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DESPERATE MEASURES: MURDER, MARRIAGE AND THE MEDIA, 1900-1939

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INTRODUCTION

The crime of murder brings forth intense emotions and provokes strong reactions. This is because the deliberate killing of one human being by another is generally considered the most serious of all crimes. It shocks, concerns and dismays not only those closely connected to the victim and offender, but can also have a ripple effect so that even those apparently far-removed are affected. This seems especially true when the offender is a woman because, generally speaking, homicide is a gendered crime. Across time and across cultures, it has been strongly established that homicide is ‘fundamentally masculine’. As Jan Jordan points out, ‘[w]omen are not typically thought of as natural born killers. When we think of killing, our minds flick more readily to images of men: men as hunters, soldiers, terrorists, serial killers and wife murderers.’

This study considers some of the women who made up the very small proportion of female criminal offenders in New Zealand during the period 1900-1939. That there are generally fewer female criminal offenders than male is particularly true regarding certain crimes. Although there are obvious exceptions, violent crimes are usually committed by males. Murder and manslaughter fall squarely within this category. An analysis of New Zealand’s statistics for the period relevant to this study (1900-1939) shows this to be the case. In New Zealand’s Supreme Courts during this time, 133 men were charged with murder and 40 convicted. Over the same period, 50 women were indicted for murder and only one was convicted. Not only are women less likely to kill than men, they also tend to kill in a more limited range of situations. Men and women often have different motivations for killing and therefore have different victims. ‘Masculine aggression is broad ranging,’ states Kenneth Polk, a leading writer on the subject, ‘and lethal violence reaches out across a range of social

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3 Statistics of the Colony of New Zealand, 1900-1918; 1920 (Wellington: John Mackay, Government Printer); Report on the Justice Statistics of the Dominion of New Zealand, 1923-1939 (Wellington: W.A.G. Skinner, Government Printer). The statistics for the years 1919, 1921 and 1922 could not be obtained, but this does not detract from the overall impact of the data as a whole. The overwhelming conclusion is that, statistically, fewer New Zealand women than men killed over the period 1900-1939.
situations as victims. In comparison, female lethal violence is much narrower. Polk argues that it is focused on a close circle of intimacy and is often reactive to the breakdown of that intimacy. This is why women who kill are more likely than men to kill a family member. The three women examined in this study conform to this theory: all killed men with whom they had an intimate relationship, and in each case the relationship had either broken down or was under considerable strain. Polk identifies some of the reasons why men kill as being linked to situations of masculine control over the sexuality of women, masculine competition for status among themselves, and masculine competition for scarce resources. In contrast, it is generally only in times of unusual stress that a woman is likely to offend seriously. The stress may be physical, emotional, economic or social and often a combination of these different sources of stress is required before serious offending – such as murder or manslaughter – occurs.

Murder committed by women is unusual and shocking not only because it is less common than homicide committed by men, but also because it appears an inherently 'unwomanly' act. When women murder or kill, it seems more offensive, more disturbing, more serious. This is because a woman who kills is a woman who violates prescribed gender norms. Women are, by historical and popular definition, meant to be submissive, gentle, passive creatures. It is in their nature to nurture, to reproduce – to give life, not to take it away. Jordan writes:

If we do consider women killing, we assume it was accidental, or carried out in self-defence, or hormonally induced. The idea that a sane, rational woman could intentionally take the life of another human being seems repugnant, unnatural, unthinkable. Women's bodies bear life; their nature is to nurture, not to annihilate.

Jordan is writing in a contemporary setting, but this study analyses this idea within a historical framework. In particular, it looks at the way ideas about 'acceptable womanly behaviour' can impact upon women who do not conform to these standards. Sarah Fogo, Alice Parkinson and Jessie Dickson are three such women. They

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4 Polk, 148.
5 Ibid.
6 Jordan, 97.
7 Polk, 211.
breached the code of acceptable female behaviour in perhaps the most serious way possible – they killed the men they loved. For this, they were doubly punished – punished for breaking the law but also punished for violating social and gender norms. This study also considers how, paradoxically, stereotypes about ‘womanly’ behaviour can sometimes aid criminal women.

The cases of Sarah Fogo, Alice Parkinson and Jessie Dickson are interesting not just because of the unusual nature of these women’s crimes, but also because of the wider social and moral issues they raise. The evidence may suggest that, in many ways, Sarah Fogo, Alice Parkinson and Jessie Dickson were ordinary, typical women before they committed their crimes. Whether they were typical of the women tried for murder in New Zealand over the period 1900-1939 is difficult to assess because there has been no definitive study of this group of women. Regardless of whether or not they are ‘typical’ of this group, their stories are valuable and have been selected for this study because they allow an exploration of certain aspects of New Zealand society. Rollo Arnold states, ‘Specific events and unique experiences are of the essence of history.’ These women’s stories reflect upon the nature of New Zealand society during the first four decades of the twentieth century and contribute to the historiography about New Zealand women.

At first glance, Sarah Fogo, Alice Parkinson and Jessie Dickson appear to have had little in common other than that they all killed their male partners. Upon closer examination, however, it becomes apparent that there were recurring threads woven through all their stories. The institution of marriage emerges as a particularly important and central common theme. Sarah Fogo and Jessie Dickson were married and Alice Parkinson was engaged. Marriage is important because it influences peoples’ behaviour, ideas and expectations in both the public and private spheres. As an independent subject, marriage has received little scholarly attention in New Zealand. It has tended to be analysed statistically, in terms of the parties’ ages and the number of people choosing to marry at any given time. Alternatively, marital breakdown has been studied, resulting in literature about divorce in New Zealand, but not the institution of marriage itself. These women’s cases, although extreme, provide a special insight into the centrality of the institution of marriage and its

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9 Jordan, 96.
conventions over the period from 1900 till the late 1930s. This in turn lends itself to an exploration of men’s and women’s roles within marriage, and how these may have changed, during this period.

Marriage is a personal contract that binds people together but it is also a powerful and important ideological tool. Marriage was considered personally and socially desirable over the period 1900-1939. Moreover, a particular model of marriage was endorsed and promoted by political and legal authorities, and accepted by the public. This model of marriage was characterised by ‘lifelong, faithful monogamy, formed by the mutual consent of a man and a woman, bearing the impress of the Christian religious and the English common law in its expectations for the husband to be the family head and economic provider, his wife the dependent partner’.11 This understanding of marriage effectively shaped and reinforced the gender order. Nancy F. Cott writes that:

Molding individuals’ self-understanding, opportunities, and constraints, marriage uniquely and powerfully influences the way differences between the sexes are conveyed and symbolised . . . Turning men and women into husbands and wives, marriage has designated the ways both sexes act in the world and the reciprocal relation between them . . . The unmarried as well as the married bear the ideological, ethical, and practical impress of the marital institution, which is difficult or impossible to escape.12

Taking this concept and applying it within a historical framework, the cases of the three women discussed here clearly illustrate this point. Over the period 1900-1939, men and women had distinct roles and responsibilities within marriage. These were influenced by the gender norms of the day, but also acted upon them. The Victorian ideal of the ‘proper young woman’ as a ‘frail but appealing, intellectually inferior but morally superior being, whose duty it was to be passive, decorative, and sexually pure’ had repercussions for what it meant to be a wife in the early twentieth century.13 Wives should be submissive, obedient and dependent. They were primarily responsible for domestic and childcare duties while their husband was the family head and economic provider. Although these stereotypes were from the Victorian period,

12 Ibid.
they continued to inform popular understandings of marriage, and the roles of husbands and wives, during the period from 1900 till the 1930s. In this way, marriage shaped personal and public expectations and understandings of acceptable behaviour.

The cases of Sarah Fogo, Alice Parkinson and Jessie Dickson also provide a contextual view of how New Zealand’s legal system and the media (and therefore portions of the public) saw, or chose to portray, women who killed their male partners. In all three women’s cases, there was considerable and consistent public interest in and sympathy for the women and what they had done. In Sarah Fogo’s and Alice Parkinson’s cases, these public attitudes seemed far-removed from legal and judicial sentiments. The law was applied with little sympathy or compassion. By the late 1930s, however, this gulf between public and official sentiments seemed to be somewhat narrowing. Sir Michael Myers’ judgment in Jessie Dickson’s case in 1939 may signal that judicial attitudes seemed to be responding to social realities, indicating a clear shift since the turn of the century.

The extensive media coverage devoted to these women’s cases indicates that public fascination with women who killed the men they loved was a constant theme across this period. The newspaper reporting of all three women’s cases was remarkably comprehensive, and thus a valuable research tool. Virtually full transcripts of the court proceedings were reported, which proved very useful given that none of the cases were officially published in the New Zealand Law Reports. By convention, only cases considered to be of particular legal importance or interest are officially reported. Although the cases discussed in this study are interesting in many respects, they do not raise any contentious legal issues, hence were not officially reported.
CHAPTER ONE: SARAH MUIR FOGO

Sarah Muir Fogo was 63 when she killed her husband, Thomas Telfer Fogo, on 29 September, 1900. Thomas was 64 when he died. Sarah was tried for murder in the Dunedin Supreme Court before His Honour Mr Justice Williams and a jury of twelve men. Although she pleaded not guilty, Sarah Fogo was convicted of her husband’s murder. Accompanying the jury’s verdict was a strong recommendation to mercy. Sarah Fogo was sentenced to death.¹

Why did Sarah Fogo, an elderly woman of ‘a genial, kindly, compassionate nature,’ kill her husband, to whom she had been married for over 30 years?² A closer examination of the case reveals that the answer to this question is not straightforward, but does shed light on social norms and standards of the day. The way Sarah Fogo’s case was conducted also reveals much about official attitudes towards criminal women, and the apparent inconsistency between these and public opinion.

Married for over 30 years, Sarah and Thomas Fogo had two adult children, Andrew and Georgina, who lived with them. The Fogo’s marriage was an unhappy one - Thomas Fogo was abusive and an alcoholic. Mr. J.F.M. Fraser, Crown Prosecutor, stated in court that Thomas Fogo was:

... described to have been a man addicted to drink, quarrelsome while in drink, and occasionally violent. He was described as having recently struck his wife, as having turned his wife and daughter out of doors, and that he was intolerant of restraint, difficult to get on with, irritable when suffering a recovery from drink, and a morose and selfish man.³

Further evidence from Andrew and Georgina Fogo endorsed this view of their father.⁴ Andrew was especially concerned about his father’s treatment of his mother. He stated that he had known Sarah to kneel and plead with Thomas to stop drinking. Andrew had even urged his mother to separate from Thomas on more than one occasion.

¹ Capital punishment was the mandatory sentence for convicted murderers until 1941, when the death penalty was abolished by the Crimes Amendment Act. *Crime in New Zealand*, 61.
² *Otago Witness*, 5 December, 1900, 37.
³ *Otago Daily Times*, 5 October, 1900, 3.
⁴ Ibid., 3.
occasion. Despite Thomas' appalling behaviour, Andrew stated that his mother had always been affectionate and self-sacrificing, and was very fond of her husband.5

On 29 September, 1900, the first sign of anything out of the ordinary in the Fogo household came at around 7am when Andrew and Georgina Fogo were awakened by their mother calling them from the nearby bedroom she shared with their father. Arriving at their parent's bedroom, they found that the door was snibbed, but the key was on the outside. Andrew burst into the room and Georgina followed. They found their mother standing in the middle of the room, holding a knife. She had stabbed Thomas, who was then leaning against the wall. Georgina rushed to her mother, and Andrew caught his father as he fell towards him. Andrew also reached across to his mother to restrain her, holding her by the wrist. Sarah dropped the knife and Andrew gave evidence that this was when Thomas died. Sarah immediately said: 'I have done it, I have done it. I did it in self-defence. Had I not done it, I would have been a corpse myself'.6

On the back of Thomas' head was a wound that had been caused when Sarah hit him with a walking stick, prior to stabbing him. While the blow with the walking stick would have 'rendered him practically helpless',7 the official cause of Mr. Fogo's death was haemorrhage from the wound on the left side of his chest, caused by his wife stabbing him.8

The Crown case was that Sarah Fogo deliberately murdered Thomas Fogo. Mr. J.F.M. Fraser, Crown Prosecutor, described her act as a 'premeditated crime, deliberately carried out and relentlessly executed'.9 The prosecution also contended that the indictment for murder could not be reduced to manslaughter in this case because there had been no 'intense provocation' immediately preceding the crime. If she had killed her husband 'in the heat of passion', this may have lessened the gravity of the offence, justifying a verdict of manslaughter, not murder. There was no evidence of a struggle or argument immediately preceding the incident, however, and Sarah herself confessed to the crime. It is important to note that while she admitted to killing her husband, Sarah Fogo continuously maintained that she had done so in self-defence. This was the line of reasoning argued by Sarah's lawyers. Mr. W.A. Sim

5 Otago Witness, 5 December, 1900, 24.
6 Otago Daily Times, 5 October, 1900, 3.
7 Otago Daily Times, 10 October, 1900, 53.
8 Ibid.
9 Otago Witness, 5 December, 1900, p. 29.
put it to the jury that Sarah Fogo fatally wounded her husband during what she believed was an attack on her own life. As such, he argued, this rendered the act excusable homicide, not murder, and entitled Sarah to an acquittal. Quoting Mr. Justice Lopes’ summing up in Regina v Rose (15, Cox’s Criminal Cases, p. 540), Mr. Sim said, ‘[Homicide] may be excusable if the fatal blow inflicted was necessary for the preservation of life.’

