

‘MORE IGNORANT AND STUPID THAN WILFULLY CRUEL’: HOMICIDE TRIALS AND ‘BABY-FARMING’ IN ENGLAND AND WALES IN THE WAKE OF THE CHILDREN ACT 1908

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Abstract

This article examines the impact of the Children Act 1908 on longstanding concerns that foster or informally 'adoptive' parents were uniquely likely to murder the children in their care. Making particular reference to the last two high-profile cases of 'baby-farmers' tried for homicide on the Welsh and English Assize circuits (in 1907 and 1919, respectively) it argues that the infant life protection provisions in the 1908 Act had a dramatic and immediate impact on such prosecutions, removing the automatic presumption of malice in cases where fostered or adopted children died in suspicious circumstances.

Keywords: baby-farming, Infant Life Protection Acts, child homicide

Introduction

Harry William George Roberts, son of a labourer also named Harry Roberts, was born on 19 December 1909 at the Dorset harbour town of Weymouth. His mother had died within four days of giving birth – presumably from puerperal fever, which remained a major cause of maternal mortality until the development of sulphonamide drugs in the 1930s.² When Roberts looked for a family to care for his son, Robert Flann, a 41 year old labourer, and his 43 year old wife Annie agreed to look after him. Initially they did so free of charge, and when Roberts found work and offered to pay towards his son's upkeep, he was assured by Flann that the offered sum of half-a-crown was unnecessary, and 'two shillings would do.'³ None of this suggests a pecuniary motivation for taking in the little boy, and indeed, the baby's aunt later testified that the Flanns had always seemed very loving adoptive parents as she regularly saw Robert Flann nursing and fussing over him.

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² Irvine Loudon, *The Tragedy of Childbed Fever* (Oxford University Press, 2000) pp.151-169

³ *Dorset County Chronicle*, 2 June 1910, p.6

However, despite his initial good health Harry Junior quickly began to suffer from illness and malnutrition, and he died in January 1910 aged just two months. Strangely, given their apparent fondness for the baby, the Flanns seem to have been astonishingly resistant to any form of advice as to how to care for him. Despite the repeated visits and instructions given by Nurse Lethbridge, the health visitor for Weymouth, they did not appear to have ever given him any of the medicine she recommended, or fed him properly even when she warned his life was at risk. Likewise, although Robert Flann had assured the boy's biological father he need not give them as much as half a crown towards his upkeep, the couple were so poor that Harry Junior's aunt bought them coal and fresh milk since they could not afford to keep the fire lit or buy him sufficient food. Nor did they ever summon a doctor, despite the baby suffering from what Nurse Lethbridge diagnosed as a pernicious combination of 'thrush, diarrhoea, cold, and ulcerated body.'⁴ After Harry's death, a post mortem ascertained that the cause of death was chronic starvation: the doctor performing the autopsy found his weight was just 5lbs 12 oz. rather than the standard 9lbs, and there was no fat whatsoever in his body.

Since the sole surviving account of Harry's death and the resulting manslaughter trial of Robert and Annie Flann is a single article in the *Dorset County Chronicle* published on 2 June 1910, it is almost impossible to attempt to explain the Flann's paradoxical behaviour towards a child they seem to have wanted and loved but allowed to starve to death without calling in medical help.⁵ It is possible to speculate that the answer may have been partly related to the Flanns' perception of the health visitor – a new profession for women in the early twentieth century – as patronising interference, rather than as good practice.⁶ Certainly, textbooks for health visitors in the early twentieth century frequently stressed the importance of tact in dealing with working-class families, lest they be perceived as rude meddlers.⁷ Since the same textbooks also spent much time discussing the malign influence of traditional childcare practices, this often left health visitors attempting to walk a delicate line between diplomacy and forceful contradiction of advice passed on to new parents by

⁴ *Dorset County Chronicle*, 2 June 1910, p.6

⁵ As is unfortunately common in the case of nineteenth and twentieth century Assize trials for crimes other than murder, no depositions survive for this case, and I have come across no other newspaper articles mentioning it

⁶ Celia Davies, 'The Health Visitor as Mother's Friend: A woman's place in public health, 1900-1914,' *Social History of Medicine*, 11 (1988) 39-59

⁷ See for example Emilia Kanthack, *The Preservation of Infant Life: A Guide for Health Visitors* (H.K. Lewis, 1907); Lily Skene, *The Ideal Health Visitor* (John Bale, Sons & Danielsson, 1923)

family and friends. While there is no hard evidence in the newspaper report for such a conclusion, the failure to consult a doctor or follow any of the nurse's recommendations lends weight to this interpretation.

Poverty was not, as Mr. Justice Ridley acidly commented, any excuse for this, since the Children Act 1908 specifically set out that if a carer or parent could not afford doctor's fees themselves they could access a physician using the Poor Laws. Indeed, this proviso within the Act had in large part been the result of an ongoing controversy between 1868 and 1908 over the extent to which parents could be held to have an obligation to provide medical care for their children.⁸ Certainly, the doctors, health visitor, and the judge all considered the Flanns guilty of gross and malicious conduct. However, the jury took a more lenient view: they acquitted both prisoners on the charge of manslaughter, and instead convicted them of neglect under Part II of the Children Act 1908, which they explicitly added was the result of ignorance. Although the judge agreed with the jury when passing sentence that the couple were 'more ignorant and stupid than wilfully cruel,'⁹ Mr. Justice Ridley warned them they had been extremely lucky to escape conviction on the more serious charge, and if it were not for their previous good character he would have handed down a much more severe verdict. They were sentenced to three months' hard labour each.¹⁰

1 The Issue of 'Baby-farming' in England and Wales¹¹

While a sentence of three months hard labour may sound a severe punishment, in fact the sentence was astonishingly light given the circumstances. In a sample of 646

