children's Charter established that the children of England had a right to protection from mistreatment, whether in their homes or in the wider community.[23]

While the SPCC shared with other child-savers a common notion of an ideal childhood, the means by which it thought this could be achieved were radically different. Rather than advocating punitive state intervention it argued for a program of "moral suasion" with inspectors, empowered under the law, working with the offending parents to change their ways; prosecution and removal of the child was used only as a last resort. This tactic, Hendrick has argued, was more than a device to minimise the opposition which earlier child-savers had attracted. It positioned the child as the saviour of its parents, the means by which the disorganised households of the overcrowded inner cities could be

18 Behlmer, *Child Abuse and Moral Reform in England, 1870-1908* (Stanford University Press, Stanford 1982) pp53ff.

19 But significantly not Liverpool which remained independent until 1953.

20 Behlmer, *Child Abuse and Moral Reform* p78.

21 The first volume of Booth's *London Life and Labour* (Penguin, London 1971) was published in 1889, the year of the foundation of the NSPCC.

22 Rose, *The Erosion of Childhood: Child Oppression in Britain 1860-1918* (Routledge, London 1991) p238.

23 Cunningham, *The Children of the Poor* p208.

transformed into families, thus minimising the threat to the nation as a whole.[24]

The first task of the new Society was to identify those behaviours towards children which could be classified as cruel. To the NSPCC, child cruelty was a phenomenon encompassing:

1 All treatment or conduct by which physical pain is wrongfully, needlessly, or excessively inflicted, or

2 By which life or limb or health is wrongfully endangered or sacrificed, or

3 By which morals are imperilled or depraved;

4 All neglect to provide such reasonable food, clothing, shelter, protection, and care, as the life and well-being of a child require;

5 The exposure of children during unreasonable hours or inclement weather, as pedlars or hawkers, or otherwise;

6 Their employment in unwholesome, degrading, unlawful, or immoral callings;

7 Or any employment by which the powers of children are overtaxed, or the hours of labour unreasonably prolonged; and

8 The employment of children as mendicants, or the failure to restrain them from vagrancy or begging.[25]

However, neglect and cruelty do not exist as absolute concepts, rather they gain their meaning from their imagined opposites. The NSPCC's definition was clearly a product of the emerging middle-class construction of childhood as a time of innocence and freedom from want, a notion which bore little relationship to the realities of working class life. While the SPCC claimed to be uniquely able to hear "the cry of the children" the child in this discourse is essentially silent. Where the older child rescue

24 Hendrick, *Child Welfare* p49.
25 Behlmer, *Child Abuse and Moral Reform* p55.

organisations often invoked stories of children approaching street missionaries in search of help,[26] the focus of NSPCC propaganda was the hidden victim, the child deprived of childhood whose fate only became known through the investigations of the inspector.[27] The NSPCC was thus complicit in "creating/constructing" the problem to which it claimed to have the exclusive remedy. Through the writings of NSPCC Director, Rev Benjamin Waugh, and the advocacy of local followers, it was to perform a similar role in colonial jurisdictions as well.

Waugh's article on babyfarming, published in the *Contemporary Review* in May 1890, was particularly enthusiastically received. In Victoria, where the Government had already signalled its intention to introduce an Infant Life Protection Bill, the article set the tone for debate. Despite the influence of the local child rescuers on 1887 amendments to the *Neglected and Criminal Children's Act* 1864 (Vic), debate in the Victorian Parliament showed little awareness of the NSPCC's campaign to invest children with fundamental rights. Rather the members continued to be concerned with regulating children they believed to be out of control and punishing the parents who allowed them to be so.

Speaking at the second reading of the Neglected Children's Law Amendment Bill, Mr McColl urged his fellow members to

> take a walk down Bourke-street any night, and ... see scores of such children ... running about hatless, shoeless, and, in some cases, shirtless, trying to sell newspapers, matches, flowers, or some other articles. ... Every child who is suffered to grow up under these conditions becomes a centre of contamination. ... We cannot expect anything but evil from these children, if they are allowed to grow up uncared for. ... We must adopt some means to get at the parents. Parents who neglect their offspring must be made responsible for their neglect, and very sharply so. ... The police have about 200 Acts of Parliament to enforce ... the care and training of children is of sufficient importance to

26 For examples of such founding stories see the special feature on Melbourne child rescue agencies in the *Spectator*, 23 June 1899.