Defence counsel then put it to the jury that it was clear beyond doubt that Sarah Fogo honestly believed that her life was in some danger from her husband. Sarah’s mental condition at this time was crucial. Thomas’ continual heavy drinking, despite his wife’s pleas for him to stop, was causing Sarah ‘constant worry and annoyance’. Moreover, at the time of the incident, Sarah Fogo was also suffering from sleep deprivation, having not slept for 11 consecutive nights due to her husband keeping the light on at night and so preventing her from sleeping. Quoting from a medical textbook, her defence counsel stated ‘that a sufficient amount of fatigue and exhaustion from want of sleep will produce a condition in almost any brain that is closely allied to that of the monomaniac’. Dr. Joseph Closs, who was called to the scene shortly after the incident by Andrew Fogo, at his mother’s suggestion, agreed with this statement. Thomas Fogo had threatened his wife and actually been violent towards her in the past. Recently, Sarah Fogo had been considering getting someone to stay with them when her son was away, indicating that she had real fears for her own and her daughter’s safety should they be left alone with Thomas. ‘The effect produced on her mind’ by these cumulative stresses, argued her lawyer, was ‘that she was afraid that he [Thomas Fogo] was going to do some violence to her, or kill her’. Evidence of this fear was corroborated by another source, Alexander Sligo, who had known Mr. and Mrs. Fogo for many years. On 27 September 1900, two days before her husband’s death, Sarah Fogo had visited Mr. Sligo and requested that ‘If anything happens suddenly to me, I want you to promise that an inquest will be held and a post-

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10 Ibid.
11 Ibid.
12 Ibid.
13 Ibid.
14 Ibid.
15 Ibid.
16 Ibid., 24.
17 Ibid.
mortem to be [sic] made.'  

All these factors, especially when considered in conjunction with Sarah’s statement that she would have ‘been a corpse’ herself had she not acted as she did, indicate that her mental condition was such that she truly believed her life was in danger.

One of the main obstacles regarding Sarah Fogo’s claim of self-defence was the lack of evidence of any struggle, argument or confrontation immediately preceding the incident. Due to the close proximity of Andrew’s and Georgina’s bedrooms to their parents’, they could usually hear any talking that was going on in their parents’ bedroom. However, both children said that throughout the night of September 28, 1900, they did not hear their parents arguing. Moreover, there were no physical signs of a struggle. Given that Sarah was ‘stout in body’, it was reasoned that she would bruise fairly easily and would therefore bear physical evidence had a struggle taken place. At the request of the police, Dr. Emily Siedeberg had examined Sarah Fogo after the incident but found only a small bruise on her upper left arm. It appears Sarah didn’t even know the bruise was there, discounting the possibility that she could have received it while struggling with her husband. Even more damaging to Sarah’s case were her own confessions. In his evidence Dr. Closs stated that Sarah had said ‘I did it in self-defence . . . I’m prepared to take the consequences . . . I hit him on the head with a stick and did it’.

The all-male jury was instructed to give a verdict strictly on the evidence, and warned by the Crown Prosecutor that:

...juries do not realise the enormous gravity of the offence. If you open a door of this kind, you cannot tell where it will close. It is not a case where your sympathies can be appealed to . . . Some aspects of it are very sad indeed, but you cannot take that into consideration.

Heeding this advice, the jury took five and a half hours to deliver a verdict of guilty of murder with a strong recommendation to mercy. Perhaps the lengthy period of

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18 *Otago Witness*, 10 October, 1900, 53.
19 *Otago Daily Times*, 5 October, 1900, 3.
20 *Otago Witness*, 10 October, 1900, 53.
21 Ibid.
22 Ibid.
23 *Otago Witness*, 5 December, 1900, 24.
24 Ibid.
25 Ibid.
deliberation suggests that the instruction to exclude any sympathies they may have had for Sarah Fogo from their assessment of her guilt proved difficult in reality. It may also have been attributable to the fact that the death penalty was the mandatory punishment for convicted murderers at this time. Upon hearing the verdict of guilty of murder, Sarah Fogo burst into tears and ‘a dead silence prevailed in the court for two or three minutes’.

Despite the jury’s recommendation to mercy, Sarah Fogo was sentenced to death. The verdict was described by The Otago Witness as one of ‘common sense’, and ‘the natural outcome of the facts as they were presented to the jury’. However, the verdict, and the way the case was conducted, can also be described as an illustration of the views and norms that dominated society at this time.

By the early twentieth century, increased female participation in the legal process was a definite objective on the feminist agenda. Feminists hoped that the presence of women lawyers, jurors, police and parliamentarians would assist in creating a legal system that would respond to women’s needs. This goal had not yet been realised when Sarah Fogo was tried, as evidenced by the fact that the jurors, the lawyers, the judge and the arresting police officers in her case were all male. Because Sarah’s trial took place within this predominantly male environment, a certain patriarchal flavour permeated the proceedings. This was also reminiscent of and reflected the male dominance that characterised New Zealand’s public sphere at this time.

The prosecution seem to have presented their case in a very matter-of-fact manner. Mr. Fraser argued that if Sarah Fogo was unhappy or abused in her marriage, she should simply have divorced her husband. He said that:

If the home was an unhappy one, as indeed, it probably was, judging by the evidence, the law of the land provided the accused with full and ample remedies. If her husband was a habitual drunkard, she could divorce him on that ground alone . . . if he treated her unkindly, again, the law offered her sufficient protection from him and provision for herself. As has been said, ‘No man under the protection of the law is to be the avenger of his own wrongs. If they are of a nature for which

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26 Crime in New Zealand, 61.
27 Otago Witness, 5 December, 1900, 24.
28 Ibid., 37.
the laws of society will give him an adequate remedy, thither he ought to resort...30

This pragmatic view may have been technically correct, but it failed to take account of practical and social realities. Andrew Fogo had urged his mother to separate from or divorce his father on numerous occasions. Under cross-examination at his mother’s trial, Andrew stated that the last time he had urged her to divorce Thomas, ‘his mother “went” for him because of the exposure it would bring on the family’.31 It was also reported in the Otago Witness that Sarah had ‘indignantly repudiated’ the suggestion of divorce and ‘said she would not separate from her husband on account of the disgrace it would bring on her family’.32

Sarah Fogo’s response to the prospect of divorcing or separating from her husband reveals much about the social morés of the time. In particular, it emphasises the centrality and importance of the institution of marriage. At the turn of the century, being married was both socially desirable and acceptable. Marriage was central to family reputation and inherently linked to notions of ‘respectability’. Divorce was possible but the negative social stigma attached to it and the arduous process meant that for many women, divorce was not a realistic option, even if their marriage was troubled.

From the Middle Ages, the institution of marriage has been predominantly understood as a ‘religious’ concept. In more recent times, however, this understanding has been influenced by the co-existence of an alternative ‘utilitarian’ conception of marriage.33 The ‘religious’ conception saw marriage as a life-long union and, pursuant to this view, the rights and obligations of husbands and wives as encoded in a religious service were upheld.34 The alternative ‘utilitarian’ conception saw marriage as a social contract which, like any other contract, is subject to both the will of the individuals involved and that of society.35 The development of and changes in divorce laws show a movement away from a ‘religious’ conception of marriage to a ‘utilitarian’ one.36

30 Otago Witness, 5 December, 1900, 24.
31 Ibid.
32 Otago Witness, 5 December, 1900, 29.
34 Ibid.
35 Ibid.
36 Ibid., 141.
The Divorce and Matrimonial Causes Act of 1867 was the first legislation relating to divorce in New Zealand. Predictably, it was weighted in favour of males. A man could obtain a divorce solely on the grounds that his wife had committed adultery, but a woman needed to show an additional ‘aggravation’ as well (for example, bigamy, sodomy, incest, rape, cruelty or desertion for five years). The Divorce Act of 1898 levelled the playing field somewhat by giving women and men the same grounds for divorce and extending the ‘marital’ faults on which divorce could be based.

Pursuant to this Act, the prosecution was accurate in arguing that Sarah Fogo could probably have successfully applied for a divorce from her husband because the 1898 Act added drunkenness for four years coupled with a failure to maintain and cruelty as a ground for divorce. Provided Sarah could have shown that Thomas ‘failed to maintain her’ or was cruel to her, she may have been granted a divorce. Nevertheless, theoretical options do not always translate into practical or realistic ones. There was a social stigma attached to divorce at the turn of the century. Sarah Fogo had clearly internalised these sentiments, as shown by her refusal to divorce her husband because of the ‘shame’ it would bring to her family. Andrew Fogo considered divorce from his violent and alcoholic father desirable for his mother, but it should be remembered that Sarah Fogo was in a different situation. She was 63 years old and had grown up at a time when conservative Victorian ideals about marital unity, and particularly male superiority and female submission in marriage, prevailed. As her staunch comments show, divorce or separation from her husband was not a practical option for Sarah Fogo, in her mind at least. Her case provides a window into domestic relations at the turn of the twentieth century. Such was the importance of the institution of marriage and the weight of societal disapproval of divorce that Sarah Fogo would rather have endured the suffering inflicted by her alcoholic and abusive husband than suffer the ‘shame’ of divorce.

Sarah Fogo’s attitude seems to have been representative of general feelings about divorce at the turn of the twentieth century. Roderick Phillips has described divorce as ‘one of the great moral issues’ facing New Zealand in the early twentieth century.

He writes that:

37 Ibid., 154.
38 Ibid.
39 Ibid.
It was an issue not simply because divorce, by its very character, called into question the stability and continuity of individual families, but also because it raised many other questions which were thought central to the maintenance of social stability... there was widespread fear that a too liberal approach to divorce would bring about social disintegration and moral collapse.41

At this time, marriage was central to popular understandings of the ‘right’ and desirable way to structure one’s life. This notion was strongly endorsed by many politicians, who felt that divorce had the potential to threaten the existing social order. The extensive, and often heated, discussion in Parliament concerning legislation about divorce illustrates the controversy this topic generated. When the Divorce and Matrimonial Causes Bill was being debated in 1894, the Honourable Sir G.S. Whitmore stated that it struck ‘at the root of all our social habits and customs’.42 The Divorce Bill, introduced in 1894 and very similar to the Divorce and Matrimonial Causes Bill, also met with opposition. The Honourable Sir P.A. Buckley, an ardent Catholic from Wellington, was particularly opposed to it. He strongly aligned himself with the ‘religious’ conception of marriage mentioned earlier. Although he accepted that he was in the minority in the Chamber, he stated:

I am satisfied that the precept, ‘Whom God has joined together let no man put asunder,’ is as strong today as the day it was first issued. I am old-fashioned enough... to believe that marriage is a Divine institution, and I am not aware that the Authority who issued the mandate has given any authority to the contrary; neither has He delegated any power to any legislature to sanction divorce.43

The Honourable Mr. Scotland accurately stated that the debate in Parliament clearly showed what a ‘very difficult subject divorce is to deal with’. He said that he could ‘not imagine any subject which gives rise to so much diversity of opinion’.44

Much of the opposition to divorce was linked to the idea that the family unit and, associated with it, the institution of marriage, were important foundations of society. Divorce challenged the stability of these foundations and threatened social morality

41 Ibid.
42 New Zealand Parliamentary Debates (NZPD), vol. 83, 572.
43 Ibid., 575.
44 Ibid., p. 581.
and accepted norms. By implication, the issue of divorce raised other important social issues, such as sexual freedom, the double standard of morality, the social equality of men and women, temperance, and the broad question of the role of the family in society.\textsuperscript{45} In short, divorce posed a threat to existing social order and values, and consequently was unacceptable – even inconceivable – to many.

New Zealand society at the beginning of the twentieth century was very much ordered along gendered lines. The institution and conventions of marriage helped to reinforce the gender order and also shaped understandings of ‘acceptable’ male and female behaviour. Men and women had separate and distinct roles and responsibilities. At the centre of this gender order were notions of work, home and family.\textsuperscript{46} The man’s role was to work and provide for his family; the woman’s role was to raise a family and manage domestic affairs. She was to be obedient, docile and temperate. Against this background, it becomes easier to see why the jury convicted Sarah Fogo of the murder of her husband, especially given that they were urged to make a decision based solely on the evidence, without reference to sympathy or emotion. They were told to ‘completely forget and to wholly cast aside everything that you may have heard about this case, or may have read, and rumours – pay no heed to them’.\textsuperscript{47} Yet even if they were able to do this, the jury would still have been making its decision with the aforementioned ‘norms’ – socially ingrained and reinforced by the structure of daily life – providing the filter through which the trial evidence passed. Sarah Fogo had taken the life of another human being, but what’s more, she had transgressed the bounds of ‘acceptable’ womanly behaviour.

The negative repercussions of this become even more apparent when Sarah Fogo’s case is compared with that of Thomas Gallaway. The Gallaway case and the Fogo case are interesting because of their strikingly similar facts, yet remarkably different outcomes. Like Sarah Fogo, Thomas Gallaway killed his spouse. Also like the Fogo case, the Gallaway killing took place in Dunedin in 1900. Moreover, the same judge, Justice Williams, presided over both cases, and the same lawyers – Mr. J.M.F. Fraser (Crown Prosecutor) and Mr. W.A. Sim (defence counsel) – argued the case. There was also an all-male jury in both trials.

\textsuperscript{45} Phillips, 54.
\textsuperscript{47} Otago Witness, 5 December, 1900, 24.
Thomas Gallaway was described by his friends and neighbours as having always 'born a very high character' and been 'gentle, kindly, [and] good-tempered'. He was also 'a patient man, and very kind to his wife'. In comparison, his wife, Emmeline Gallaway, was depicted as a difficult, intemperate and sometimes violent woman who was addicted to chlorodyne, a medicine containing morphine. Thomas stated that there were never any 'high words' between himself and Emily, 'except through her drinking chlorodyne.' His wife's addiction clearly distressed Thomas, especially since Emily was described as having been 'very violent at times,' especially when deprived of brandy or chlorodyne. If Thomas ever denied Emmeline her chlorodyne, she would refuse to let him sleep. So bad was her addiction that it was causing Thomas severe financial strain and he had even tried to have his wife committed to Seacliff Asylum. The authorities, however, had 'refused to admit her'.