⁸ A number of high-profile prosecutions for manslaughter of children between the late nineteenth century and shortly before the First World War – particularly but not exclusively tried at London's Central Criminal Court – had been brought against members of a Protestant sect known as the 'Peculiar People,' who interpreted the Bible as forbidding medical intervention in any cases of illness. Since even the criminal justice system acknowledged the parents in these cases were motivated by deep-rooted religious conviction rather than malice, and there were questions over the extent of common law or statutory obligations in such instances, the trials generated a great deal of heated debate about the rights and duties of parents. See Shawn Francis Peters, *When Prayer Fails: Faith Healing, Children, and the Law* (Oxford University Press, 2008) pp.47-66. A useful perspective on similar debates in Britain during the late twentieth century is Caroline Bridge, 'Religion, Culture and the Body of the Child' in Andrew Bainham, Martin Richards & Shelley Day Sclater (eds.) *Body Lore and Laws* (Hart, 2002) pp.265-287

⁹ *Dorset County Chronicle*, 2 June 1910, p.6

¹⁰ The National Archives (hereafter NA) ASSI 25/75/11/1 & 2

¹¹ On the history of child protection in Scotland, see the excellent discussion in Lynn Abrams, *The Orphan Country: Children of Scotland's Broken Homes from 1845 to the Present Day* (John Donald, 1998); Lynn Abrams, "Blood is Thicker than Water": Family, Fantasy and Identity in the Lives of Scottish Foster Children' in Jon Lawrence and Pat Starkey (eds.) *Child Welfare and Social Action in the Nineteenth and Twentieth Centuries: International Perspectives* (Liverpool University Press, 2001) pp.195-215

men and women charged with the killing of a child aged less than one year in England between 1880 and 1922,¹² the Flanns received the lightest sentence of any couple convicted of either manslaughter or neglect after having been jointly indicted for the manslaughter of an infant. This outcome is made more surprising by the fact that they were charged with the homicide of a child who was not their biological son. Prior to the First World War, the subject of child adoption was customarily viewed with rank suspicion, associated with so-called 'baby-farming.' This emotive term was used as a catch-all for a number of related – but nevertheless separate – practices: a Victorian or Edwardian commentator might include under this heading respectable foster care, an informal adoption,¹³ or at worst the systematic killing of illegitimate children by starvation or violence.¹⁴ Importantly, however, the phrase most commonly conjured images of a malefic network of middle-aged or elderly working class women which spanned Britain, trading in young children who were kept alive for precisely as long as the money paid by their parents lasted.¹⁵ It is also worth noting that this was perceived as an international problem: the United States,¹⁶ New Zealand¹⁷ and Australia¹⁸ also experienced a public crisis about 'baby-farming' in this period.

¹² Daniel J.R. Grey, 'Discourses of Infanticide in England, 1880-1922,' unpublished PhD thesis, Roehampton University, 2008

¹³ Child adoption was not legalised in England and Wales until 1926. On the history of child adoption see Jenny Keating, *A Child for Keeps: The History of Adoption in England, 1918-45* (Palgrave, 2009)

¹⁴ With this in mind, it should be noted that so-called 'baby-farmers' might be charged with a whole range of offences against the person, including murder, manslaughter, infringements of the various Infant Life Protection (ILP) Acts or the Children Act 1908, cruelty and neglect, and so on. A small number were also prosecuted for offences totally unrelated to child welfare, such as fraud or theft. Moreover, while offences under the ILP Acts were dealt with by the police courts, all felonies and serious misdemeanours were tried at the Assize courts. 'Baby-farming' was never a specific offence in its own right, but a pejorative label, and for this reason it is impossible to seriously estimate the number of such offences committed or punished, let alone draw statistical conclusions based on the gender, age or occupational status of the defendants. This paper is solely concerned with the influence of the 1908 Children Act on *homicide* trials of baby-farmers, which were indistinguishable from any other murder or manslaughter prosecution in the official records, including the judicial statistics (though decidedly not in the press reports!). See also Grey, 'Discourses,' pp.316-371.

¹⁵ Good examples of this perception of baby-farmers as a network of monstrous (and generally middle-aged or older, not to mention working-class) women spanning Britain include James Greenwood, *The Seven Curses of London* (Stanley Rivers, 1869) pp.29-57; Benjamin Waugh, 'Baby-Farming,' *Contemporary Review*, 57 (1890) 700-714; Robert Parr, *The Baby Farmer: An Exposition and Appeal*, 2nd ed. (NSPCC, 1909)

¹⁶ Sherri Broder, *Tramps, Unfit Mothers, and Neglected Children: Negotiating the Family in Late Nineteenth-Century Philadelphia* (University of Pennsylvania Press, 2002) pp.157-199

¹⁷ Lynley Hood, *Minnie Dean: Her Life and Crimes* (Penguin, 1994)

¹⁸ Shurlee Swain, 'Toward a social geography of baby farming,' *History of the Family*, 10 (2005) 151-159

What is particularly relevant to this paper is the overwhelming hostility baby-farmers faced in late nineteenth and early twentieth century Britain. In her exhaustive analysis of baby-farming in England between 1860 and 1943, Ruth Homrighaus has provided the best summation of the harsh treatment these women faced in comparison with other violent offenders:

...they made up the largest single category of female offenders executed in nineteenth and twentieth century Britain. Those convicted baby farmers who were not hanged, moreover, served long prison terms. Whereas very few women who committed infanticide spent more than ten years in prison, baby farmers found guilty of manslaughter often served ten, fifteen, and even twenty years.¹⁹

Given this traditional judicial approach to foster or adoptive parents charged with killing a child, in order explain the relatively lenient treatment of the Flanns (and indeed other cases of suspicious infant death involving foster carers after 1908), we must examine the evidence presented to the 1908 Select Committee on Infant Life Protection.²⁰ This had been assembled to consider whether or not there was any need for amending the Infant Life Protection Act 1897. Ever since the trial and execution of the London baby-farmer Margaret Waters in 1870,²¹ there had been periodic complaints that criminal baby-farming had reached epidemic levels in Britain and not enough was being done to stop it. A number of high-profile child homicide and neglect trials in England, Scotland and Wales during the late nineteenth century