27 Ferguson, "Cleveland in History: The Abused Child and Child Protection, 1880-1914" in Cooter (ed), *In The Name of the Child: Health and Welfare, 1880-1940* (Routledge, London 1992) p152.

> have a special staff of officers to see that the law relating to it is carried out.[28]

However other members questioned his assumption that street trading could be equated with neglect. Many such children, Mr Carter argued, were "earning an honest livelihood in a most reputable way".[29] While Alfred Deakin, supporting the child savers' view, warned members about the dangers and temptations of the streets, his opponents constructed such children as the sole supporters of "respectable poor families".[30] It may be, Mr McLellan argued, that in Scotland such practices were dangerous:

> but Scotland ... was a cold and miserable country, and perhaps it was well to prevent children of tender years from running about the highways and byways there late at night in bitter weather. In the Victorian climate, however, it might be well to let them skip about the streets in the evenings selling matches, and so on, if only for the sake of the exercise.[31]

The consequent Act reflected many of the child-savers' arguments and gave them powers of intervention which paralleled those of the police. However, by failing to compel intervention, it preserved the view of the role of the state as an agency of last resort, obliged to provide care for those children who were brought under its care but certainly not to actively engage in rescue or reform. Its notion of punishing neglectful parents was to tighten provisions which compelled them to contribute towards the maintenance of children removed from their care. There was no sense, in this debate, of colonial legislators being aware of NSPCC arguments that children had a right to a childhood and that their parents should be both encouraged and compelled to meet this ideal. They were yet to be convinced of the value of seeking to legislate to control family life.

The debate over the Infant Life Protection Bill in Victorian Parliament three years later took a very different turn. Although the Bill was introduced in response to local concerns, the publication of Waugh's

28 Vic, Parl, *Debates* (1887) Vol 54 at 446-448.

29 At p449.

30 At p504.

31 At 505. South Australian child rescuers faced similar opposition when Parliament debated the street trading clauses of the State Children's Bill in 1895. See Dickey, *Rations, Residences, Resources: A History of Social Welfare in South Australia Since 1836* (Wakefield Press, Adelaide 1986) p156.

article gave members on both sides of the House a new vocabulary.[32] For the first time the "powerful propaganda" of the NSPCC was given full flight in the Victorian Parliament. Indeed, the NSPCC-inspired English legislation was regularly evoked as a model. The language of the debate was highly emotive with "innocent and helpless infants" posited as victims of the "vilest of criminals", dying in "miserable hovels ... dirty, ill-fed, with thin gaunt faces and distended eyes, and bodies often covered with sores".[33] Several members drew comparisons between the plight of such children in Victoria and "the children of the heathen Hindoos ... cast in the Ganges" or "the offspring of the aborigines of Australia ... buried alive".[34] "The cry of the children had not reached the House too soon," the Hon JM Pratt declared. "Parliament should do all that it could to protect children who were left to the tender mercies of baby farmers."[35]

However the provisions of the proposed legislation went well beyond the protection of infants and the prosecution of baby farmers. Drawing on the legal, rather than the popular, definition of infancy, reformers within the government took this opportunity to include other aspects of the NSPCC charter. They added a clause further regulating child performers and making it an offence to "wilfully neglect to provide adequate food, clothing, medical aid, or lodging ... or wilfully ill-treat or expose" boys up to the age of fourteen and girls to sixteen. This clause too was justified by reference to English precedent; its advocates appropriating selected sections of the Children's Charter which, because it had consolidated existing English child welfare legislation, had incorporated infant life protection as one of its range of concerns. In Victoria these priorities were therefore reversed with child protection clauses appended to a Bill which had infant life protection as its primary goal.

These aspects of the Bill were not uncontested. The Hon CJ Ham, speaking in favour of the Bill, argued that the attempt to extend protection to older children was misguided:

> Boys and girls of those ages should be able to look after themselves, and to do some work. To ill-treat boys and

32 The arrival of copies of William Stead's *Maiden Tribute of Modern Babylon* in the colonies in July 1885 had a similar impact on parliamentary debates on age of consent issues. See Finch, *The Classing Gaze* pp77-78.