Just as Sarah Fogo had roused her children after killing her husband, Thomas Gallaway woke his neighbours immediately after his wife’s death. In contrast to the Fogo case, however, Thomas Gallaway did not immediately claim responsibility for his spouse's death. Emmeline Gallaway died in the early hours of New Year's Day, 1900, killed, Thomas said, by an intruder who had broken into their home and attacked them both, leaving Emmeline dead. Although Thomas Gallaway did bear injuries of an attack, there was only his evidence to substantiate the claim. Thomas Fazakerly Beck, a neighbour of the Gallaway's, stated that 'It was a very severe attack that had been made upon [Mr.] Gallaway, who was bleeding from the head, and whose hands were so marked as to take the power out of them.' In reality, it was more likely that he had received these injuries from his wife, not an unknown intruder. As in the Fogo case, Mr. W.A. Sim for the defence argued that this was a case of excusable homicide. The theory he presented to the jury was that Emmeline Gallaway had taken a very large dose of chlorodyne, making her homicidal. She then attacked her husband in bed, who in his sleepy and confused state caused by the blows, believed an intruder had come in and therefore struck who he thought to be the

48 Otago Daily Times, 1 March, 1900, 7.
49 Ibid.
50 Otago Daily Times, 12 January, 1900, 7.
52 Otago Daily Times, 1 March, 1900, 7.
intruder. The 'intruder' was actually his wife, and thus the situation was entirely accidental and excusable homicide, which was not a crime at all.\textsuperscript{55}

Just as they had been instructed to base their decision solely on the evidence in the Fogo case, the jury in the Gallaway case was told:

> Your verdict must be given solely upon the evidence to be led. And pray do not allow yourselves to be affected or swayed either one way or the other by anything else you may have heard or read in connection with the case . . . Pray do not allow yourselves in this case in any way to be diverted from your proper course of duty by any sympathy that you may have.\textsuperscript{56}

In comparison to Sarah Fogo’s case, the Crown Prosecutor, Mr. J.M.F. Fraser, informed the jury matter-of-factly, ‘Of course, where a man’s past life and conduct tell in his favour in interpreting any action on his part, he is entitled, I admit, to the benefit of that interpretation’.\textsuperscript{57}

There is no evidence that Sarah Fogo received the benefit of having such advice relayed to the jury who tried her, despite the strong and positive testimonies to her ‘past life and conduct’. Moreover, it seems that the jury did let their sympathies influence their decision in the Gallaway case as they took only an hour to find Thomas Gallaway not guilty of his wife’s murder.\textsuperscript{58} They reached this verdict despite the fact that Mr. W.S. Sim’s theory that the murder was accidental was inconsistent with Thomas Gallaway’s own statement that he had struggled with the intruder in the hallway.\textsuperscript{59} It is clear that the jury’s sympathies lay with Thomas Gallaway, ‘a decent hard-working man . . . driven beyond endurance by a complaining, drug-addicted, violent wife’.\textsuperscript{60} It is also clear that, despite all the evidence pointing to Thomas Gallaway’s guilt, the jury was influenced by this sympathy. Their opinion was undoubtedly subconsciously reinforced by the prescribed gender norms of the day. The very norms about acceptable womanly behaviour that worked against Sarah Fogo also worked against Emmeline Gallaway, even though she was not the one on trial. Emmeline Gallaway had failed to fulfil her role as a docile and obedient wife. She

\textsuperscript{54} Otago Daily Times, 1 March, 1900, 7.
\textsuperscript{56} Otago Daily Times, 1 March, 1900, 7.
\textsuperscript{57} Ibid.
\textsuperscript{58} Otago Daily Times, 3 March, 1900, 9.
did not have any children and her chlorodyne addiction caused her husband severe financial, and emotional, strain. She was quarrelsome and even violent. In short, she was the opposite of a ‘good wife’.

The factual similarities between the Fogo and Gallaway cases are numerous. Both were cases that involved relationships where one partner, worn down by years of living with a violent, demanding, substance-abusing spouse, seems to have reached breaking point, with fatal consequences. The outcomes of the two trials could not have been more different, however – a guilty verdict and death sentence in one, a complete acquittal in the other. Even Justice Williams, who, as judge, was meant to be impartial, said to the jury in the Gallaway case:

> The character of the accused, and the relations previously existing between himself and his wife, the fact of severe injuries being found on the accused, all pointed to this: that assuming he did kill his wife, it must have been in the course of some struggle between the two, and that it was not the accused, but his wife who had begun it and provoked him into it.61

This bold assumption, seemingly lacking any factual foundation, obviously favoured the accused, Thomas Gallaway. Yet Justice Williams did not feel compelled to make a similar statement in favour of Sarah Fogo when she was being tried for her husband’s murder. The gender politics of the day seem to provide at least a partial explanation for this.

Despite Sarah Fogo’s trial being described as ‘as fair and impartial as any trial could well be’,62 it was clear that the outcome did not sit well with public conscience, no matter how technically correct or ‘common sense’ it may have been. The fact that Sarah Fogo, an elderly and generally law-abiding citizen, was to be hanged for her crime clearly upset many in the community. The Otago Witness described the problem that many people were grappling with thus:

> When an elderly woman who, throughout a long life had not only shown the remotest sign of the criminal instinct, but was rather of a genial, kindly, compassionate nature, and had worked hard and sacrificed much for her family, is found guilty of a crime so horrifying

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60 Ibid.
61 Otago Daily Times, 3 March, 1900, 9.
62 Otago Witness, 5 December, 1900, 37.
and so unnatural, it is very difficult to exclude from the feeling with which it is regarded a certain element of considerable distress. There may be a feeling, too, that possibly all the facts, actual or psychological, did not come out, or were incapable of being brought out.63

This feeling of distress was undoubtedly enhanced by the fact that Sarah Fogo was not in her ‘right mind’ when she killed her husband. She was described as being ‘very much excited’ immediately after the incident, and Andrew Fogo stated that she ‘danced about with her eyes staring out of her head, keeping on repeating, ‘I did it in self-defence’’.64 According to her children, her hair was dishevelled, her body trembling and her teeth chattering.65 Speaking about the death of her husband to Jane Coates, the police matron whose duty it was to visit all female prisoners, Sarah Fogo said what a dreadful thing it was and that she ‘must have been mad’ when she did it.66 The *Otago Witness* argued that Sarah Fogo may have been suffering from ‘impulsive insanity’ and ‘morbid unhealthiness’ when she killed her husband.67 It reported:

> It is a fact well known in the domain of criminal psychology that a morbid idea may silently work in the mind for years and give no sign until a sudden motiveless, or almost motiveless, crime reveals the true state of the case. The breakdown in such cases is always associated with prolonged sleeplessness, and indeed such a condition of sleeplessness can rarely be dissociated from insanity in any of its forms. Impulsive insanity is the name which has been applied to it.68

During the nineteenth century doctors had determined that the characteristic feature of impulsive insanity was ‘uncontrollable, motiveless, sharp and spasmodic violence,’69 which seems to have been exactly the kind of violence that Sarah Fogo inflicted on her husband. However, the issue of impulsive insanity does not seem to have been effectively raised at her trial.

Dr. Closs gave evidence that, immediately after the incident, Sarah Fogo did not seem to realise what she had done. She said to him, ‘He’ll come to life again all

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63 Ibid.
64 *Otago Daily Times*, 5 October, 1900, 3.
65 *Otago Witness*, 5 December, 1900, 29.
66 *Otago Daily Times*, 5 October, 1900, 3.
67 *Otago Witness*, 5 December, 1900, 37.
68 Ibid.
In a similar vein, when Andrew Fogo said to his mother, "You have killed him," Sarah replied that he was making a mistake; that his father was not dead. She kept repeating that she did it in self-defence. This evidence, combined with her severe sleep deprivation, seem to indicate that Sarah Fogo's mental state was severely altered when she stabbed Thomas Fogo.

The prosecution stressed to the jury, however, that only if she were actually legally insane would Mrs. Fogo be properly entitled to an acquittal, not merely if she were suffering from sleep deprivation and paranoia. This, coupled with the prosecution's statement to the jurors that they should not 'be swayed idly by sympathy', undoubtedly contributed to the jury reaching its guilty verdict.

Although arguable, it seems that the jurors were also distressed at the conclusion they clearly felt compelled to reach. This explains why a strong recommendation to mercy accompanied their conviction for murder. As reported in the *Otago Witness*:

Their verdict of guilty was based on the undisputed fact that the woman killed her husband, and the recommendation to mercy doubtless arose out of a recognition of the intense excitement (from whatever cause) under which the deed was done, the comparative blamelessness of the condemned woman's long domestic life, and the trials she had had to endure at the hands of the victim.

This publication also stated that it had no doubt that the jury's recommendation to mercy, which had the judge's approval, would be acted upon, as to ignore the recommendation and sentence Sarah Fogo to death would be simply another crime. However, the recommendation was effectively ignored because Sarah Fogo was sentenced to death.

By this time, public interest in the case had been stirred by comprehensive newspaper reports and commentaries. In particular, the *Otago Daily Times* and the *Otago Witness* contained extensive coverage of Sarah Fogo's case. The tragic nature of her story clearly struck a chord with many members of the community. The public were far more sympathetic to the sad realities of Sarah Fogo's life than the legal system had been. Some people were so concerned that they felt compelled to act on

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70 *Otago Witness*, 5 December, 1900, 24.
71 Ibid.
72 Ibid., 29.
73 Ibid., 37.
74 Ibid.
Sarah Fogo’s behalf. Writing to the Editor of the *Otago Daily Times*, ‘Merciful’ suggested that a petition be sent to the Governor asking for a reprieve ‘for the deed of which she [Sarah Fogo] has been convicted was ‘doubtless committed in a moment of frenzy, when both heart and brain were on fire with long-suppressed suffering’’.  

Indeed, a petition for Sarah Fogo was formed, but in contrast to the later petition for Alice Parkinson, in Sarah Fogo’s case ‘rightly or wrongly, and in consonance with the wishes of those most nearly interested – it was decided to proceed quietly and to obtain a thoroughly representative rather than a monster petition’. Approximately 1,700 signatures were gathered.

The degree of public outcry and obvious sense of unease about the result of Sarah Fogo’s trial (partially illustrated by the above-mentioned petition) illustrates that the public still upheld certain ideas of how men should behave in marriage. It was accepted that Sarah Fogo had killed her husband, but what was also apparent was that Thomas Fogo had been an alcoholic and had been abusive and cruel to his long-suffering wife. From the second half of the nineteenth century, writings about marriage and the duties of each spouse had begun to include advice on how husbands, not just wives, should behave. More responsibility was placed on men for the success of their marriage. Husbands should be considerate and take an interest in their wife’s domestic affairs. In short, writes Hammerton:

> The messages directed at men focused on the male virtues necessary for a harmonious marriage: on patience, tenderness, consideration, forbearance, and the need for husbands to take the trouble to understand the domestic cares experienced by their wives.

Thomas Fogo lacked the above virtues, as evidenced by the statements of those who gave evidence about his character and behaviour in court. Admittedly, the consistency of these ideals with the realities of marriage at this time was probably questionable. Nevertheless, it was becoming clear that there was evidence of a shift in public attitudes about the acceptability of male abuse towards women. Around the

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75 *Otago Daily Times*, 14 December, 1900, 3.  
76 *Otago Daily Times*, 19 December, 1900, 8. See Appendix 1 for a reproduction of the petition.  
78 Ibid.  
79 Ibid., 282.
turn of the twentieth century, the State was becoming increasingly intolerant of, and therefore more willing to regulate, many forms of violence. While violence against wives still seems to have been relatively common around this time, 80 this was arguably because the law had always treated wife-beating differently from other assaults, ‘hesitating to interfere in the private relations of man and wife’. 81 Clark argues that changes in the legal status of wife-beating derive from changes in larger conceptions of society and politics; societal concern about wife-beating is not affected by the actual incidence of the crime, but rather increases when domestic violence becomes ‘symbolically linked with other concerns’. 82 The enfranchisement of New Zealand women in 1893 proved a great impetus to the enactment of various important social legislation in the following years. Increasing public awareness about women’s issues instigated re-evaluation of previously accepted behaviour, including wife-beating. The Marlborough Express published a story in 1893 entitled ‘Petticoat punishment for the Arrowtown wife beater’, which detailed the case of a group of Arrowtown women who, frustrated by the unresponsiveness of the law, had intended to inflict their own form of punishment on ‘a notorious wife-beater’. 83 They had planned to duck the man in the river and give him a ‘sound beating.’ They were persuaded to abort their plan, however, by the man’s pleas and his behaviour as a ‘true coward.’ 84 Instead of being publicly reprimanded for their act, the newspaper instead reported that: ‘The event shows that the young ladies of Arrowtown are not deficient in heart nor head, and are likely to make good use of the franchise’. 85 Although not completely eliminated, it was becoming clear that domestic violence was no longer something to be ignored or effectively condoned by ‘turning a blind eye’. Although the jury convicted Sarah Fogo of killing her husband, there was clearly also a degree of sympathy and understanding for her plight. By abusing his wife, Thomas Fogo had not been a wholly innocent victim.