¹⁹ Ruth E. Homrighaus, 'Baby Farming: The Care of Illegitimate Children in England, 1860-1943,' unpublished PhD thesis, University of North Carolina at Chapel Hill, 2003, p.145 Homrighaus' dissertation includes invaluable appendices (pp. 258-297) which detail the cases she found. In addition to a sample of over 1000 registered carers inspected in London between 1909 and 1933 by Infant Life Protection Visitors under the regulations of the Children Act 1908, her study also examined the cases of 14 baby-farmers tried for murder between 1865 and 1907 (12 of these were prosecuted in England, resulting in seven women being executed; one woman was tried, convicted and executed in Scotland and one woman tried, convicted and executed in Wales); 14 baby-farmers charged with manslaughter between 1871 and 1919; and 13 cases of cruelty and neglect tried between 1888 and 1933 – the latter two groups relating solely to English trials. Despite the difficulties noted earlier in drawing quantitative conclusions from such a small – if extremely high-profile – number of cases, it is worth noting that just two of those 14 charged with murder, and one of those 14 charged with manslaughter in this group were men. Just one of the three men in this sample was convicted (and with an alternative verdict by the jury of manslaughter, rather than the charge of murder), and the other two male defendants were both acquitted

²⁰ Parliamentary Papers (hereafter PP), Report of the Select Committee on Infant Life Protection (hereafter RSCILP), 1908, pp.147-271

²¹ This case and its influence are explored in Margaret L. Arnot, 'Infant death, child care and the State: the baby –farming scandal and the first Infant Life Protection legislation of 1872,' *Continuity & Change*, 9 (1994) 271-311

raised public concerns that the Infant Life Protection Act 1872,²² designed to oversee foster carers, was easily evaded by those harbouring malevolent intentions towards the children they ostensibly cared for.²³

The Infant Life Protection Act 1897 had responded to these concerns by changing the maximum age of children covered by the Act from 12 months to five years, and required that the name, age, and sex of the child, plus the name and address of the person who handed the child over to be registered with the local authority. It also allowed the appointment of infant life protection visitors, whose role was to seek out those who might be ignoring the Act, and gave them the power to remove any child they believed to be in danger and place them in the care of the local Poor Law Union. However, a large number of exemptions remained: households which took in a single child, hospitals and similar institutions, relatives, and, perhaps most perniciously, those who paid a premium of £20 or more to take care of a child. Subscribing to the commonly-held view that child abuse and neglect were primarily committed by working-class parents in all save the most exceptional of cases,²⁴ the underlying assumption of legislators in 1897 was that those foster parents in sufficiently comfortable circumstances to afford a £20 'adoption' fee would never be a significant danger to children.

Yet cases continued to come before both the magistrates and Assize courts in England and Wales after 1897, demonstrating that the rules were consistently being broken.²⁵ As a result, from 1901 onwards Bills were introduced annually to Parliament in an effort to further amend the law so as to include carers who adopted a single child.²⁶ Since the issue clearly would not go away, it was decided in 1907 to

²² This required that any foster carer who lived where more than one child aged under 12 months was kept for more than 24 hours apply for registration. If any child died in such a registered house a coroner had to be notified within 24 hours and hold an inquest on the body. Failing to register under the Act, or wilful neglect of the children, was punishable by up to six months' imprisonment, with or without hard labour. See also Arnot, 'Infant death.'

²³ Grey, 'Discourses,' pp. 325-341; Homrighaus, 'Baby Farming,' pp.90-144

²⁴ For examples of this cultural perception in relation to child welfare work see George K. Behlmer *Child Abuse and Moral Reform in England 1870-1908* (Stanford University Press, 1982); Louise A. Jackson, *Child Sexual Abuse in Victorian England* (Routledge, 2000) pp.51-70; Lydia Murdoch, *Imagined Orphans: Poor Families, Child Welfare, and Contested Citizenship in London* (Rutgers University Press, 2006). A similar discourse in the United States - relating to the denial of incest in middle-class homes during the Progressive Era - is comprehensively explored in Lynn A. Sacco, *Unspeakable: Father-Daughter Incest in American History* (John Hopkins University Press, 2009)

²⁵ Homrighaus, 'Baby Farming,' pp.182-199

²⁶ PP 'A Bill to amend the Infant Life Protection Act, 1897,' 1901, p.541; 'A Bill to amend the Infant Life Protection Act, 1897,' p.281; 'A Bill to amend the Infant Life Protection Act, 1897,'

assemble a Select Committee to assess whether or not the law required any further amendment. The sole terms of reference for the Committee were just two questions: should the Act be extended to cover homes which took in just one child? And should the age of children dealt with by infant life protection visitors be raised from five to seven years? Coincidentally, 1907 saw the last example of the high-profile baby-farming murder trials which provoked widespread debate about the subject in England and Wales.

2 The Trial and Execution of Leslie James, 1907

In July 1907, a 39 year-old baby-farmer named Rhoda Willis (or, as she preferred to be called – and how I shall refer to her hereafter – Leslie James) was convicted at Cardiff of the murder of an infant in her care.²⁷ Only the fourth defendant (all of whom were female) to be charged on the South Wales Assize Circuit between 1900 and 1907 with child murder, James also had the dubious distinction of being the first person to be found guilty of this crime in South Wales during the twentieth century. In 1901, Minnie Webb, the wife of a seaman working on the Cardiff docks, had been found ‘guilty but insane’ of the killing of her eleven month-old son and sentenced to be indefinitely detained as a criminal lunatic.²⁸ Hannah Miera Lewis²⁹ was acquitted in 1903 of the murder of her newborn daughter, but instead convicted of the lesser offence of concealing the birth of a child and sentenced to 12 months imprisonment with hard labour – an unusually harsh sentence at a time of steadily declining

p.91; ‘A Bill to amend the Infant Life Protection Act, 1897,’ 1904, p.377; ‘A Bill to amend the Infant Life Protection Act, 1897,’ 1905, p.657; ‘A Bill to amend the Infant Life Protection Act, 1897,’ 1906, p.671; ‘A Bill to amend the Infant Life Protection Act, 1897,’ 1907, p.455; ‘A Bill to amend the Infant Life Protection Act, 1897,’ 1908, p.997