33 Vic, Parl, *Debates* (1890) Vol 63 at 697.

34 At 697. The Hon CJ Ham added, at 701, that even the Chinese were superior to the Anglo-Saxons in this regard.

35 At 699.

> girls and to ill-treat infants were two different crimes, and should be punished in a different manner.[36]

Several other members supported his view that the business before the House, on this occasion, was the protection of infant life and that the attempt to deal with child neglect was an unnecessary diversion.[37] The debate became even more lively when members realised that the clause applied not only to people who took in children to nurse, but to natural parents as well. "Many unfortunate men and women might be made criminals by it," the Hon JS Butters objected: "A child might be badly fed for two or three days in a week from unavoidable circumstances, and who was to be the judge of what bodily suffering was, especially when caused in such a way."[38] The Hon JH Abbott concluded:

> The real object of the clause appeared to be the abolition of poverty among children, and if the Government achieved that object they would succeed in doing more than any other Government had been able to do in this or any other part of the world. In all communities where the people were progressing from poverty to a better state of things there was always a class who found it necessary, not perhaps to pinch their children, but to make shift a good deal, and magistrates who had no experience of that sort of life might be inclined to say that in such cases the children did not get adequate food and clothing.[39]

Only in the closing stages of the debate was the issue of cruelty separated from that of neglect. Invoking the standard NSPCC argument comparing the plight of children with that of the "dumb animal" which was better protected under existing law, Mr Baker spoke of "dreadful acts of cruelty ... perpetrated against innocent children" and called for offenders to be sentenced to "fourteen years on the roads", noting that the legislation did not follow the English precedent in this regard.[40] His intervention, however, brought no alteration to the Bill. Following the lowering of the age of protection to twelve for boys and fourteen for girls, the *Infant Life Protection Act* 1890 (Vic) passed through both Houses, providing Victoria with the means by which "neglectful" parents could be brought before the

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36 At 701.
37 Hon JH Abbott at 702; Hon JM Davies at 702.
38 At 791.
39 At 872.
40 Vic, Parl, *Debates* (1890) Vol 65 at 2716.

court. However, prior to the *Infant Life Protection Act* 1907 (Vic), a conviction on a charge of assault did not provide sufficient grounds to proceed with a protection action on behalf of the child victim, where parents were able to provide for them.

Legislation passed in the other colonies in the following years suggests that it was not only in Victoria that the NSPCC gospel was being heard. However only in South Australia was the enthusiasm of the child savers totally contained within statutory bodies. There the State Children's Council, an honorary board created by the *State Children Act* 1895 (SA) and incorporating representatives of the major religious denominations in the colony and the members of the former Boarding-Out Society, performed the dual role of administering child welfare in the colony and agitating for legislative change. The incorporation of philanthropic women into this statutory structure at the same time as the state, through its administration of relief to the sick and the poor, was intruding into the domestic sphere, allowed for an easier transition from voluntary to salaried employment for women wanting to embrace the expanded opportunities opening up as the century came to its end.[41] Positioned at the centre of policy making, women who sought to build a career in child-saving saw no need for non-statutory bodies in the child protection field. They were confident that they had already achieved the changes for which the NSPCC was to fight in the years to come. Debate surrounding the passage of the *Children's Protection Act* 1899 (SA) gives clear evidence of their influence. Defending the Bill against accusations that it was "altogether too grand-motherly", the Chief Secretary replied: "The Bill was not a Government fad; it had been forced upon the Government from all quarters by those best able to judge."[42]

In New South Wales a Society for the Prevention of Cruelty to Children (NSWPCC) was founded in 1890, one of a range of charities functioning under the umbrella of the Sydney Rescue Work Society controlled by the leading evangelical George Ardill. The NSWSPCC conducted campaigns around child and female rescue causes, often in conjunction with other organisations with which Ardill was associated.[43] It was at its most

41 Magarey, *Unbridling the Tongues of Women: A Biography of Catherine Helen Spence* (Hale & Iremonger, Sydney 1985) pp172-173.