82 Ibid.
84 Ibid.
85 Ibid.
This sentiment was shared by other more influential members of society. At this time, the Executive Council had the power to recommend that the Governor of New Zealand commute a sentence of death to one of life imprisonment. At a special meeting held in Christchurch on 15 December, 1900, the Executive Council decided to adopt this course of action and Sarah Fogo’s death sentence was commuted to imprisonment for life. She died eleven years later, on 28 April, 1911, aged 75 years. Presumably she had been released from prison before this, as her place of residence at the time of her death was listed as Castle Street, Dunedin.

Sarah Fogo’s case provides a lens through which New Zealand society at the turn of the twentieth century can be explored. As an elderly woman who struck out against a violent and alcoholic husband after years of abuse, Sarah Fogo was condemned by a patriarchal justice system. Apparently the proper recourse against her husband should have been the divorce courts, but the social stigma attached to divorce effectively rendered this option redundant. A closer examination of the Fogo case also illuminates an interesting paradox: convicted of killing her husband and guilty also of failing to conform to prescribed norms of female behaviour, Sarah Fogo was nevertheless aided by the greater public opinion that there was also certain standards of behaviour expected of married men, which Thomas Fogo had failed to meet. While members of the public were willing to import elements of humanity and empathy into their evaluation of Sarah Fogo’s crime, those responsible for conducting her trial were not. The legal system and judiciary appear to have allowed no room for emotion, compassion or sympathy in Sarah Fogo’s case. The law seems to have been applied rigidly and conservatively, with little or no consideration of social realities or public opinion.

87 Otago Daily Times, 17 December, 1900, 6.
88 Northern Cemetery Dunedin, Burial Register Transcript, 1905-1917, Vol. 4, 766.
Figure 1: Mr. Justice Joshua Strange Williams, who presided over Sarah Fogo’s trial. 
CHAPTER TWO: ALICE MAY PARKINSON

At first glance, Sarah Fogo and Alice Parkinson seemingly had little in common. Sarah Fogo was 63 years old, had been married for over 30 years and had two adult children. Alice Parkinson was a young, working woman of 25 who lived in Napier. She had a fiancée whose still-born, illegitimate child she had given birth to. These two women, separated by age and experience, both killed their partners. Sarah Fogo and Alice Parkinson found themselves in situations where permanently ridding themselves of their husband and fiancée, respectively, became the only solution they could see to their problems.

On 10 June 1915, Alice May Parkinson was convicted of the manslaughter of her lover, Walter Albert West, in the Napier Supreme Court. Although the jury returned their manslaughter verdict with a strong recommendation to mercy, the judge, Sir Robert Stout, sentenced her to imprisonment for the term of her natural life. The case was extensively reported in newspapers throughout the country and received much public attention. As in Sarah Fogo’s case, there was considerable public sympathy for Alice Parkinson. The popular view was that West had mistreated Alice and that she was a victim herself. In particular, many groups within the labour movement rallied in support of Alice, petitioning for her release. Alice Parkinson became a cause celebre and after spending five years in prison, was finally released in 1921.

Alice and West had been romantically involved for a few months when, in 1914, Alice discovered that she was pregnant with West’s child. Fortunately for Alice, West promised to marry her. Relying on his promise of marriage, Alice spent her savings renting and furnishing what she thought was to be her future home and paid the necessary fee for a marriage licence. N.Z. Truth newspaper reported that, in short, ‘the unfortunate and love-stricken woman seems to have done everything that is expected of the young man who is about to take unto himself a wife’. 

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1 Evening Post, 11 June, 1915, 4.
2 Ibid.
5 Ibid.
West lacked Alice’s steadfast commitment to their relationship and future together, however, and did not fulfil his reciprocal obligations. He did not follow through on his promise of marriage, but rather continued to ‘sponge’ on Alice and ‘string her on’.6 After a long, painful and difficult labour, Alice gave birth to a stillborn baby boy on 1 January, 1915. She discharged herself from the Napier nursing home a fortnight later, despite the attending doctor’s concerns that this was too early. She was anxious to see West and have him marry her as he had agreed.7 Despite his earlier promises, however, West’s feelings seemed to have changed. He no longer wanted to make Alice his wife, especially since their child had not survived. Twice he failed to attend pre-arranged marriage ceremonies, leaving Alice stranded waiting at the church.8 West ‘avoided and shunned’ Alice ‘as a thing accursed’.9

Alice had no job, had spent all her savings preparing for her future with West, had lost her baby and no doubt felt rejected and humiliated by West. Four weeks after the birth of her still-born child she began writing threatening letters to West.10 ‘I will hunt till I find you, and by God you will know it . . . One of these days I will do what I say: you do not deserve to live, you rotter,’ she wrote. She also threatened: ‘I will have my revenge.’11 Such was the magnitude of her despair that Alice apparently saw no alternative but to kill West and herself.12 To this end, she purchased a revolver in Hastings and on 2 March, 1915, confronted West on Nelson Crescent. He was with a friend, John Ford, who tried to interfere when Alice confronted West.13 Angry at Ford’s interjection, Alice slapped him across the face and he subsequently knocked her to the ground in retaliation. Immediately after this, Alice struggled with West, and shots were fired from the .22 calibre revolver Alice had earlier purchased. Alice shot West four times, thrice in the head and once in the chest.14 Seriously injured, he survived for three days in Napier Hospital before his death on 5 March, 1915.15 After shooting West, Alice had turned the gun on herself and attempted suicide, shooting

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6 Ibid.
7 Carol Markwell, “The Case of Alice Parkinson: its Social and Political Context,” A research essay submitted as part of the requirements for a Diploma of Humanities to the Department of History, Massey University, 1993, 2.
8 Coney, Stroppy Sheilas and Gutsy Girls, 103.
11 Appendices to the Journals of the House of Representatives (AJHR), 1916, E-I, 1-2A, 2.
12 Markwell, “The Case of Alice Parkinson,” 2.
herself in the right temple. The resultant injury was not fatal, however, and Alice lived the rest of her life with the bullet lodged in her brain, its removal considered too risky.\textsuperscript{16}

Alice’s trial in the Napier Supreme court lasted two days. Her lawyer, Mr. B.J. Dolan, emphasised Alice’s ‘good character’ and the fact that she had never been before the court before.\textsuperscript{17} He put it to the jury that it was uncertain who had fired the first shot: Alice and West had been struggling and it was possible that West had pulled the trigger first. If West had fired the first shot, the jury could conclude that Alice fired the fatal shot in self-defence, said Mr. Dolan.\textsuperscript{18} Alternatively, he submitted, the ‘medical evidence of insanity in the family history’ would justify an acquittal on the grounds of insanity.\textsuperscript{19} Alice’s father had been a reformed drunkard and both Alice’s paternal and maternal uncles had committed suicide.\textsuperscript{20} Mr. Dolan further argued that the provocation Alice had received from West was sufficient alone to reduce the murder charge.\textsuperscript{21} Chief Justice Stout disagreed with these arguments. In summing up for the jurors, he discounted the possibility of them finding that Alice was provoked or had acted in self defence. Alice had stated that she had not let go of the gun the whole time and did not remember anything after feeling the sting of the first shot being fired.\textsuperscript{22} Therefore, stated Stout, she did not act in self-defence and if she did not know anything, how could there have been any provocation?\textsuperscript{23} It was clear that Stout’s sympathies did not lie with Alice Parkinson.

The jury, however, seemed more accepting of the evidence concerning West’s mistreatment of Alice and sympathetic to her plight. They saw her as a woman seduced and then scorned. As in Sarah Fogo’s case, this sympathy arguably complicated the jurors’ task of evaluating Alice’s guilt, as evidenced by them reporting to the judge at one point that they could not reach a decision. Finally, after three hours of deliberation, the jury finally returned a verdict of guilty of manslaughter with a strong recommendation to mercy ‘on account of the provocation

\begin{itemize}
\item \textsuperscript{15} Ibid.
\item \textsuperscript{16} Markwell, “Parkinson, Alice May,” 383.
\item \textsuperscript{17} N.Z. Truth, 19 June, 1915, 7.
\item \textsuperscript{18} Ibid.
\item \textsuperscript{19} Ibid.
\item \textsuperscript{20} Markwell, “The Case of Alice Parkinson,” 7, 8.
\item \textsuperscript{21} N.Z. Truth, 19 June, 1915, 7.
\item \textsuperscript{22} Ibid.
\item \textsuperscript{23} Ibid.
\end{itemize}
she received'. In sentencing Alice Parkinson, Mr. Dolan urged Chief Justice Stout 'to extend to this woman his accustomed benignity and clemency' and asked that he 'be as lenient as he possibly could under the circumstances'. It seems that Mr. Dolan's pleas fell on deaf ears, however. Chief Justice Stout did not consider this a case where clemency was required. *N.Z. Truth* reported His Honour's comments:

> In his [Chief Justice Stout's] opinion there was no provocation. It was cold premeditated murder. The jury had evidently taken a clement view of the case as the accused was a woman. If he was to extend clemency he would be encouraging crime and assassination. If he did that every woman who found a man who would not marry her, would do the same thing. Life would be no longer safe.

Chief Justice Stout sentenced Alice Parkinson to imprisonment for the term of her natural life. She was to serve her sentence in Addington Gaol in Christchurch.

Alice's lawyer, Mr. Dolan, appealed almost immediately. The appeal was heard by Sir Robert Stout, this time in his capacity of Chief Justice of New Zealand, who, unsurprisingly, dismissed it. Alice's sentence stood.

Almost straightaway there was public outcry at the sentence Stout had imposed on Alice, which many perceived as outrageously severe. It was lamented that 'in no other part of the British Dominions could such a sentence have followed upon such a verdict and strong recommendation to mercy'. Analogies were drawn between Alice Parkinson's case and that of Canadian Carrie Davies. Carrie Davies, a servant girl, had been seduced by Bert Masses, her employer and a wealthy Toronto clubman. Davies had shot and killed Masses. She had been tried in the Toronto Criminal Assizes before the Canadian Chief Justice, Sir William Mulock, and acquitted. Davies was held to be irresponsible for her crime, having been seduced by a married man. The Canadian Chief Justice stated:

> The sight of the man whom you thought had disgraced you so terribly roused you to the conviction that the crisis of your imminent peril had arrived and afterwards you were irresponsible.

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24 Ibid.
25 Ibid.
26 Ibid.
28 Ibid.
Although Mulock conceded that the jury’s verdict was ‘reached without accordance, perhaps, to absolute rules of law,’ this was apparently mitigated by the fact that the jury had ‘rendered substantial justice’.

Many felt that the factual similarities between the two cases yet their different outcomes illustrated the harshness of Alice Parkinson’s sentence and the absence of ‘substantial justice’.

Not only was Alice Parkinson’s sentence popularly considered to be excessively severe, it was also seen to be an uncharacteristically harsh result in a case heard by Chief Justice Stout. Generally known for his clemency, Sir Robert Stout was described as ‘a man and Judge in whom ‘the quality of mercy is not strained’.

In fact, many of his contemporaries felt that he was quite often too leniently disposed towards wrong-doers. Sir Francis H.D. Bell, one of New Zealand’s most eminent lawyers, said:

The stern reproof of wrong and crime was mitigated curiously in his dealings with the criminal. . . [his sense of charity] created his almost emotional sympathy with human frailty . . . I think the Chief Justice . . . was never quite able to fully control his feelings of sympathy and charity.

In Sir Robert Stout’s obituary, the Leader of the Opposition, the Right Honourable J.G. Coates, stated that ‘Running through his life, there was a broad strain of humanity, his inclinations leaning always towards those unfortunately placed.’

Moreover, he endorsed the reformatory purpose of punishment and was a strong supporter of the probation system that had been introduced during his premiership (1884-1886). He felt that this system provided an important check on offenders, which could pre-empt a criminal career, without indiscriminately sending them to prison where, he considered, first offenders were ‘almost always contaminated by contact with recidivists’.

Interestingly, he had also been an influential champion of equal rights for women. In 1878 he had introduced the Electoral Bill that enabled...

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29 Ibid.
32 NZPD, vol. 224, 438.
34 Dunn and Richardson, 177
women ratepayers to vote and stand for Parliament and in 1887 he supported Vogel’s Women’s Suffrage Bill.\textsuperscript{36} Against this backdrop, his harsh attitude and lack of sympathy for Alice Parkinson appears somewhat odd.

This seems particularly true given that his wife, Lady Anna Stout, was a dedicated suffragist and an avid campaigner for women’s rights. While in London from 1909 till 1912 she was actively involved in the struggle to secure the franchise for British women. She wrote to newspapers, gave public speeches and led the Australasian contingents in the suffrage parades in London, lending authority to British women’s pursuits of electoral freedom.\textsuperscript{37} Anna Stout was widely admired for her dedication and contribution to the suffrage movements in both New Zealand and Britain. She had even collaborated with her husband to campaign on some women’s issues. Together, Robert and Anna Stout had worked to control the testamentary freedom of husbands so that property could not be willed away from wives.\textsuperscript{38} Anna Stout’s feminism seems to have had little effect on her husband’s thinking in Alice Parkinson’s case, however.

Perhaps Robert Stout’s attitude can be somewhat explained by the fact that he was a prominent eugenist thinker, belonging to the Eugenics Education Society, founded in 1910.\textsuperscript{39} Many eugenists and members of the late-nineteenth century reformatory movement felt that New Zealand’s imperial and racial superiority was in jeopardy, that society was being threatened from within by the ‘unfit’ – ‘the mentally ill, the criminal and the drunkard’.\textsuperscript{40} Stout believed that hereditary played an important part in the causation of crime\textsuperscript{41} and that there was ‘a criminal class and type which is just as distinct in humanity as the bull-dog is amongst dogs’.\textsuperscript{42} It is clear from his comments that Sir Robert Stout did not think Alice Parkinson was fit to live in the community and probably saw her as a member of the aforementioned ‘criminal class’.