²⁷ NA ASSI 72/33/2; NA 76/11. See 23 July 1907 p.244; NA HO 144/861/155396

²⁸ NA ASSI 72/27/5; NA ASSI 76/10. See 20 March 1901, pp.12-13. Interestingly, the pre-trial report on Webb prepared by Dr John Llewellyn Treharne, the medical officer at HMP Cardiff, argued that, given she was pregnant at the time of the crime ‘In such cases the mental condition may be and frequently is disturbed which may have rendered her incapable of understanding what she was doing.’ See undated report contained within NA ASSI 72/27/5. The wording of this report is intriguing because it draws on identical discourses to those of ‘puerperal insanity’ and its perceived relationship to infanticide in England at this time, yet does not specify the condition as such. It is unclear here whether this was because Treharne was among those doctors who increasingly challenged the diagnostic category, or whether it lends weight to Richard Ireland’s observation that doctors in Victorian South Wales as a group seemed reluctant to invoke this condition in cases of suspected child murder. See Richard W. Ireland, “‘Perhaps my mother murdered me’: Child Death and the Law in Victorian Carmarthenshire’ in Christopher Brooks and Michael Lobban (eds.) *Communities and Courts in Britain 1150-1900* (Hambledon, 1997), p.234. On puerperal insanity in nineteenth century Britain see Hilary Marland, *Dangerous Motherhood: Insanity & Childbirth in Victorian Britain* (Palgrave, 2004)

²⁹ NA ASSI 72/29/3; NA ASSI 76/10. See 13 Nov 1903, pp.195-196

severity for concealment cases (at least in England³⁰). The third defendant, Margaret Evans, had been found guilty but insane by the jury in 1904 after burning her nine month-old granddaughter alive in the kitchen fire: witnesses recorded that she had been very fond of the child, and were at a loss to explain her actions beyond the possibility of drunkenness.³¹ Like Webb, Evans was sentenced to be kept in custody as a criminal lunatic at Cardiff Prison. Just one of these three women, Hannah Miera, followed the cultural script of a 'typical' infanticide case as it was commonly understood in late nineteenth and early twentieth century Britain. What all of these defendants tried between 1901 and 1904 had in common, however, was a direct biological relationship to the child they were accused of killing – a factor which did not apply to James, and which, as suggested earlier in this article, meant that the judge, jury and press were likely to view her case in a much harsher light.

In fact, as Anette Ballinger has noted in her important exploration of the James case, the evidence supporting the charge was far less clear-cut than the press, the Home Office, or the judge and jury on the South Wales Assize Circuit were willing to acknowledge.³² Although it was clear from the testimony of various witnesses³³ that when collecting the dead child James had pretended she was visiting the father of an infant she had once cared for, rather than openly arranging to adopt a new baby, this is hardly surprising. Given that the majority of baby-farming cases such as this involved caring for illegitimate infants whose presence was inconvenient – if not ruinous – for the birth parents, secrecy was an integral part of the process. Few parents in these difficult circumstances would have been willing to hand over their child, even with the best of intentions, to a carer known to broadcast her dealings with potential clients.

Secondly, questions were raised by concerned individuals about the medical evidence presented at the trial. A post-mortem had confirmed that the baby in question died from suffocation, but as James' solicitor pointed out in a letter to the Home Office, the doctor in question had admitted that the appearance of the body did not rule out the possibility this had resulted from accidental, rather than deliberate,

³⁰ Grey, 'Discourses,' pp.176-195

³¹ NA ASSI 72/30/6; NA ASSI 76/11. See 2 Aug 1904, p.9

³² Anette Ballinger, *Dead Woman Walking: Executed Women in England and Wales, 1900-1955* (Ashgate, 2000) pp.89-103

³³ NA ASSI 72/33/2

smothering.³⁴ The coroner's inquest into the death of the child had actually returned a verdict of manslaughter, rather than wilful murder, and indeed the coroner himself was so horrified that James had been convicted of murder that he was moved to write to the Home Secretary pleading for a commutation of the death sentence.³⁵ Another letter from Joseph Da Silva Stewart, who had served on the coroner's jury, drew on both his experience as a father of eleven children and more than 20 years service as a soldier in the Royal Army Medical Corps to argue that 'if ever a condemned person was entitled to the benefit of the doubt Mrs James is.'³⁶

Neither the judge who tried the case, nor the Home Office, however, agreed that this was a case in which the sentence of death should be commuted to penal servitude for life. The Home Secretary, Herbert Gladstone, stated emphatically to the civil servants dealing with the case his belief that this had been 'a callous, & it must be assumed, a deliberate murder of an infant.'³⁷ James' precarious social status as an alcoholic whose biological children had either died or been removed by disapproving in-laws – not to mention that she had briefly engaged in sex work and been convicted of petty theft just two years earlier – meant she was viewed with distaste by the Home Office and the press as both profoundly 'unrespectable' and an unfit (foster or natural) mother.³⁸ This was critical, since it has been well-established by historians that throughout the nineteenth and early twentieth century the Home Office's decision as to whether to seek commutation of the death sentence in capital cases, or, where sentence was commuted, when to allow a prisoner's release (either on licence or with their sentence remitted) was directly influenced by the degree to which a prisoner did – or did not – meet with conventional standards of 'respectable' masculinity or femininity.³⁹

³⁴ NA HO 144/861/155396. See letter from J. Tudor Rees to Home Office, 13 Aug 1907.