42 Davey, *Children and their Lawmakers: A Social-Historical Survey of the Growth and Development from 1836 to 1950 of South Australian Laws Relating to Children* (Griffin Press, Adelaide 1956) pp17, 22. See also: Dickey, *Rations, Residence, Resources* p150.

43 Radi, "Ardill, George Edward (1857-1945)" in Nairn & Serle (eds), *Australian Dictionary of Biography* (Melbourne University Press, Melbourne 1979) Vol 7

influential in debate surrounding the Children's Protection Bill 1892 (NSW).[44] At the Select Committee hearings which preceded the passage of the Bill, Ardill gave lengthy testimony, drawing on case examples from the Society's vigilance officer's work.[45] Witnesses from the statutory child welfare sector who were also supportive of NSPCC ideas demonstrated how the vagrancy model of the existing legislation prevented them from intervening in cases where children were "grossly neglected, physically and morally" by their parents or guardians.[46] Stricter legislation was needed, Frederick Neitenstein, Commander and Superintendent of the training ship *Vernon*, argued,

> [because] it will induce parents to better consider their parental responsibility. If they find that some punishment is attached to their neglect their dormant affections for their children may be aroused, and they may keep them off the streets.[47]

However, while there was general agreement as to the need for someone other than a uniformed police officer to have power to investigate reports of abuse, the State Children's Relief Board (SCRB) officials did not support Ardill's call for the licensing of agents from the voluntary sector,[48] arguing that the existing SCRB inspectors had the tact and skilfulness which such intervention required.[49] It was the latter view which was reflected in the subsequent legislation, limiting the scope for the NSWSPCC to follow the model of its parent society.[50]

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p150; Dickey, "The Evolution of Care for Destitute Children in New South Wales, 1875-1901" (1979) 4 *Journal of Australian Studies* 38 at 48-49. Dickey's suggestion that by 1898 the NSWSPCC had become the Society for Providing Homes for Neglected Children is clearly incorrect as both organisations were in existence contemporaneously. Given their common founder however it may be that boundaries between the various organisations were often indistinct.

44 Mellor, *Stepping Stones* p88.

45 According to Ardill's evidence, the NSWSPCC at this stage had one "vigilance officer" in its employ and had investigated over three hundred cases in the preceding year: NSW, Parl, Legislative Council Select Committee on the Children's Protection Bill and the Infants' Protection Bill, *Report* (Vol 49, Part 1 1891-1982) p1090.

46 At p1109.

47 At p1087.

48 At p1091.

49 At pp1086, 1111.

50 The subsequent fate of the NSWSPCC is obscure. In 1898 the other charities controlled by Ardill were condemned before the Royal Commission on Public Charities which recommended that they be given no further government

The Queensland Society for the Prevention of Cruelty (QSPC), which was founded in 1883, with a focus on the protection of animals, decided in 1889 to investigate the advisability of also taking responsibility for children.[51] Twelve months later, with only one case of child cruelty reported,[52] the committee seemed ready to abandon the idea, until a number of women agreed to become members[53] in order to

> initiate and carry on work as far as possible for the prevention of cruelty to children, and to supervise the introduction of a bill before Parliament based on the [English] Act for the prevention of cruelty to and better protection of children.[54]

Adopting the NSPCC motto "prevention is better than cure" the QSPC used its existing inspectors, licensed under the *Animals Protection Act* 1925 (Qld) to extend the work, with a specially established sub-committee agitating for legislative change.[55] A deputation to the government in the following January was successful in having the Society's grant increased in order to take account of its new responsibilities[56] but it was 1895 before it was successful in having a private bill to stop babyfarming introduced into Parliament. In a debate not dissimilar to that which had taken place in

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assistance. The NSWSPCC was not mentioned in the report, nor did Ardill refer to it in his testimony, but a passing mention by WE Wilson, a committee member of both the Sydney Rescue Work Society and the Society for Providing Homes for Children, suggests that the Society was still in existence: NSW, Royal Commission on Public Charities, *Third Report* Second Session (1899) pviii.

51 *Brisbane Courier*, 6 October 1890.