In his Judge’s Memorandum, written on 19 June, 1915, Stout stated:

\begin{quote}
Claudia Orange (Wellington: Bridget Williams Books Limited and the Department of Internal Affairs, 1993), S48,487.
\textsuperscript{36} Ibid.
\textsuperscript{37} Coney, \textit{Standing in the Sunshine}, 34.
\textsuperscript{38} Hamer, 487.
\textsuperscript{40} Ibid., 44.
\textsuperscript{41} Robert Stout, ‘Prisons and Prisoners,’ (Dunedin: Dunedin Star Print, 1918), 5 cited in Dunn and Richardson, 177.
\textsuperscript{42} NZPD, vol. 55, 70.
\end{quote}
She [Alice Parkinson] spoke of what she had done as if she were speaking of the killing of some criminal. In my opinion, she is not fit to be at large, and if she had not homicidal tendencies, then she is a cool and cruel murderer...  

He seems to have had little sympathy or understanding for Alice’s plight, seeing her crime not as a tragic act committed by a desperate woman but rather as cold, calculated murder by a criminal. It seems that Alice Parkinson fell victim to this point of view and to Stout’s eugenist thinking. Markwell argued that had Alice behaved in a more ‘womanly’ manner in court – had she wept, pleaded or shown remorse – perhaps she would not have received such a severe sentence. ‘A woman weeping before a judge could expect to be treated with some paternalistic leniency,’ she wrote. It seems that Stout’s opinion of her as a ‘cool and cruel murderer’ was too strongly held to be swayed, however.

Public support for Alice was far more forthcoming, however. Many considered that Alice had been ruined by West, her reputation stained. This loss of respectability had serious material consequences – for many women, a bad reputation could mean a loss of marriage prospects. Many felt that, under pressure and provoked, Alice had resorted ‘to one swift measure of vengeance’. While it was accepted that she had killed West, many considered the reasons for her behaviour to be many and complex. Harry Holland, editor of the *Maoriland Worker* and one of Alice’s dedicated campaigners, boldly blamed the structure of society: ‘Society as it was structured provided no adequate punishment for the man. Society flung the woman among the hissing serpents and burning fires’. Holland also seemed acutely aware of the stigma attached to illegitimacy. While accepting that women were not always completely blameless, his point was that ‘it is always the woman who bears the full weight of shame and suffering that a mock-moral society imposes for the sin of parenthood’. These statements raise the point that there was a double standard of...
sexual morality at this time. While pregnancy for an unwed woman was a social catastrophe, the man often seemed to emerge from the situation with his reputation, dignity and social standing largely intact. The woman was ‘ruined’ but the man was simply considered to be ‘sowing his wild oats’.

The print media was quick to respond to the considerable public interest in Alice’s case. In particular, N.Z. Truth, White Ribbon and the Maoriland Worker newspapers all publicised Alice’s case. The correspondence in support of Alice Parkinson reproduced in these publications is notable for its volume and for its consensus of opinion: Alice Parkinson was a woman ‘wronged’; West was a ‘contemptible cad and creature’ whose behaviour was ‘truly despicable’. Representative of many letters was one from ‘A Mother’ in Wellington:

Poor creature! Just launched into young womanhood, deceived and ruined by a brute who told her she would be his wife. Cast off as an unclean creature; despised by him . . . Wrecked! No man would want a second-hand polluted [sic] article. She knows there was no chance to recover her lost womanhood. The low fellows who happened to know her and meet her would look on her as a thing of convenience. Where had she a hope?

Although emotively worded, this letter nevertheless reveals popular attitudes of the day about illegitimacy and the importance of a young woman’s reputation. For young, unmarried women at this time, becoming pregnant was a disaster. Pregnancy outside of marriage was socially unacceptable and so the usual solution for women who found themselves pregnant was to marry as soon as possible. In 1915, the year that Alice gave birth, only 51 other women of Alice’s age were officially recorded as also having delivered illegitimate children. Illegitimate births were rarely acknowledged, but were severely condemned by the authorities. A ‘fallen’ woman’s prospects were very limited; there were no pensions available for solo mothers at this time.

51 N.Z. Truth, 26 June, 1915, 5.
54 Ibid., 4.
time and women were largely dependent on men for their economic livelihood.\textsuperscript{55} As well as societal disapproval of ‘fallen women,’ Alice’s upbringing in a Salvation Army family would also have influenced her ideas about ‘acceptable’ behaviour.

Although she did fall pregnant out of wedlock, Alice may have redeemed herself in the eyes of the public through her desire to do the ‘right’ thing and marry West. She probably felt that marrying West would have gone some way to restoring her lost respectability. In a sense, this would have helped to transfer the blame from Alice to West because he was the one who had not wanted to get married. In contrast, Alice had been eager to conform to society’s moral standards and become West’s wife.

The fact that West had actually agreed to marry Alice but had then reneged on this promise was particularly important. Until 1975, an agreement to marry – that is, an engagement – was a legally binding contract. Legal redress was available to a jilted fiancée in the form of an action for breach of promise of marriage.\textsuperscript{56} Alice could probably have brought such an action against West and gained a legal remedy to her problems. The court could not have forced West to marry Alice but it could have financially compensated her for the injury caused to her feelings and for the loss of the benefit of marriage.\textsuperscript{57} One of Alice’s critics wrote that ‘[H]ad she no thirst for blood she would have applied through Court,’ however, like Sarah Fogo’s option of divorce, this was probably more feasible in theory than reality.\textsuperscript{58} Not only did Alice lack the funds required to proceed legally against West, she may not even have known this course of action was open to her. Moreover, her emotional and mental state at the time inherently rendered such a sensible option unavailable. Even if she had proceeded against West in this manner and won, it would probably have been a hollow victory. Afterall, she did not want money, but rather to marry West and have him love her. To further complicate the matter, the legal aspects of an action for breach of promise of marriage were not straightforward. The engagement or ‘contract’ needed to be legal when it was made, and accurately assessing the due damages basically came down to guess work.\textsuperscript{59} It seems that, often, the legal

\textsuperscript{55} Rodden, 50.
\textsuperscript{56} Maureen Hickey, “Breach of Promise of Marriage,” A thesis submitted in partial fulfilment of the requirements for a postgraduate diploma in History at the University of Otago, Dunedin, New Zealand, 1992, v.
\textsuperscript{57} Ibid., 30.
\textsuperscript{58} N.Z. Truth, 4 September, 1915, 5.
\textsuperscript{59} Coney, Stroppy Sheilas and Gutsy Girls, 190.
remedies available to women were framed by males and thus could not satisfactorily respond to the reality of women’s problems. Public sympathy and support for Alice was channelled into direct efforts to have her released or her sentence reduced. In particular, she had the support of the Labour Movement, which used her case to highlight women’s economic dependence on men and society’s double standards for men and women with regard to illegitimacy at this time.\footnote{New Zealand Herstory: A New Zealand Woman’s Calendar, (Dunedin: John McIndoe, 1978), unpaginated.}

The Wellington and Petone branches of the Social Democratic Party were particularly active on Alice’s behalf. A meeting was held in the Esperanto Hall, Wellington, in July 1915 to promote the movement for Alice’s release. Among the organisations represented were the Housewives’ Union, the women’s section of the Liberal League and the women’s section of the Reform League, indicating the level of popular support for Alice.\footnote{N.Z. Truth, 31 July, 1915, 5.}

\footnote{Ibid.}

\footnote{Ibid.}


Jane Donaldson, who had been an English suffragette and was a committed member of the Housewives’ Union, spoke at this meeting. She reiterated many of the themes that feminists had been voicing over previous decades, particularly the call for increased female representation. Jane Donaldson stated that ‘she hoped the day would soon come when women would be upon all juries where women were being tried and when women would be on all public bodies, including Parliament’.\footnote{Ibid.}

The battle for women to serve on juries was to be one of the longest and most difficult fought by the women’s movement in New Zealand. The Sex Disqualification Act of 1919 enabled British women to do jury service, but their New Zealand counterparts had to wait much longer. The National Council of Women was consistently vocal on the issue, which appeared on its list of demands at the first NCW convention in 1896. In 1914 Lady Anna Stout led a deputation requesting women jurors in cases where women and children were involved.\footnote{Ibid.}

In 1942, women were able to put their names on a register if they wanted to be considered for jury service but it was not till 1962 that jury service was made equal for men and women in New Zealand. Even then, women could still decline jury service because of their
sex until 1976. Women’s representation in Parliament came a little sooner, but it was still 1933 before New Zealand had its first woman Member of Parliament, Elizabeth Reid McCombs.

Jane Donaldson also saw Alice’s life sentence as disproportionate when compared with the sentences of some male offenders. ‘The lenient sentences inflicted on men guilty of gross offences against little children, compared with the terrible sentence imposed on Alice Parkinson were a disgrace to the country,’ she argued. In Invercargill, a man had attacked his wife with his fists and marked her face ‘in a shocking manner’. He had not been provoked and could offer no defence, yet was sent to jail for only two months. Harry Holland also used the Australian case of Ethel Herringe to highlight the severity of Alice’s sentence. The facts of the Herringe case are strikingly similar to Alice’s. Herringe was a young domestic servant convicted for killing her former employer and lover, John Lee. Lee had promised to marry Herringe, but abandoned her when he discovered that she was pregnant. She pursued him and after a confrontation, shot him with his gun. Despite factual similarities, the outcomes of the two cases were very different. While Alice was sentenced to imprisonment for the term of her natural life, Herringe was convicted of manslaughter, not murder, and was sentenced to two and a half years imprisonment.

Herringe’s case was taken up by Australian feminists, particularly Rose Scott, who saw Herringe as a political prisoner – ‘a woman who had defended her lost honour in a social system that offered women no effective redress against seduction and abandonment’. Despite a concerted effort, the campaign to free Ethel Herringe met a bureaucratic stonewall in the form of Attorney General B.R. Wise. He refused to consider releasing Herringe and failed to respond to the feminists’ intervention on her behalf, considering their demands unreasonable. Only after T.W. Waddell replaced Wise as Australia’s Attorney General was Herringe released from prison, and by this time she had almost served her full sentence anyway.

To Herringe’s campaigners, her case highlighted the way that masculine views of sexual relations shaped men’s sexual behaviour towards women, and revealed the

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64 Ibid., 116.
69 Ibid., 82.
limited forms of agency and redress women had at their disposal. The same could be said about Alice Parkinson’s case. This was partly why support for Alice was strong and numerous meetings were held throughout 1915 to capitalise on this and publicise her case. The Release Alice Parkinson Campaign was guided by a committee made up of sixteen women and four men, including Harry Holland. At a large public meeting held at the Wellington Town Hall in September 1915, Barney Dolan, Alice’s lawyer, was one of the invited speakers. Although he said it was ‘not often that a barrister followed the cause of his client from the court to the public platform... he considered that he was only carrying out his duty as a professional man in doing his utmost in the interest of his client.’ In particular, Mr. Dolan highlighted some of the shortcomings and inconsistencies of the justice system of the day. He was especially concerned that the verdict of the common jury must be upheld and their recommendations recognised. This had not happened in Alice’s case because the jury’s recommendation to mercy had been ignored by Chief Justice Stout. Refusing to extend clemency in this case, Stout apparently thought that it should ‘be sought in another quarter,’ and that the appropriate remedy was to ‘seek the extension of the Crown’s prerogative of mercy’. This course of action was taken up by Alice’s campaigners, who petitioned the Minister of Justice, as will be discussed later.

Members of the public were also concerned about the seeming omnipotence of Supreme Court judges. One correspondent to the Maoriland Worker urged that there should be safeguards ‘against such dangers as must necessarily exist when practically despotic power is placed in the hands of one man’. The same reader went on to note that judges of the Supreme Court were entitled to hold office until they were 72, while all other public officials had to retire at the age of 65. ‘Why should judges, from the nature of their work more prone to the early advance of senility, be in this more favourable position?’ the reader asked.
Alice’s case was also used to argue the ‘clamant need for modernising the appeal procedure’ in New Zealand.77 In a letter to the editor of *N.Z. Truth*, Barney Dolan asserted that ‘the Parkinson case under many aspects reveals the fact that our criminal appeal procedure, framed 22 years ago, has become obsolete [sic].’78 The main problem was that there was no Court of Criminal Appeal in New Zealand. Consequently, the only options for convicted offenders were to appeal to the English Privy Council, or appeal to the New Zealand Supreme Court on a legal technicality and ask for a new trial. Appealing to the Privy Council in England was not only prohibitively expensive, but it was also practically impossible for most ordinary citizens.79 Therefore, Mr. Dolan’s only real option was to appeal to the New Zealand Supreme Court on Alice’s behalf. This he did, as aforementioned, putting forward two arguments. First, Dolan noted that the Crown Prosecutor had told the jury that they could return a verdict of guilty with a strong recommendation to mercy. He argued that the Court’s failure at Alice’s trial to direct the jury that such a recommendation may not be given effect to, and might be ignored by the Court and was not part of the verdict, amounted to a misdirection in law. He also contended that the presence of two police constables and another man in the jury room while the jury was deliberating vitiated the jury’s verdict. For these reason, Dolan argued that a new trial was necessary80. Unfortunately for Dolan and Alice Parkinson, Stout presided over the appeal and promptly dismissed it. Had the criminal appeal procedure been different, Alice may have been able to have had her case reviewed more effectively and impartially. As the then Minister of Justice put it: ‘Had it been the law of the land [that a convicted person could appeal on the facts of their case to the Court of Appeal, which could quash or reduce a sentence imposed] Parkinson could have had a review of her sentence by a bench of Judges in a Court of Law’.81 If this had been the case, Alice, and others in similar positions, may have achieved a more just and favourable outcome.