³⁵ NA HO 144/861/155396. See letter from E. Bernard Reece to Home Office, 29 July 1907

³⁶ NA HO 144/861/155396. See letter from Joseph Da Silva Stewart to Home Office, 7 Aug 1907. Underlining in original

³⁷ NA HO 144/861/155396. Minute of Home Secretary, 9 Aug 1907

³⁸ Ballinger, *Dead Woman Walking*, p.91

³⁹ There is insufficient space to explore this complex phenomenon here, but for important discussion see Ballinger, *Dead Woman Walking*; Roger Chadwick, *Bureaucratic Mercy: The Home Office and the Treatment of Capital Cases in Victorian Britain* (Garland, 1992); Ginger S. Frost, "'She is but a Woman": Kitty Byron and the English Edwardian Criminal Justice System,' *Gender & History*, 16 (2004) 538-560; Deirdre Palk, *Gender, Crime and Judicial Discretion 1780-1830* (Boydell, 2006); Martin J. Wiener, *Men of Blood: Violence, Manliness and Criminal Justice in Victorian England* (Cambridge University Press, 2004)

Importantly for this article, Gladstone was also careful to draw a firm line between child homicide cases where the biological mother of an infant was on trial, and those of suspected baby-farmers: 'There are none of the palliating circumstances attending the common forms of infanticide.'⁴⁰ While the former were rarely convicted on the capital charge, and infanticidal women were frequently figures of both official and popular sympathy throughout the nineteenth and early twentieth century, baby-farmers experienced no such leniency.⁴¹ Despite the objections raised by these letters to the Home Office, and the submission of a petition for clemency signed by Cardiff residents,⁴² Leslie James was executed on 14 August 1907 - the only woman in Wales to suffer the death penalty during the twentieth century.⁴³ James was not only the last suspected baby-farmer to be convicted of murder and executed in Britain as a whole, but it is worth noting that she was the only female convicted murderer where sentence of death was not commuted between 1907 and the 1923 execution of Edith Thompson for allegedly colluding with her boyfriend in her husband's murder.⁴⁴

3 The 1908 Select Committee on Infant Life Protection

In her evidence to the 1908 Committee, Miss Wilhemina Brodie-Hall, a member of the Eastbourne Poor Law Guardians with 25 years experience, pointed to the execution of Leslie James the previous year as a key reason for extending the influence of the Infant Life Protection Act to include foster carers who took in just one child.⁴⁵ Certainly, a recent and high-profile instance of criminal baby-farming such as that of Leslie James, as had been the case in 1896 with the trial and execution of Amelia Dyer,⁴⁶ made an alteration in the law more likely. But equally high profile trials to that of Dyer and James, such as the joint conviction and execution of Amelia Sach

⁴⁰ NA HO 144/861/155396. Minute of Home Secretary, 9 August 1907

⁴¹ See Margaret L. Arnot, 'Gender in Focus: Infanticide in England, 1840-1880,' unpublished PhD thesis, University of Essex, 1994; Arnot, 'Infant death'; Grey, 'Discourses'; Homrighaus, 'Baby farming'

⁴² NA HO 144/861/155396.

⁴³ *The Times*, 15 Aug 1907, p.3. Regrettably, the Judicial Statistics for 1907 did not provide a detailed breakdown of outcomes or case details for convicted murderers, and did not even mention that at least one woman charged with murder was executed. It is therefore difficult to compare her case with evidence relating to other murder convictions from this year. However, it may be useful to bear in mind that just over half (11 out of 20, or 55 per cent) of death sentences in England and Wales for 1907 were commuted. See PP 'Judicial Statistics of England and Wales, for 1907,' 1909, Cmd. 4544, p.48

⁴⁴ On Edith Thompson's 1922 trial and her treatment by the press see Ballinger, *Dead Woman Walking*, pp.221-257; Lucy Bland, 'The Trials and Tribulations of Edith Thompson: the Capital Crime of Sexual Incitement in 1920s England,' *Journal of British Studies*, 43 (2008) 624-648

⁴⁵ RSCILP. See Q933, p.215

⁴⁶ Homrighaus, 'Baby Farming,' pp.1-3 and pp.134-138

and Annie Walters in early 1903,⁴⁷ had not led to any change in the law. In order to understand why the 1908 Committee recommended amendment of the 1897 Act, we must look at the evidence of Miss Frances Zanetti, which arguably had the greatest overall influence on the Committee's report.

Originally appointed in 1898 as an Infant Life Protection Visitor for the Chorlton Union,⁴⁸ by the time she gave evidence to the 1908 Committee Frances Zanetti was able to draw on ten years experience of investigating baby-farming in Manchester. From almost immediately after she had started her role at Chorlton, Zanetti had repeatedly urged that the 1897 Act needed amendment and extension by including homes which took in a single foster child.⁴⁹ She reiterated this in her evidence before the 1908 Select Committee, observing that in the first four years of her work only 167 out of the 809 children she had come across were dealt with under the 1897 Act, being aged five years and under and living in a home with at least one other foster child.⁵⁰ Although Zanetti also visited those homes where only one foster child was cared for, both she and the majority of the foster mothers she dealt with were aware she had no authority in these cases and was allowed to inspect the children only as a gesture of goodwill by the carers. Paradoxically, however, Zanetti's experience of being allowed to visit such children lent weight to her argument that, provided it was done with tact and kindness, no reputable foster mother had any cause to object to inspection.⁵¹ She was also keen to emphasise that the majority of such foster mothers were respectable, insisting that when she discussed baby-farming in general rather than specific instances she was not 'using the word in an objectionable sense.'⁵²

Zanetti's evidence was supported by the examples cited by Miss Marian H. Mason, Senior Inspector of Boarding-Out under the Local Government Board. Mason argued that in one instance, her inspection of children had actually saved a respectable foster-mother from malicious accusations of cruelty made by a neighbour, since Mason had been able to testify that the children were well treated and had no marks

