
SUPERFLOUS PEOPLE

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The Baby Farmers by Annie Cossins is one of those rare works of legal history that is simultaneously engaging for specialist and non-specialist readers alike.⁹⁶ It provides an elegant and deeply researched account of a series of inquiries into the disappearance, death and assumed murder of babies in 1890s Sydney. In doing so it provides insights about identity registration, about social welfare and about the regulation of fertility. It is a work that is of value for readers with an interest in evidence law and for first year law or justice studies students who are seeking a historical and emotional dimension to black letter rules. Its publication comes at a time when the number of adoptions in Australia has continued to decline (a mere 339 in 2013/13),⁹⁷ we've seen conviction of elite athlete Keli Lane for the presumed murder of a newborn,⁹⁸ and the welfare system is being wound back.

In 1892 workmen fixing the plumbing at a Macdonaldtown property occupied by the Makin family discovered the first of 13 corpses of babies. Further corpses were discovered in the yards of other houses the Makins had briefly occupied before engaging in the 'midnight flit' to evade creditors and parents who had placed infants in their care.

The Makins were in the business of baby farming, i.e. taking care of inconvenient babies ... infants whose existence could not be acknowledged because of the stigma of illegitimacy or who could not be cared for by working mothers without a support network. Some farmers depended on one-off or ongoing payments from parents for their own livelihood. Patent medicines such as the opium-based Godfrey's Cordial assisted some farmers to take care of the infants for good through an overdose or through silencing cries as the babies starved to death, allowing farmers such as the Makins to take more infants into care and thereby keep paying the rent or putting food on the table for their own children. Inadequacies in forensics, high infant mortality among all children, inadequate regulation of midwives and weak reporting

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⁹⁶ Annie Cossins, *The Baby Farmers: A Chilling Tale of Missing Babies, Shameful Secrets and Murder in 19th Century Australia* (Allen & Unwin, 2013)

⁹⁷ Australian Institute of Health and Welfare, *Adoptions Australia 2012-13* (Australian Institute of Health and Welfare, 2013) 14

⁹⁸ *Lane v R* [2013] NSWCCA 317

mechanisms meant lucky farmers could evade penalties such as a death sentence for infanticide and five years imprisonment for abandoning an infant.⁹⁹

Rather than leaving a trail of anonymous corpses by the roadside the Makins resorted to unauthorised home burial. That resulted in a coronial inquest and sensational trial that saw an appeal to the Privy Council, John Makin being hung for murder and wife Sarah Makin, as the beneficiary of gendered justice, being sentenced to life imprisonment.¹⁰⁰

Cossin argues persuasively, on the basis of extensive archival research, that we should see their activity in a social and personal context. Both appear to have been suffering from late stage syphilis. Both had experienced and engaged in domestic violence, with Sarah for example reportedly being seen to ‘knock her own blind mother down with a chair’. As became evident through disagreements during the trial, the Makins were not a happy family. In the great depression of the 1890s – less remembered but as painful as that of the 1930s – life was tough for people on the margins of society in Sydney. The Makins were unexceptional in depending on payments for caring, often with no questions asked by parents who relied on pseudonymity and an unspoken expectation that the carer would permanently deal with an inconvenience.

Cossins challenges contemporary preconceptions by noting that women who killed babies were the largest group of people in late 19th Century NSW who committed murder and that although newborn infants were less than three percent of the population their murder occurred at fifty-five times the rate of murder of adults. As the latest adoption figures illustrate, we do things differently now and there is no need to resort to Godfrey’s Cordial or serial infanticide for profit.



⁹⁹ *Criminal Law Amendment Act 1883* (NSW). For studies of antecedents see Margaret Arnot, ‘Infant death, child care and the state: the baby-farming scandal and the first infant life protection legislation of 1872’ (1994) 9(2) *Continuity and Change* 271; Daniel Grey, ‘More Ignorant and Stupid Than Wilfully Cruel: Homicide Trials and Baby-Farming in England and Wales in the Wake of the Children Act’ (2009) 3(2) *Crimes & Misdemeanours: Deviance and the Law in Historical Perspective* 60; and Anne-Marie Kilday, *A History of Infanticide in Britain, c. 1600 to the Present* (Palgrave Macmillan, 2013)

¹⁰⁰ *R v Makin and Wife* (1893) 14 NSW 1. See also *Makin v Attorney-General for New South Wales* [1894] AC 57