Although her appeal through the courts had not succeeded, Alice’s supporters were not deterred. At the end of the Esperanto Hall meeting in Wellington, it was resolved:

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78 Ibid.
80 *Rex v Parkinson*, 1915 [NZLR] 34, 636. Alice Parkinson’s appeal was officially reported because it raised potentially legally contentious issues.
That this meeting of citizens of Wellington emphatically protests against the extremely severe sentence passed upon Alice Parkinson, and, considering that she has already suffered sufficiently, calls upon the Minister for Justice to take steps for the remission of the sentence and thus give effect to the strong recommendation of the jury. 82

The weight of this public sentiment was enhanced by the mass petitions that were formed on Alice’s behalf. Unlike Sarah Fogo’s small and representative petition, more than 60,000 people signed the first petition urging clemency for Alice. The Maoriland Worker hoped that the volume of signatures ‘showed that the sentence was regarded as atrocious and a blot on the fair name of New Zealand’. It was also confident that ‘the opinion of such a large body of citizens could not be put lightly on one side’. 83 Unfortunately, this confidence proved ill-founded. The committee that reviewed the petition in 1916 simply stated that it had ‘no recommendation to make’ and attached Stout’s written report of September 1915 to its decision. 84 In his report, Stout defended his rejection of the jury’s recommendation to mercy for three main reasons. He argued that:

(1) the killing was deliberate, having been previously threatened, and it was planned; (2) there was, in fact, no provocation; (3) if the jury had acted according to the strict law and the evidence they ought to have found her guilty of murder. 85

He also quoted from her emotional and self-incriminating letters and stated ‘she could have had no real love for the deceased, or else she would never have killed him.’ 86 Stout’s defence of his decision shows that he regarded the law as something to be applied rigidly and strictly, without emotion or compassion. This appears in stark contrast with public sentiment of the day, as articulated by the masses who submitted correspondence to the newspapers and signed Alice Parkinson’s release petition.

Despite the failure of the petition, the movement to release Alice Parkinson continued its efforts. Markwell has noted that although it seemed to lose momentum between 1917 and 1919, the campaign to have Alice freed continued to meet and try and keep her name in the public eye. But there seemed to be less time and energy for

83 Maoriland Worker, 15 December, 1915, 5.
85 Ibid., 2.
supporting ‘women’s’ causes, like Alice’s. Instead, the print media was dominated by ‘war news, grief over casualties and deaths, and the need to maintain patriotism, cheerfulness and high morale’. After the First World War ended, however, the Release Alice Parkinson campaign experienced an upsurge – there was once again time and opportunity to become involved. Another large petition proved unsuccessful in 1920, but finally, on 26 August, 1921, the Governor General, upon recommendation from the Prison’s Board, decided to release Alice Parkinson. Instrumental in this decision was legislation recently passed by Parliament that enabled cases, like Alice Parkinson’s, to be placed under the jurisdiction of the Prison Board with a view to release on probation. The enactment of this legislation had failed twice before, but finally the Reformatory Institutions Amendment Act was successfully passed in December 1918.

It seems that another reason for releasing Alice was that it was finally officially accepted that there was no point keeping her in prison any longer. This could be taken to indicate a new official willingness to acknowledge and yield to public opinion. In 1921, before she was released, C.E. Matthews, Controller of Prisons, had requested written reports from Alice’s three official prison visitors addressing her suitability for release from prison. In separate reports, all three women adamantly supported her release. As Ann Jones has pointed out, punishment of criminals is popularly supposed to provide an example and deter crime. In the case of women like Alice, to punish them further as a deterrent to others after they had already suffered so much seems ‘redundant and cruel’. Jones states:

These women [who had killed the men by whom they had been seduced and then betrayed] were ruined for life. They remained fallen women, publicly humiliated by a criminal trial, permanently stained in mind and body. What woman could want to follow their example?

Jones also argues that these ‘despoiled maidens’ were far from an imminent danger to society – rather, it was their ‘vile seducers’ who posed the real threat. Stout had
considered Alice’s killing of West to be a ‘private assassination’\textsuperscript{94} and he felt that reducing, or quashing, her sentence would equate to condoning such behaviour.\textsuperscript{95} This was arguably a very misguided view, however. As was noted earlier, Alice killed West in a very particular set of circumstances. She was under extreme emotional and probably psychological stress, compounded by the recent loss of her child. Only four weeks after ‘a child-bearing ordeal of a most terrible character,’ a reader in a letter to the \textit{New Zealand Times} posed the question of ‘whether Alice Parkinson was likely at that moment [when she shot West] to [have been] . . . in an evenly-balanced state of mind.’\textsuperscript{96} It is likely that she was not. Given the context in which she killed West, it seems highly unlikely that Alice would have re-offended had she not been imprisoned. Stout and other public officials appear to have upheld the law more vigorously than social mores, however. Society at large seemed much more willing than the judiciary to sympathise with the practical realities of Alice’s case. The public also seemed more able to see the shortcomings and inadequacies of existing patriarchal legal and social arrangements than the bureaucrats and officials who maintained them. Fortunately for Alice, the persistent and dedicated campaign to have her released finally achieved its goal after six long years.\textsuperscript{97}

Alice Parkinson’s case reveals much about New Zealand society in the 1910s, especially about what it meant to be a woman at this time. Like Sarah Fogo, Alice Parkinson’s story illustrates the pressures of social norms, namely the pressure of young women to marry and the stigma attached to illegitimacy, and the dire consequences of non-compliance. It shows the continuing centrality of the institution of marriage and its association with respectability. Women’s economic dependence on men during this period is also evident, as are the short-comings and male dominance of the judicial system. Alice Parkinson is often depicted as villain, heroine or victim. The truth about her is far more complex and it is only by looking at her case in a historical context that her plight, and that of other women in similar circumstances, can be meaningfully understood.

\textsuperscript{94} AJHR, 1916, 1-2A, 3.
\textsuperscript{95} Ibid.
\textsuperscript{96} \textit{The New Zealand Times}, 13 August, 1915 in “Hogg Scrapbook,” Volume 25, 113.
\textsuperscript{97} Alice went on to marry Charles Henry O’Loughlin, a carpenter, in 1923 and together the couple had at least six children. Alice died in Auckland on 21 July, 1949. Markwell, “Parkinson, Alice May,” 383.
Figure 2: Alice May Parkinson.

Figure 3: Chief Justice Sir Robert Stout.

Figure 4: The Summons to Open: Will Law Comply? "The appeal for signatures to the Alice Parkinson Petition has met with a Dominion-wide response, and the strong voice of the Public aroused is demanding the Mitigation of her harsh sentence."
Source: N.Z. Truth, 10 July, 1915, 1.
"Scorned by the man whose babe I bore,
Who left me outcast, neither maid nor wife;
On whom I'd blindly spent my scanty store,
Fondly believing I should share his life;
Desperate, distraught, half mad with grief
and shame.
I shot that man - was I to blame?
Blinded by love, I suffered each rebuff,
Foolishly thinking love would grow again;
By kith and kin abhorred, my path was rough.
But little cared I, buoyed by love's fierce flame.

When disillusion came - a dark day
dawned.
Hell hath no fury like a woman scorned.
And then that man-made law which men
call just.
That law unsentimental, uninspired
Opened its pond'rous tomes all thick
with dust.
And on me wreaked the vengeance it
desired.
In gaol I have to languish all my life.
Oh pity me - a mother but no wife."

CHAPTER THREE: JESSIE EVA DICKSON

Jessie Dickson’s case embodied all the elements of a classic ‘crime of passion’. She was a dutiful and loving wife and mother whose husband had forsaken his marriage vows and was flaunting his extramarital affairs. Upon discovering her husband’s indiscretions, she was overcome with emotion and, in a fit of rage causing her to lose all self-control, she struck out at the man who was destroying her family. The definition of Jessie’s act as a ‘crime of passion’ combined with her ‘womanly’ and submissive behaviour after the incident and during her trial seem to have been to her advantage. She received the most lenient sentence of the three women discussed in this study – for fatally attacking her husband with a tomahawk, she was convicted of manslaughter and was sentenced to only 18 months reformatory detention. Jessie Dickson’s case seems different from those of Sarah Fogo and Alice Parkinson not only in circumstance but also in the way she was treated by the officials and judiciary who handled her case. There seems to have been a narrowing of the gap that had previously existed between public and judicial sentiments. This could be partially attributable to the shift in attitudes concerning male sexual behaviour that had become evident by the late 1930s, and the consequences this had for the institution of marriage.

Jessie Dickson was committed to stand trial for the murder of her husband, William (Bill) Dickson, in January 1939. She had attacked him with a tomahawk early in the morning of 12 December, 1938, as he lay in bed. Bill Dickson’s injuries were not immediately fatal, so Jessie was initially charged with assault causing bodily harm. This was amended to a charge of murder after Bill died in hospital on 13 December, 1938. Jessie was tried at the Dunedin Supreme Court on the 1st and 2nd of February, 1939 before Chief Justice Sir Michael Myers and a jury. Convicted of manslaughter, with a strong recommendation to mercy, Jessie was sentenced to 18 months reformatory detention. Given the serious nature of the crime she was convicted of, Jessie’s sentence seems remarkably short. The brevity of this sentence seems even more striking when it is compared with the sentences imposed on Sarah Fogo and Alice Parkinson.

At first glance, Jessie Dickson’s life appeared to be the domestic ideal that Alice Parkinson had hoped to achieve. Jessie (30) had known her husband, Bill (29), for nine years and they had been married for nearly four years. They had a son, Billy, who was almost four years old at the time of the incident. There seemed to be no shortage of people willing to testify to Jessie’s good character. She was described by her brother-in-law, Robert Beatson Dickson, as ‘thoroughly respectable in every way,’ a ‘good housewife, good woman, and devoted in every way to her home, her husband and to her little boy’. William Henry Saunders, who had known Jessie for seven or eight years, endorsed this view when he testified that Jessie was ‘a nice, pleasant woman, and seemed a devoted wife and mother’. Reata Hannah Barr, the Dickson’s upstairs’ neighbour, also testified in court to Jessie’s good character. Below the surface of this apparently happy domestic scene lay a darker truth, however. While Jessie may have been a model wife, Bill was far from a perfect husband. He was unfaithful and had had extra-marital affairs. The Otago Daily Times reported that, although they had not been married very long, ‘there had been infidelity and neglect on the part of the husband, and the wife, although apparently happy, had her own secret tragedy’. Jessie was aware of her husband’s ‘carryings-on’ with other women and it upset her greatly. In a statement to the police, she said that she had caught Bill ‘red-handed’ in the past. She knew he had been seeing a girl in Temuka, whom she thought was called Hazel Spittle, and now knew he was involved with ‘Margaret,’ from Pukeuri Junction. The Dicksons had discussed separating, but Jessie was worried that Bill would seek custody of their son. She had even appealed to William Saunders for help two days before the incident. In his evidence, Mr. Saunders stated:

Mrs. Dickson asked me to speak to her husband. She told me she had done all she could to break him from his association with other women, and would do anything in her power to make him faithful to her.

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3 Ibid., 1.
4 N.Z. Truth, 8 February, 1939, 1.
5 Otago Daily Times, 2 February, 1939, 9.
6 N.Z. Truth, 13 June, 1939, 1.
7 Otago Daily Times, 3 February, 1939, 6.
9 Ibid.
10 Ibid.
The situation deteriorated further when Jessie read a letter that Margaret had written to Bill. On 9 December, Jessie had gone to the train station to arrange tickets for the Christmas holiday she was planning for herself, Bill and little Billy at her parents' home in Cromwell. Bill, who worked as a carpenter on the railway, was away from work with a bad cold so Jessie was given a letter addressed to him that had been delivered to the Railways. Instead of giving the letter to Bill, Jessie read it herself because of '[her] suspicions about his conduct'. The letter was from 'Margaret,' and in it she thanked Bill for the 'lovely weekend' they had just spent together and told him how much she was looking forward to seeing him again that next weekend. She lovingly called him 'dear' and signed the letter, 'you old Margaret'.

It was later confirmed that Bill and Margaret had stayed together in a room at a hotel in Christchurch the previous weekend. On Sunday 11 December, 1938, Jessie and Bill had a lengthy and heated argument about his relationship with Margaret. Bill had decided to spend the Christmas holidays with Margaret, not in Cromwell with Jessie and Billy. He told Jessie that Margaret 'would be lonely if he didn’t go'. In the lower court, Jessie gave evidence that:

We seemed to be arguing all day Sunday without getting anywhere... Neither of us slept at all Sunday night – at least I know I didn’t. I don’t think Bill did either, for we were talking and arguing till very late, and also at intervals through the night.

The tenseness and unhappiness of the situation set the scene for the next morning's tragic events. Jessie Dickson, loving wife and devoted mother, struck her husband with an axe as he lay in bed. Dr. Denis Tiffin Stewart, a registered medical practitioner and assistant pathologist at the University of Otago, thought that Bill Dickson had been struck at least four and possibly six times. Dr. Harty, who had been called to the scene almost straightaway, stated that it was impossible to say whether Bill Dickson had been asleep at the time but 'at any rate [he] did not see the first blow being struck'.