⁴⁷ Ballinger, *Dead Woman Walking*, pp.81-89; Grey, 'Discourses,' pp.342-350

⁴⁸ *Manchester Guardian*, 23 Jan 1899, p.7

⁴⁹ *Manchester Guardian*, 23 Jan 1899, p.7; 18 Jan 1900, p.11; 8 Jan 1903, p.3; 30 Jan 1904, p.15; 7 Jan 1905, p.13; 3 Feb 1906, p.6. *Lancet*, 17 Feb 1906, p.479; 25 Jan 1908, p.244

⁵⁰ RSCILP. See Q459, p.181

⁵¹ RSCILP. See Q494, p.185

⁵² RSCILP. See Q538, p.187

of violence on their bodies.⁵³ This emphasis on the willingness of working-class carers to accept supervision by a visitor was crucial, given that all previous attempts to extend infant life protection legislation had been severely weakened or stopped outright by fears that the implication of abuse or ignorance which followed compulsory registration would lead the majority of carers to abandon the trade.⁵⁴ In the end, while acknowledging that a number of witnesses opposed any extension of the 1897 Act, the 1908 Committee believed it should indeed be extended to cover all homes which took in a single infant, and deal with all children in such homes who were aged seven years and under.⁵⁵ Although a final Bill specifically targeting infant life protection had been introduced in 1908,⁵⁶ given the similar aims of the Children Bill it was logical to combine both measures in one piece of legislation. The Committee's recommendations were thus incorporated into what eventually became Part One of the 1908 Children Act. Henceforth, anyone that took any child or children up to the age of seven into their home for a period longer than 24 hours was required to apply for registration with their local authority as a foster carer, and was to be inspected regularly by the Infant Life Protection Visitor. A loophole that had been the subject of heated debate each time the question of Infant Life Protection had been raised in Parliament since the 1870s was finally closed.⁵⁷

Admittedly, not everyone involved in infant welfare work was convinced that the 1908 Act had solved the problem of baby-farming. In July 1910 Mrs Isabel Foard, who had been a voluntary inspector for several years before being appointed in 1908 as Infant Life Protection (ILP) Visitor for Ormskirk, wrote to the Home Secretary, Winston Churchill. Foard worried that the 1908 Act, while 'excellent indeed in its intention'⁵⁸ fell far short of its goals because of the heavy workload of ILP visitors. Importantly, however, Foard did not believe foster mothers to be innately malicious – rather, she argued they were placed in the impossible position of being expected to make unhealthy children thrive on few resources. Far better, she urged, would be a system

⁵³ RSCILP. See Q1080, p.225

⁵⁴ Homrighaus, 'Baby Farming,' pp.90-144

⁵⁵ RSCILP. See p.149

⁵⁶ PP 'Bill to amend the Infant Life Protection Act, 1897,' 1908, p. 997

⁵⁷ For similar debates in the three earlier Select Committees relating to Infant Life Protection, which sat between 1871 and 1896, see PP 'Report from the Select Committee on the Protection of Infant Life,' 1871, pp.607-954; 'Report from the Select Committee on the Infant Life Protection Bill,' 1890, pp.633-744; 'Report from the Select Committee of the House of Lords on the Infant Life Protection Bill and the Safety of Nurse Children Bill,' 1896, pp.225-435

⁵⁸ NA HO 45/10569/175825. See letter from Mrs. Isabel Foard to Winston Churchill, 20 July 1910

of state-maintained, affordable crèches.⁵⁹ However, while the National Society for the Prevention of Cruelty to Children (NSPCC) warned in 1912 that a high number of foster parents claimed to be unaware of the strictures placed on child care by the Children Act,⁶⁰ in practice the NSPCC and Foard were in a minority by continuing to raise concerns about the treatment of children in foster care.

4 The Impact of the Children Act 1908

Given the striking importance of child welfare as a subject in British society and culture during the early twentieth century, this dismissal of foster care as a topic may seem a surprising omission from the plethora of interrelated concerns about 'good parenting,' education, and children's health and wellbeing which dominated this period.⁶¹ After all, as the articles collected in this volume demonstrate, the 1908 Children Act covered a vast array of topics related to health, education, criminal justice and welfare, and contemporaries who were concerned with improving the lot of children tended to have a similarly broad view of what might be relevant or important to their particular project. However, foster care was never popular as a state-sponsored process in England and Wales during the nineteenth or twentieth century. The practice of 'boarding out' children under the Poor Law – which Lynn Abrams has demonstrated was ubiquitous in Scotland during the nineteenth and twentieth centuries⁶² – was never taken up on the same scale south of the border, meaning far fewer children were dealt with under this scheme by local authorities. In England and Wales, the Poor Law Guardians were reluctant to follow Scottish

⁵⁹ Ibid.

⁶⁰ NA HO 45/10569/175825. See letter from Robert Parr of NSPCC to John Burns, President of Local Government Board, 6 June 1912

⁶¹ Important discussions of this vast subject include Behlmer, *Child Abuse*; George K. Behlmer, *Friends of the Family: The English Home and Its Guardians, 1850-1940* (Stanford University Press, 1998); Katharine Bradley, *Poverty, Philanthropy and the State: Charities and the Working Classes in London, 1918-79* (Manchester University Press, 2009); Anna Davin, 'Imperialism and Motherhood,' *History Workshop Journal* 5 (1978) 9-65; Anna Davin, *Growing Up Poor: Home, School and Street in London 1870-1914* (Rivers Oram Press, 1996); Deborah Dwork, *War is Good for Babies and Other Young Children: A History of the Infant and Child Welfare Movement in England 1898-1914* (Tavistock, 1987); Bernard Harris, *The health of the school child: A history of the School Medical Service in England and Wales* (Open University Press, 1995); Harry Hendrick, *Child Welfare, England 1872-1989* (Routledge, 1994) pp. 43-130; Imogen Lee, "'Protect from the evil influences of their surroundings': The child and its care in London schools 1900-1918," unpublished MRes thesis, University of London, 2008; Alys Levane, 'Family breakdown and the "Welfare Child" in 19th and 20th century Britain,' *History of the Family*, 11(2), (2006) 67-79; Murdoch, *Imagined Orphans*; Carolyn Steedman, *Strange Dislocations: Childhood and the Idea of Human Interiority, 1780-1930* (Harvard University Press, 1995)