52 *Brisbane Courier*, 13 August 1890. Interestingly, the inspector did not investigate this case, claiming that it was "outside the functions of the society", but it is his report to the subsequent committee meeting which appears to revive interest in the issue.

53 *Brisbane Courier*, 10 September 1890. The committee passed a motion "that any ladies willing to act on the committee be invited to do so". In the years that followed the enthusiasm of the ladies needed to be contained. A copy of the constitution from 1907 specifies that no more than six of the eighteen council members could be female: QSPC, "Annual Report 1906-7", *Correspondence Reports and Clippings of Queensland Society for the Prevention of Cruelty, 1899-1928* (Colonial Office Papers, Col/427 Queensland State Archives).

54 *Brisbane Courier*, 12 November 1890.

55 Thearle & Gregory, "Child Abuse in Nineteenth Century Queensland" in (1988) 12(1) *Child Abuse and Neglect* 91 at 97.

56 *Brisbane Courier*, 14 January 1891. It would seem from this report that there was a suggestion that a separate agency would be more effective, but this the committee decisively rejected.

Victoria five years earlier, the Bill was criticised for infringing the rights of parents and rejected. A weaker version, focussed more directly on child cruelty, became the *Children's Protection Act* 1896 (Qld). For the first time it allowed for parents to be charged with wilful ill-treatment, neglect, abandonment or exposure.[57] Initially the right to intervene was restricted to police officers but the *State Children's Act* 1911 (Qld), following the example set by NSW, extended this power to authorised officers of the State Children's Department.[58] No provision was made to legitimise the role of QSPC inspectors already in the field.

It was in Victoria, where this provision already existed, that the SPCC model was to have its greatest success, producing the country's only dual-track child protection system. The VSPCC was founded in 1896 on the initiative of the incoming Governor's wife, Lady Sybil de Vere Brassey. Reminding Victorians of the success of the British society, Justice Hodges argued against critics who disputed the need for a local branch.

> The idea had got into some people's minds that the society's objects were intended to interfere with parental control and make charitable institutions do that which ought to be done by parents. The society had no such purpose. Its first object would be to the best of its ability to compel parents to discharge their duties, and if it could not do that by persuasion, then to put the law into force.[59]

The key supporters of the new Society seized every opportunity to spread the SPCC gospel through public debate. Effectively they were arguing, using the organising secretary, WR Church, as their mouthpiece, for the right to define those behaviours towards children which should be considered cruel.

In Western Australia, the Children's Protection Society, founded in response to a major baby farming scandal in 1906, drew on Australian rather than NSPCC precedents. Removed in both time and distance from the urgency of the debate in the eastern states, in Western Australia the key issue was not the need for a child protection structure but the form which such a structure should take. Although the first notice of meeting used the SPCC title,[60] the women who took control of the new

57 Mellor, *Stepping Stones* p88.
58 *State Children Act* 1911 (Qld) s20.
59 *The Age*, 14 May 1896.
60 *West Australian*, 10 July 1906.

organisation, many of whom were feminists active in the successful suffrage campaign of the previous decade, took as their model the South Australian State Children's Council. In so doing they attracted the opposition of existing service providers in both the voluntary and the statutory sector and found themselves effectively shut out of the structures established by the *State Children Act* 1907 (WA) for which they had been the principal agitators.[61] Having observed the varying mix between statutory and voluntary effort in the other states, the legislature settled firmly for the statutory model:

> No matter how laudable may be the intentions of some, there are evils which are likely to crop up through the private control of neglected and destitute children for which they will not be so amenable to criticism or correction as is a department of the State ... [I]t is essentially the duty of the State, not only to look after those children so far as their material wants are concerned, but to step in and give them as far as possible equal opportunities with the children of the more favoured citizens; because [they] will later on constitute the people of Western Australia, those upon whom the future of the State will be dependent.[62]

The model which the Western Australian legislators claimed to be following was the Victorian one in which all state children were boarded out under the supervision of voluntary ladies' committees and an equal number were cared for at no expense to the state by a series of private organisations licensed under the *Neglected and Criminal Children's Act* 1864 (Vic). However they did not reproduce the section in that Act which licensed private individuals to "rescue" children perceived to be at risk, a section which, by this time was used almost exclusively by the VSPCC. In developing policies for intervention, Western Australia followed New South Wales and Queensland, where this right was exercised by officers of the State Children's Department with no margin for voluntary organisations.