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11 Ibid.
12 Ibid.
13 Ibid.
14 Ibid.
15 Ibid., 1.
16 Ibid., 1.
The prosecution told the Court that there was no doubt that Jessie’s act of striking her husband with the axe had caused his death and this act was undoubtedly a crime. Mr. Adams, Crown Prosecutor, then submitted that the option lay solely between murder and manslaughter, the question resting on the amount of provocation that existed.\textsuperscript{17} He suggested to the jury:

\ldots that on the facts there is not sufficient to justify you in saying that the accused’s act was done in the heat of passion caused by sudden provocation before there had been time for her passion to cool. \ldots it is your duty to say that the crime is that of murder.\textsuperscript{18}

In comparison, Mr. J.G. Warrington, Jessie’s defence counsel, argued that Jessie had been sufficiently provoked to justify a verdict of manslaughter. He outlined the history of the couple’s troubled marriage, emphasising Bill’s infidelity and neglect. He reminded the jury of Jessie’s discovery of Margaret’s letter to Bill only a few days before the crime, and reiterated that, the day before the incident, there had been a ‘great deal of argument, with the result that the wife’s passions were being worked up’.\textsuperscript{19} ‘Is not all this sufficient sudden provocation to banish all thought from your minds of a verdict of murder against the accused?’ Mr. Warrington asked the jury.\textsuperscript{20} Apparently it was. After only 43 minutes of deliberation, the jury returned their verdict of guilty of manslaughter with a strong recommendation to mercy. Chief Justice Myers immediately agreed that the verdict was ‘the proper one in the circumstances’ and sentenced Jessie to eighteen months reformative detention.\textsuperscript{21}

Like Sarah Fogo’s and Alice Parkinson’s, Jessie Dickson’s case aroused public sympathy and seemed to strike a chord with the community. Over Christmas and the time she was awaiting trial, Jessie had received ‘parcels, cards and messages of hope from all sides – from people she had never seen or heard of previously’.\textsuperscript{22} As she left Dunedin for Christchurch, to begin her eighteen-month sentence, a number of people gathered at the train station to see her off. She was even given fruit and flowers for the journey, which she apparently greatly appreciated.\textsuperscript{23} Unlike the cases of Sarah

\textsuperscript{17} \textit{Otago Daily Times}, 3 February, 1939, 6.
\textsuperscript{18} Ibid.
\textsuperscript{19} Ibid.
\textsuperscript{20} Ibid.
\textsuperscript{21} Ibid.
\textsuperscript{22} \textit{N.Z. Truth}, 8 February, 1939, 1.
\textsuperscript{23} Ibid.
Fogo and Alice Parkinson, however, not only did Jessie Dickson’s case arouse public sympathy, there also seems to have been considerable official and judicial sympathy towards her. The flavour of the proceedings against her and, in particular, Sir Michael Myers’ approach to Jessie’s case, are particularly telling. When Mr. Adams put in photographs of the deceased’s body in the hospital morgue as evidence, Myers described them as ‘no doubt gruesome’ and stated that he did not intend to look at them himself as he did not consider it necessary.24 These photographs may have prejudiced the jury against Jessie Dickson due to their disturbing and graphic nature, and the fact that the judge did not want to see them perhaps indicates his sympathy for her. The approach taken regarding two conflicting statements Jessie made to the police is also revealing. Jessie’s first statement was made a short time after the crime and her second after she had been charged with the major crime of murder. In the first statement, Jessie said that, after an argument, she went to the coal box outside, got the axe and then went back to the bedroom and hit her husband.25 In her second statement, however, she said that she was at the coal box with the axe in her hand when some crisis occurred and she immediately went and committed the act in question.26 The police, judge and jury accepted Jessie’s second statement as substantially true. Mr. F.B. Adams, the Crown Prosecutor, acknowledged that, given the incident had just occurred, Jessie would not have been in a state where she could have been expected to give a ‘completely detailed and rational statement’.27 Sir Michael Myers also pointed out that, when she made the first statement, her husband was still alive and she had therefore not yet been charged with murder. He liberally stated that, ‘One must be fair, if anything, more than fair to the prisoner,’ and then reminded the jury that the charge she was facing at that point was only one of assault.28 Most telling of all, he noted that Jessie ‘was under the greatest possible stress of emotion, and a full statement could not be expected’.29 Even the police accepted that the first statement could not be taken as complete.30

Myers’ sentencing of Jessie seems to provide further evidence of a more compassionate judicial attitude. Before sentencing Jessie, the Chief Justice wanted to

24 Otago Daily Times, 2 February, 1939, 9.
26 Ibid.
27 Ibid.
28 N.Z. Truth, 8 February, 1939, 1.
29 Otago Daily Times, 3 February, 1939, 6.
30 Ibid.
know about the nature of Bill’s life. Mr. Warrington stated that Bill had had a ‘weakness for other women, and was not industrious’. He recounted how Jessie and Bill had separated at one point, due to Bill’s laziness, but Jessie had forgiven him and taken him back. Even the Crown prosecutor agreed with Mr. Warrington’s assessment of Bill’s character, adding that Bill had ‘treated his wife shamefully’.

Myers seems to have been almost reluctant to sentence Jessie, although he acknowledged that ‘there must be some punishment... because it would never do to allow it to be thought that human life may be taken in this way’. The *Otago Daily Times* reported Chief Justice Myers’ sentencing comments:

> ... I have not the least doubt in the world, reading between the lines, that your life with the deceased was the reverse of happy. You seem to have been very badly treated. I think the verdict is a perfectly proper one, together with the recommendation, and I shall as far as possible give effect to it. I think the justice of the case and the public interest may be served by a comparatively short sentence.

To this end, he sentenced Jessie Dickson to eighteen months reformative detention.

Myers’ willingness to ‘read between the lines’ and accept the practical realities of Jessie’s unhappy situation appears strikingly different to the approaches taken by Justice Williams in Sarah Fogo’s case and Sir Robert Stout in Alice Parkinson’s case. At Sarah Fogo’s trial, the jurors were told that, although some aspects of her case were very sad, they could not take these into consideration in reaching their verdict. It was not a case where their sympathies could be appealed to. Likewise, Sir Robert Stout felt that, despite the considerable trauma Alice Parkinson had endured, hers was not a case for clemency. He felt that it was his duty to uphold the letter of the law, because to extend clemency in her case would be to encourage ‘crime and assassination’. The public interest in and outcry regarding Sarah Fogo’s and Alice Parkinson’s sentences clearly indicates that many people disagreed with the judges. The two women’s sentences were popularly considered excessive and unjustified. In short, there seems to have been a noticeable gap between judicial attitudes and public

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31 Ibid.  
32 Ibid.  
33 Ibid.  
34 *Otago Witness*, 5 December, 1900, 5.  
sentiment. The outcome of Jessie Dickson’s case seems to suggest, however, that by the late 1930s, this gap may have been closing.

A number of reasons can be suggested to explain the apparent narrowing of this gulf between public and judicial thinking. One key reason is that there seems to have been a shift in ideas about acceptable male behaviour within marriage by the late 1930s. This shift can be linked to changing attitudes towards male sexuality, which were largely facilitated by feminists’ endeavours after they were granted the vote in 1893.

Bill Dickson’s main crime had been his adultery. The issue of adultery is strongly linked to ideas about male and female sexuality. In 1896, George Russell had stated that the crime of adultery:

. . . differed essentially in the two sexes. Man had a strong natural sexual instinct, and the gratification of that instinct was, he might say, almost the most powerful impulse of his existence. With women, on the contrary, the instinct was maternal, and was very materially different to the powerful desire on the part of the man. The two crimes, therefore, differed essentially, inasmuch as in the one it was the application of the sexual instinct natural to man, while the instinct of woman was mostly maternal.36

This passage encapsulates the dominant view of male sexuality at the end of the nineteenth century: male sexuality was excusable because it was uncontrollable. Men were not responsible for the consequences of their sexual acts, [which may have been unwanted pregnancy or the transmission of venereal disease to their female partner], because they had no control over their behaviour.37 This view of male sexuality incensed and frustrated feminists because it effectively sanctioned ‘unlimited childbearing for wives, and prostitution, adultery and seduction’.38 It produced a double standard whereby women remained understood in terms of their sexuality, whether as ‘ideal’ or ‘fallen’.39 It was this view that feminists sought to alter, particularly after their enfranchisement in 1893.

By 1910, some of the statutory changes women had been campaigning for to curb men’s behaviour had been achieved. The Divorce Law had made grounds for divorce

36 NZPD, vol. 93, 432.
38 Ibid., 143.
39 Ibid.
equal, the Contagious Diseases Act had been repealed, and incest had been criminalized. By the 1920s, views of male sexuality had been further modified. Men were still considered more passionate than women, but it was now believed that they could control their impulses with women’s help. By the early 1930s, even judicial attitudes about acceptable male sexual behaviour were beginning to change. It was no longer acceptable for a man to exercise his ‘marital right’ with no concern for his wife’s condition, for example if she was still recovering from childbirth. In 1939, the year that Jessie Dickson was tried, N.Z. Truth reported a case that clearly illustrated the continuance of this shift in judicial attitudes. N.Z. Truth’s headline announced: ‘Judge Shatters Old Ideas About Marriage’ and the article went on to report the case of a woman seeking a separation order because of her husband’s excessive sexual demands.

Justice Ostler’s comments clearly reflect a distinct change in thinking about men’s and women’s role and responsibilities within marriage. ‘At one time,’ he stated, it was thought to be the law that a wife could not refuse marital intercourse to her husband without committing the matrimonial offence of desertion. But that has been held out not to be the law. A wife has the right by law to refuse her husband altogether, and so long as she performs her other wifely duties, he has no redress for such refusal. A woman on marriage does not sell her body. It must follow, I think that when a man habitually overbears his wife and forces her against her will, and thereby destroys her happiness and turns her into a nervous wreck, such conduct will amount to persistent cruelty in the eye of the law.

Justice Ostler’s statement seems to indicate two main things. First, by the late 1930s, marriage was coming to be seen as a more equal partnership. Women had as much right as their husbands to negotiate the terms of their relationship. Second, it was no longer acceptable for men to exert their sexuality in an unbridled and carefree manner. Their ‘passions’ could be controlled and it was acknowledged that men’s behaviour did have consequences, for which they should be responsible.

This shift in thinking may further help to explain the outcome of Jessie Dickson’s case. While she had dutifully performed her matrimonial duties, her husband had

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42 Ibid., 155.
been unfaithful on more than one occasion. She had repeatedly pleaded with him to cease his adultery and instead concentrate on being a good husband and father to her and their son, Billy. She had even asked a friend, William Saunders, to intervene on her behalf. Saunders’ comments about the situation indicate that he thought along similar lines to Justice Ostler. He admitted that, at first, he had thought that Jessie was ‘magnifying her troubles’ and being over-sensitive about her husband’s behaviour.\(^{44}\) However, upon reading Margaret’s letter to Bill, Saunders agreed that Jessie was not over-reacting and that her attitude was justified.\(^{45}\) The main point of importance was that, while the public agreed that such behaviour was unacceptable and had long done so, as evidenced by the considerable outcry regarding the cases of Sarah Fogo and Alice Parkinson, by the 1930s, judicial attitudes were aligning more with this public sentiment. It was Chief Justice Myers’ willingness to condemn Bill’s terrible behaviour that made the difference in Jessie’s case.

Jessie’s case was extensively reported in the print media, particularly by *NZ Truth*. In covering her hearing and trial, *NZ Truth* employed its typical style of reporting. This was epitomised by attention-grabbing headlines, emotively-written articles, and numerous photographs. The attention *NZ Truth* dedicated to Jessie’s case probably helped to generate public sympathy for her, especially given that her case often featured on the newspaper’s front page. Unfortunately, *NZ Truth*’s circulation figures for this time period do not seem to have been recorded. However, in 1915 the newspaper was promoting itself as ‘The Paper with the Largest Circulation throughout the Dominion’.\(^{46}\) While this claim may no longer have been legitimate by the late 1930s, it can be fairly assumed that *NZ Truth* was still a widely-read publication at this time, with a relatively large circulation. This is evidenced by the newspaper’s length, numerous advertisements and the fact that *NZ Truth* was a national and weekly newspaper with offices in Auckland, Wellington, Christchurch and Dunedin.\(^{47}\) It was clear from the outset what angle *NZ Truth* had decided to take regarding Jessie’s case: the newspaper never depicted her as anything other than a model wife and mother who, at the hands of a neglectful and unfaithful husband, had lost control of her emotions, with tragic consequences. The

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\(^{43}\) *NZ Truth*, 2 August, 1939, 11.
\(^{44}\) *Otago Daily Times*, 2 February, 1939, 9.
\(^{45}\) Ibid.
\(^{46}\) *NZ Truth*, 10 July, 1915, 1.
emotiveness of the language used by *NZ Truth*’s reporters was part of the newspaper’s trademark style. The headlines screamed: ‘Sins Were Closing in on Him,’ ‘Plea for Wife Who Killed Husband in Mad Fury,’ and ‘Other Woman Flaunted in her Face’.48 Opening *NZ Truth*’s coverage of Jessie’s trial was the following piece:

Beside the anger of a woman infuriated by injustice and the flaunting in her face of others of her sex, the ordinary human passions are almost placid. Such fury is beyond reason, insensate; love turns to hate, tears become vitriol. Man’s inhumanity to woman! It is nothing new; it goes on in every walk of life – every day, everywhere. More often than not it is suffered in silence. Sometimes the shoulders are unequal to the burden, and the woman is maddened by the accumulations of bitter hurt that rend her heart. In such a vortex of emotion Jessie Eva Dickson . . . was caught up, and as often happens when desperation reaches breaking point, the climax was tragedy.49

*NZ Truth* had also been heavily involved in the campaign to free Alice Parkinson. It had published extensive coverage of her court case and actively participated in agitating for her release from prison. During its coverage of Alice Parkinson’s case, *NZ Truth* had printed cartoons and sketches to accompany their written articles and further dramatise Alice’s plight.50 By the late 1930s, they were using photographs of the people involved in the case, the victim’s home and the murder weapon to capture public interest in Jessie Dickson’s case.51 This seemed to compliment the overall tone of the newspaper’s coverage. It is interesting to ponder the motivation for the newspaper’s interest in Alice Parkinson’s and Jessie Dickson’s cases; did *NZ Truth* take up these women’s causes for genuine reasons, or was its sole aim to sell as many newspapers as possible and maximise profits? A cynic would emphasise the latter motive and there is no denying that, realistically, increasing circulation and profit would have been a consideration. *NZ Truth*’s sensational style and formula of ‘sex, crime, radical politics and random muck-raking’ lent itself to these objectives.52 However, despite its scandalous reputation, *N.Z.