⁶² Abrams, *The Orphan Country*; Abrams, 'Blood is Thicker than Water'

practice,⁶³ and George Behlmer has calculated that only 3.7 per cent of all workhouse children in Wales or England were ever boarded out.⁶⁴ The numbers of those women willing to work as foster carers also seems to have declined during the First World War, as the potentially more lucrative war-work offered new employment opportunities.⁶⁵ Increasingly, therefore, foster care was viewed after 1908 as a side-issue, of much less pressing importance than providing training in good parenting skills and improving the health, welfare and education of British children as a whole.

Most importantly, however, as Ruth Homrighaus has demonstrated, the 'unprecedented powers'⁶⁶ given by the 1908 Children Act to supervise foster care and enforce infant life protection legislation ensured that few carers suspected of cruelty and neglect - or even those who repeatedly refused to take medical advice on child health and feeding - were able to continue taking in children as they had done under the auspices of the 1872 or 1897 Acts. The Act thus played a crucial role in diminishing fears that illegitimate children were chronically vulnerable to abuse and murder, as well as reassuring the public regarding the moral character of the majority of foster carers in England and Wales. Fears that many foster mothers were members of a group of women who were effectively invisible to the authorities (unrespectable at best and evil at worst) receded in the light of regular checks on all registered homes and a decrease in the former anonymity of arranging foster care and informal adoptions. This reassurance had an immediate and tangible impact on child homicide and neglect trials where the accused party was a carer but not the biological parent. While Homrighaus notes that there were sporadic cases of baby-farming which continued to be brought before the courts between 1909 and 1937, in practice these were not only dramatically fewer in number, but if convicted the defendants suffered far less harsh punishments than had been the case before 1908.⁶⁷ Such a distinct shift in sentencing policy and cultural views can perhaps best be illustrated by reference to one of these rare high-profile cases prosecuted after the passage of the Children Act.

⁶³ On boarding-out practice in England and Wales, see Henry F. Aveling, *The Boarding-Out System and Legislation relating to the Protection of Children and Infant Life* (Swann Sonnenschein, 1890)

⁶⁴ Behlmer, *Friends of the Family*, p.287

⁶⁵ In 1919 the eugenicist physician Dr Mary Scharlieb commented on the increasing difficulty of locating foster-mothers as an issue for single or widowed women who were unable to keep a child with them because of the need to work : see Mary Scharlieb, *The Welfare of the Expectant Mother* (Cassell, 1919) pp.116-117

⁶⁶ Homrighaus, 'Baby Farming,' p.206

⁶⁷ *Ibid*, pp.182-238

5 The Hatchard Case, 1919

Beatrice Hatchard, age 47, and her husband Henry, age 52, presented a double anomaly among baby-farmers in England and Wales when they were tried for manslaughter and neglect at the Central Criminal Court in 1919.⁶⁸ Partly, this was because baby-farming was relatively unusual by this point – though it is worth noting that *The Times* carried a report immediately following their first article on the Hatchards about another north-east London baby-farmer being sentenced to one month's imprisonment by a magistrate for running an unregistered house where a child had died.⁶⁹ The couple were also remarkable in being middle-class, whereas the majority of baby-farmers (both 'respectable' and criminal) were from a working-class background.⁷⁰ The Hatchards had been under observation by the local Infant Life Protection officers 'for some time'⁷¹ on suspicion of breaching the rules under the 1908 Children Act about registering as a baby-farming establishment.

To the eyes of contemporary readers, as well as historians, Henry Hatchard's claim that he was unaware of his wife's work as a baby-farmer stretched the bounds of credulity to their limit. The barrister presenting the case against the couple at the initial magistrates' hearing in Stratford, Eustace Fulton, insisted that 'It was quite plain that the male prisoner was aware of what was going on.'⁷² Moreover, the Hatchard's adult daughter Violet testified that when she had complained to her father about the dirty condition of the home and the presence of the foster-children, he had retorted she made enough money from her book-keeping job to cover her living costs and that if she found the circumstances objectionable, she should move in with her brother and sister-in-law.⁷³ The point was reiterated at the Central Criminal Court by Sir Richard Muir, the counsel for the prosecution. While Henry denied the charges of manslaughter and neglect, and Beatrice loyally insisted the children's care had been entirely her responsibility, Muir reminded the court that 'the husband was just as responsible in law, whatever he may be in regard to punishment, as the wife.'⁷⁴

In practice, however, the perception that a father's duty principally consisted of providing shelter, food and remaining in steady employment meant that Henry (like

⁶⁸ NA CRIM 4/1414/35; NA CRIM 4/1414/36; NA CRIM 4/1414/37.

⁶⁹ *The Times*, 31 July 1919, p.9

⁷⁰ Homrighaus, 'Baby Farming.'