The reification of the problem of child cruelty, and the introduction of a bureaucratic mechanism for dealing with it, left all but the VSPCC without a distinctive role. By 1915, van Krieken argues, the focus for the moral

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61 This struggle is best seen in the Select Committee hearings in relation to the Bill: WA, Parl, Legislative Council Select Committee on the State Children's Bill, *Report* (No A1 Vol 2 1907) pp943ff.

62 WA, Parl, *Debates* (1907) Vol 32 at 1177.

indignation of the child-savers had dissipated. The respectable working class had largely accepted bourgeois child-rearing standards, leaving only a small number of families who, in their own or their neighbours' estimation, fell short of the standard and were the focus of state intervention.[63] There is a counter argument, however, that this may always have been the case. What was missing by 1915 was the platform from which child-savers could speak. Their propaganda war having been won, the cases on which they had previously taken a stand were dealt with before a closed court and absorbed within a state bureaucracy with little incentive to draw attention to the nature of its task.

As Kerreen Reiger has shown in her 1985 study, *The Disenchantment of the Home,* by the end of the century many bourgeois women were following the lead set by the women of South Australia and moving beyond charitable relief to campaign for social reform.[64] Some, including many of the leading suffragists, were clearly invoking a maternalist discourse to argue for their right as mothers, or potential mothers, to speak on behalf of women and children. More commonly, however, these women were drawn together on the basis of class, joining with men employed within the sector to persuade, or compel, working-class parents to adopt middle-class models of child-rearing. Rather than the gender-based movement which Reiger suggests, activists in the child welfare cause were a broader, progressivist alliance constructed around the notion of the child as the future of the nation, a notion which in the wake of the losses of the First World War became increasingly allied with conservative causes.

The shift of child welfare focus from abuse to neglect, has been conceptualised as a move from concern about the damage done to individual children by their parents or guardians, to the damage that such a child, left undetected, might do to the community.[65] In Australia this shift meant that child saving was collapsed into the much larger citizenship or nation-building project, with parenting conceived of as a national as well as a personal or familial duty. The introduction of infant welfare centres, kindergartens and regular medical inspections in state schools brought a new level of both assistance and surveillance to working-class child

63 Van Krieken, *Children and the State* pp97, 105.
64 Reiger, *The Disenchantment of the Home: Modernising the Australian Family 1880-1940* (Oxford University Press, Melbourne 1985).
65 Hendrick, *Child Welfare* p181; Gordon, *Heroes of Their Own Lives* p21.

rearing, imposing what Hendrick has described as "class dominated and 'expert' formulated concepts of childhood on the general population".[66]

The central concern of this new child welfare movement was the ordering of child life, interpreted in its widest possible sense. Its members advocated infant welfare centres, playgrounds and kindergartens, not only in working class areas but for their own children as well. They were firm supporters of the children's court and the probation service, with their avowed emphasis on dealing with the child rather than the crime, and they shared a belief in the link between truancy and delinquency, degeneracy and crime. Although they increasingly invoked a discourse of scientific rationality in place of one of moralism, van Krieken is right to suggest that the impact on practice remained substantially unchanged.[67] Believing that learned parenting, grounded in a very rudimentary understanding of child psychology, produced a well-adjusted, and therefore non-threatening child, the new experts were eager to share their insight with parents and children they constituted as less-privileged. Most, they believed, would readily accept this new knowledge if it were made accessible through community centres which could simultaneously be used to monitor progress. For those who faltered along the way, child guidance clinics and children's courts would intervene, locating the problem in children and their families rather than the environment which produced social inequalities.

The State Children's Council in South Australia and State Children's Relief Board in New South Wales preserved a space for voluntary input to child welfare but, as the balance of expertise moved from volunteers to statutory officials, their voices were less often heard. While Catherine Spence, and later Dr Charles Mackellar, used their respective councils as bases for a claim to expertise, they increasingly spoke in praise of existing systems rather than calling for ongoing reform. When the State Children's Council was disbanded in 1927, its work to be absorbed within the new Children's Welfare and Public Relief Department, no voices were raised in defence of a continuing non-statutory role.[68] In NSW, the SPCC, shut out from service delivery and struggling with financial problems since the late 1890s, survived only as a postal address and a letterhead; occasionally

66 Hendrick, "Constructions and Reconstructions of British Childhood" in James & Prout (eds), *Constructing and Reconstructing Childhood: Contemporary Issues in the Sociological Study of Childhood* p50.