⁷¹ *The Times*, 31 July 1919, p.9

⁷² *The Times*, 21 Aug 1919, p.7

⁷³ *The Times*, 21 Aug 1919, p.7

⁷⁴ *The Times*, 20 Sept 1919, p.7

other married or cohabiting men accused of child neglect⁷⁵) was considered far less culpable than Beatrice by the jury. Testifying in his own defence, Henry was able to cite a glowing character reference from the law firm which had employed him as a clerk for almost 40 years.⁷⁶ He was also insistent that he was a committed Salvation Army member, and that his wife's recent drinking problem was the cause of their present misfortune – a suggestion which even Beatrice and their children agreed with.⁷⁷ Beatrice, on the other hand, was viewed in a much less sympathetic light. Her husband's salary meant that the family were in comfortable financial circumstances.⁷⁸ Indeed, they could even afford to employ a part-time cleaner to help out with the housework.⁷⁹

Despite this relative affluence, the condition of the house was appalling: the police and NSPCC officers who had visited the Hatchard's home vividly described their horror at finding emaciated children lying in excrement and covered with vermin, broken beds, and a roof open to the elements.⁸⁰ Perhaps most damningly, all those called to give evidence – including the two defendants – admitted that Beatrice Hatchard was an alcoholic. Women's drinking was regarded with a particular revulsion by cultural commentators in nineteenth and early twentieth century England and Wales, and 'the inebriate woman' had been increasingly highlighted in this period as a major social problem.⁸¹ In the light of this, and her confession 'I would not have wilfully neglected them if I had not been drinking,'⁸² a guilty verdict was almost inevitable. Beatrice was convicted on both charges of manslaughter and an additional four counts of neglect, and sentenced to five years penal servitude.⁸³

Yet for all Mr Justice Darling's descriptions of her as 'grossly inhuman,'⁸⁴ and his suspicion that she – along with other baby-farmers in England and Wales –

⁷⁵ Grey, 'Discourses,' pp.262-315

⁷⁶ *The Times*, 22 Sept 1919, p.7

⁷⁷ *The Times*, 22 Sept 1919, p.7

⁷⁸ *The Times*, 21 Aug 1919, p.7

⁷⁹ *The Times*, 4 Aug 1919, p.5

⁸⁰ *The Times*, 14 Aug 1919, p.7

⁸¹ See, for example, Mary Gordon, *Penal Discipline* (George Routledge, 1922) pp.51-64; Norman S. Kerr, *Female Intemperance* (National Temperance Publication Depot, 1880); Benjamin Waugh, *Inebriate Mothers and their Reform: Being the Report for 1902-1903* (NSPCC, 1903). Valuable discussion of women and alcoholism in this period is contained in Bronwyn L. Morrison, 'Ordering disorderly women: female drunkenness in England c.1870-1920.' Unpublished PhD thesis, Keele University, 2005; Mariana Valverde, *Diseases of the Will: Alcohol and the Dilemmas of Freedom* (Cambridge University Press, 1998)

⁸² *The Times*, 20 Sept 1919, p.7

⁸³ NA CRIM 4/1414/35; NA CRIM 4/1414/36; NA CRIM 4/1414/37

⁸⁴ *The Times*, 22 Sept 1919, p.7

deliberately starved illegitimate children to death, Beatrice Hatchard's punishment was relatively lenient in comparison with that of baby-farmers tried before the Great War.⁸⁵ Importantly, Hatchard was also apparently the last baby-farmer to be convicted of child homicide in twentieth-century England. Where cases of baby-farming sporadically came into public view after 1919, this was invariably in relation to public concerns about illegal adoption and neglect, rather than homicide, and official inquiries found no evidence of the sort of network of illegal and immoral child-traffickers which had been commonly believed to exist in late Victorian and Edwardian Britain. Although the subject of 'adoption' had long been considered synonymous with baby-farming, by 1925 the Third Committee on Child Adoption could briefly state that there was no need for them to investigate or debate the issue, since 'We are satisfied that this legislation [Children Act 1908] has proved an efficient instrument for combating and has, in fact, largely eradicated the mischief against which it was directed.'⁸⁶ A similar inquiry into child adoption law and practice in the 1930s confirmed this finding, and dismissed any need to return to the subject of baby-farming.⁸⁷

Conclusion

In both the manslaughter trial which opened this paper- that of Robert and Annie Flann in 1910 – and the later case of the Hatchards, the fact that both couples were charged with causing the death of a child who was not theirs by blood would have placed them in a precarious position, much more likely than biological parents to be convicted and suffer a harsh punishment. By this point, however, the increasing emphasis on the need for mothers and fathers to be educated as to the best means of caring for their baby, and the newly benevolent description of foster care and adoption by the 1908 Select Committee on Infant Life Protection meant that the subject was no longer considered to be inherently suspicious. The resulting improvement in the standard of foster care and its perception in England and Wales meant that by 1918, the sort of criminal baby-farming which had so panicked the

⁸⁵ A sentence of five years seems to have been the most common outcome for those convicted of manslaughter in 1919. The Judicial Statistics recorded that 9 out of 24 (37.5 per cent) defendants convicted of manslaughter were sentenced to five years penal servitude. See PP 'Judicial Statistics (England and Wales) for 1919; Part I,' 1921, Cmd. 1424, 438. Unfortunately, these results cannot be broken down further by either the gender of the defendant, age of victim, or the circumstances of the death

⁸⁶ PP 'Third and Final Report of the Child Adoption Committee,' 1925, Cmd. 2711, pp.489-490

⁸⁷ Keating, *A Child for Keeps*, p.164

NSPCC and other interested parties before the First World War 'appears to have been in decline.'⁸⁸

The successes of Part One of the Children Act in largely eliminating this practice meant that juries and agencies such as the NSPCC were increasingly willing to give foster parents the benefit of the doubt in cases of manslaughter and neglect, rather than proceeding from the standard assumption they had neglected or deliberately killed children out of malice. From 1908 onwards, the judicial system and the press began to gradually extend the (admittedly small) degree of official sympathy traditionally given to biological parents beyond the limits of blood ties to adoptive and foster parents. With the infant life protection clauses of the Children Act increasingly 'viewed as a welfare measure'⁸⁹ rather than a criminal justice procedure, and particularly in light of the interwar emphasis on educational means of securing parent and child wellbeing, it was much more likely that foster carers whose charges fell ill or died would be perceived as 'more ignorant and stupid than wilfully cruel.'⁹⁰

⁸⁸ Keating, *A Child for Keeps*, p.68

⁸⁹ PP 'Third and Final Report of the Child Adoption Committee,' 1925, Cmd. 2711, p. 490

⁹⁰ *Dorset County Chronicle*, 2 June 1910, p.6