67 Van Krieken, *Children and the State* p11.

68 Dickey, *Rations, Residence and Resources* p172.

bursting into print on a specific issue, but retaining no links to the SPCC movement and no clear organisational structure.

In Queensland and Western Australia the fledgling societies were damaged by their early success. Excluded from the child welfare bureaucracies by the legislation which they had fought to introduce, and often regarded with suspicion by the new "professionals" in the field, they were never able to grasp the NSPCC mantle in their local communities. The Children's Protection Society, condemned by established child welfare organisations for its failure to "set brick upon brick [or drive] nail into wood to save a child",[69] turned aside from the active pursuit of child abusers, preferring instead to develop a range of services designed to support women in their mothering roles. The "work amongst children" of the QSPC survived longer but was never successful in gaining more than minimal government support. While the Brisbane branch maintained an office, with several women sworn as honorary inspectors, country branches tended to develop around the interests of individuals and fierce clashes arose when others took an interest in their work.[70] Requests to government for regular grants in recognition that children rescued by the Society would otherwise have become a burden on the state met with some response, but the failure to invest in bricks and mortar prevented the organisation from gaining formal recognition as a charity, confining it to a marginal status in the growing child welfare network.[71]

Even the VSPCC was not beyond critique. In 1909, shortly after WR Church resigned his position as Secretary in favour of his son Rowland, a scathing article in *Truth* questioned the need for the Society:

> Why do not the inspectors of police prosecute? Why should their duties be delegated to an outside and unauthorised society which does practically nothing of its own volition to justify its existence. The head and front of the whole show is Church pere, who now poses as the honorary director, while his son and heir takes up the

69 *West Australian*, 10 July 1907.

70 See for example "Muriel Thomson to Mr Powley, 28 October 1926", *Correspondence Reports and Clippings of Queensland Society for the Prevention of Cruelty 1899-1928.*

71 "William Gall, Under Secretary, to Mrs Wienholt, 30 May 1928", *Correspondence Reports and Clippings of Queensland Society for the Prevention of Cruelty 1899-1928.* The same file contains a series of letters from 1900-24 requesting government subsidies and help with accommodation, most of which were met at a minimal level.

> secretarial running. The statement of receipts and disbursements show that out of £230 received in subscriptions and donations, salaries and other cognate expenditure absorbed £184, leaving a balance of £46, which was mopped up by the hire of the Melbourne Town Hall for a demonstration. There is undoubtedly room for such an institution as that which the Churches, father and son, keep alive, but in order to justify its existence it must do something more than hang on to the police and Government institutions as a meaningless excrescence.[72]

Parton has suggested that the construction of child abuse as a social problem passed through four stages: discovery, diffusion, consolidation and reification.[73] In the Australian colonies the SPCC could seldom lay claim to having uncovered the child abuse and neglect which it set out to address, but local branches were able to take a leading role in diffusion of concern throughout the community and consolidating such concern through the implementation of legislation. However, once the problem became reified, its naturalness assumed, the societies found it difficult to maintain the fervour which had marked the early phases of their campaign. Both the statutory departments and the one surviving voluntary child protection service took on an essentially disciplinary role, reacting to cases of perceived neglect but seldom seeking out victims of physical or sexual abuse; setting the scene for the dramatic "rediscovery" of these phenomena half a century later.

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72 Undated report, *Children's Protection Society Papers* (MS 10384 F vi(1), Manuscripts Collection, State Library of Victoria).

73 Parton, "The Natural History of Child Abuse: A Study in Social Problem Definition" (1979) 9 *British Journal of Social Work* 431, quoted in Scott, "The Social Construction of Child Sexual Abuse: Debates about Definitions and the Politics of Prevalence" (1995) 2 *Psychiatry, Psychology and Law* 117 at 117-118.