48 *NZ Truth*, 8 February, 1939, 1.
49 Ibid.
50 See Figures 4 and 5, pp. 42 and 43.
51 See Figures 6-9, p. 58.
Truth also discussed many important social issues. N.Z. Truth began in 1905 as the New Zealand edition of the weekly Australian newspaper, Sydney Truth, that had been in circulation since 1890. The following commentary has been made about the Australian edition and is arguably equally applicable to its New Zealand counterpart:

It [Truth] consistently campaigned against flogging and capital punishment and in favour of greater protection for the weak and oppressed – slum-dwellers, exploited workers, women and children. In general, there was scarcely any important social issue which was not raised in Truth at one time or another and upon which the paper did not take a remarkably enlightened stand. Its language might not have suited more respectable journals, but it struck home to many thousands of lower-class readers living unenviable lives at the base of the social pyramid.

Thus, while its style of reporting may have been salacious and provocative, N.Z. Truth also had a legitimate agenda in raising public awareness of important social issues. In the case of Alice Parkinson, these social issues related to the double standard of sexual morality for men and women regarding illegitimacy, the need for reform of the criminal appeal system in New Zealand and the unsatisfactory economic dependence of women on men. In Jessie Dickson’s case, N.Z. Truth highlighted the potentially tragic consequences of ‘man’s inhumanity to woman’. It asserted that, while murder was not an appropriate solution for suffering wives, it was unacceptable for men to be unfaithful to their wives and neglect their husbandly and fatherly responsibilities.

This strong public sense of what was ‘acceptable’ behaviour within marriage, and it apparent judicial endorsement, did not mean that stereotypes about ‘womanly’ behaviour that permeated the earlier judgments of Sarah Fogo’s and Alice Parkinson’s cases were not present in the late 1930s, however. In Jessie Dickson’s case, Sir Michael Myers considered one of the key questions facing the jury to be:

... whether what was said or done by the deceased was enough to deprive an ordinary person of self-control, and it would be necessary to consider a woman’s natural impulses. [Italics added].

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53 Ibid., 8 and Burley, 1-2.
54 Ibid., 11.
55 N.Z. Truth, 8 February, 1939, 1.
This statement seems consistent with the idea that women were inherently emotional creatures who sometimes behaved irrationally. This notion can be linked back to a premise, pervasive from the nineteenth century, the there was a ‘network of correspondences between woman, nature, passivity, emotion and irresponsibility’. Of course, these correspondences did not exist independently, but rather ‘in a socially contingent contrast to man, culture, activity, intellect, and responsibility’. Throughout her case, Jessie Dickson behaved in this stereotypically ‘womanly’ fashion. It seems that her willingness, deliberate or not, to conform to the stereotype of the demure, passive, woman may have assisted her case. This pattern of ‘womanly’ behaviour can even be traced back to the incident itself. Immediately after she had attacked her husband, she telephoned Dr. Eric R. Harty, and pleaded ‘Will you come to Albany Street at once, my husband is dying’. This concern for her husband directly paralleled Sarah Fogo’s; after the latter had fatally stabbed her husband, she immediately urged her son to call a doctor. Concerned about her son’s presence at the scene of the incident, Jessie Dickson took her son upstairs to her neighbour, Reata Hannah Barr, and asked Mrs. Barr to mind him. Described by Dr. Harty in cross-examination as ‘thoroughly distraught,’ upon his arrival at the scene, Jessie said to him, ‘I don’t know why I did it, but he has been going out with other women’. She obviously loved her husband, asking Dr. Harty whether there was ‘a chance of her husband getting well’. To Mr. J.G. Warrington, Dr. Harty said that Jessie was ‘completely distraught – in fact she could be described as a woman completely beside herself’. She also ‘wept when informed of her husband’s death, being very much aggrieved’. Perhaps Mr. Warrington best summarised the situation when he said that Jessie had loved Bill ‘beyond his deserts’. Jessie Dickson’s behaviour throughout her trial was also portrayed as being generally submissive, ‘feminine’ and non-confrontational. She epitomised the idea of the weak, vulnerable woman whose emotions had overtaken reason in the heat of

55 Otago Daily Times, 3 February, 1939, 6.
56 Smith, 143.
57 Ibid., 144.
61 Otago Daily Times, 2 February, 1939, 9.
62 Ibid.
63 Ibid.
64 Ibid.
65 Otago Daily Times, 3 February, 1939, 6.
passion. She was painted as more victim than villain, more sinned against than sinning. Describing her as a ‘slightly built woman,’ *N.Z. Truth* told how Jessie ‘wept silently and tearfully during the whole of the proceedings,’ reporting:

Only twice did she articulate her anguish, half-stifled cries escaping her lips . . . With head bowed and averted from the comparatively small gallery . . . Mrs. Dickson kept clasping and unclasping her hands, and staunching her tears with numerous handkerchiefs the submatron passed to her. So great was her distress when the statement . . . was being read, that had the police officer who sat alongside her not put both arms around her, it is probable that Mrs. Dickson would have fallen to the floor of the dock.66

Another point in Jessie’s favour was the extreme remorse she showed for her crime. ‘Oh! Why did I do it? Oh, it’s terrible!’ were the words Jessie allegedly kept repeating to the police officer who first arrived at the scene.67 *N.Z. Truth* reported that, in her second statement to police, Jessie also said:

I didn’t want to kill him; I don’t think I even wanted to hurt him. In spite of all he’d done I worshipped him; I thought there was no one like ‘Bill’. I don’t know what made me do it. My feelings just seemed to boil over.68

Jessie’s feelings of remorse and regret were elaborated on by her mother, Mrs. Jeannie Ward, in an interview she gave to *N.Z. Truth*. Not only was Jessie depicted in a stereotypically ‘womanly’ manner, her mother was also used to illustrate the ‘strength and value of a mother’s love’ and ‘the mother’s capacity to understand and not reproach, to comfort and not forsake – though all the world might frown’.69 Mrs. Ward relayed to *N.Z. Truth* that Jessie was pleased that a term of detention had been imposed on her. She said:

She [Jessie] is pleased that a term of detention has been imposed upon her. She realises her wrong-doing and wants to make amends in the way the Law prescribes. The mental torment she has been going through has been apparent to all who have been in the courts during the hearing and the trial. But she feels that such great remorse is not

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67 Ibid.
68 Ibid., 11.
69 *N.Z. Truth*, 8 February, 1939, 1.
enough: she wants to make her atonement to society behind reformatory walls.  

Jessie’s extreme remorse and her willingness to acknowledge her crime seem to have favourably complemented her already ‘womanly’ demeanour. This, in combination with judicial willingness to import an element of sympathetic reality into the sentencing process, may well explain Jessie Dickson’s seemingly lenient sentence. Another perspective is gained by assessing how attitudes regarding male sexuality and ‘acceptable’ male behaviour within marriage had seemingly changed by the late 1930s. Somewhat of a paradox becomes apparent, however: on one hand, the judiciary, still all-male at this time, was becoming increasingly willing to officially denounce males who mistreated their wives and did not fulfil their marital responsibilities. However, on the other hand, official stereotypes about female submissiveness and vulnerability still persisted. Jessie Dickson’s conformity to these traditional stereotypes arguably proved invaluable to her case.

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70 Ibid.
71 In comparison, Sir Robert Stout stated in his Report of 22 September, 1915, that Alice Parkinson had ‘expressed no contrition and no remorse’ for her crime. The Chief Justice found this lack of regret problematic and concerning, and it may have contributed to his unwillingness to extend clemency to Alice.
Figure 6: Jessie Eva Dickson.  

Figure 7: Chief Justice Sir Michael Myers.  

Figure 8: Mr. J.G. Warrington, Jessie Dickson’s lawyer.  

Figure 9: the tomahawk with which Jessie Dickson struck her husband, Bill Dickson.  
CONCLUSION

The cases of Sarah Fogo, Alice Parkinson and Jessie Dickson provide a valuable window on domestic relations between men and women during the period from 1900 till the late 1930s. This in turn gives an insight into how men’s and women’s roles were perceived. Much can be gleaned about what it meant to be a man and what it meant to be a woman in New Zealand society at this time.

Although women had made considerable social and political advances between 1900 and 1939, the idea of woman as an emotional, submissive and passive creature persisted. Hence, Alice Parkinson’s failure to conform to this standard during her trial in 1915 seems to have hindered her, and Jessie Dickson’s compliance with the female stereotype in 1939 appears to have been to her benefit.

Marriage was the desired ideal for any decent, reputable women at the beginning of the twentieth century. As such, Sarah Fogo refused to divorce her husband, despite his alcoholism and abuse, because divorce was socially unacceptable at this time. This was still true in 1915, when Alice Parkinson felt driven to kill her lover because he would not honour his promise to marry her, even after she had borne him a child. By the late 1930s, the idea of marriage as a more equal partnership was arguably developing, but certain basic fundamentals, such as lifelong, faithfully monogamy, remained prevalent. Thus, in 1938, Jessie Dickson could not sanction her husband’s violation of his marriage vows, with fatal consequences.

While these three women all deliberately killed their male partners, they were each treated differently by the justice system and by society at large. This study has aimed to gauge the changes over time from the 1900s till the 1930s that may help to explain this. These decades were a period during which women were eager to put their newly-acquired voting rights to good use. The enfranchisement of New Zealand women in 1893 had flow-on effects. Women began campaigning for law reform and social change that would improve women’s conditions and facilitate equality. Attention was drawn to social structures and practices that, directly and indirectly, disadvantaged or negatively impacted on women. In some ways, the cases of Sarah Fogo, Alice Parkinson and Jessie Dickson each highlight different issues that faced women at different points in time, and some that were common across the entire period. The topics of divorce, illegitimacy and adultery are raised independently in each woman’s story, but broad themes of ‘acceptable’ womanly behaviour and the
differences between theoretical solutions and practical realities for the women infuse the study as a whole.

In Sarah Fogo's and Alice Parkinson's cases, community outcry at their sentences and treatment by the legal system was so great that public petitions were formed on these women's behalf. This indicates the degree of dissatisfaction that many people felt with the legal system's apparently rigidly application of the law. The judiciary, in particular, seemed unresponsive to social mores. By the late 1930s, there seems to have been somewhat of a change in this situation. In Jessie Dickson's case in 1939, there was no need for public petitions aimed at reducing what was perceived to be an unjustifiably harsh sentence, unlike in the cases of Sarah Fogo and Alice Parkinson. This was because, presumably, the public considered Jessie's sentence of eighteen months reformatory detention appropriate. This is an important point of distinction between Jessie's case and those of Sarah Fogo and Alice Parkinson: by 1939, there seems to have been a narrowing of the gap between public and judicial opinion. Whereas Justice Williams and Sir Robert Stout clearly considered it their judicial duty to apply the law strictly and without sympathy for the accused, Sir Michael Myers was willing to take a more humane and flexible approach. It is arguable that this was partially due to the role played by the media in acting as a mouthpiece for public opinion.

Throughout the period from 1900 till the late 1930s, public fascination with women who killed their husbands or fiancées is evident from the extensive media coverage devoted to this topic. One explanation for this is the unusual nature of such crimes. As mentioned earlier, women tend to kill only when under extraordinary stress and often the victim is within their close circle of intimacy. This is true with regard to the three women discussed in the previous chapters. Sarah Fogo killed her husband after 30 years of living with his alcoholism and abuse, compounded by a period of severe sleep deprivation. Alice Parkinson shot her lover only weeks after giving birth to his still-born child and being spurned by him, despite his promises of marriage. Jessie Dickson could not cope with her husband's adultery and the breakdown of her family, so took her husband's life. Further explanation for the considerable public interest in these women's cases may be attributable to the genuine social concern for these women's plights. Women's issues were being foregrounded by feminists who wanted not only to raise public awareness of the hardships and
inequalities women faced in everyday life, but also to remedy these through political and social change.

Not only did the print media play an important role in reporting these women’s stories to the wider community, it also provided a forum in which public opinions could be voiced. *N.Z. Truth* newspaper was particularly vocal in reporting the cases of Alice Parkinson and Jessie Dickson and drawing attention of the sad realities of these women’s lives. In covering such stories, *N.Z. Truth* employed its traditional style of emotive reporting accompanied by carefully-selected images. Although considered by some to be a less-reputable publication because of its sensationalism, *N.Z. Truth* must be given credit for raising many important social issues and championing the cause of those who often lacked a strong voice of their own.

The modern law has evolved to recognise the detrimental effects on-going, long-term spousal abuse can have on (predominantly) women. The idea is encapsulated in Battered Woman Syndrome, which is now medically and legally recognised. During the first few decades of the twentieth century, however, no such doctrine existed. The fact that a man abused his wife, physically or psychologically, was far from a legal justification for physical retaliation on her part, especially when such retaliation had fatal consequences. While the law failed to formally recognise the mitigating effects of spousal abuse in the period covered in this study, the general public seemed more willing to do so. This was reflected in the outpouring of public support for Sarah Fogo, Alice Parkinson and Jessie Dickson that was given a meaningful and coherent voice by the print media.

Preliminary evaluations can be made, however it is more difficult to reach definite conclusions concerning the issues raised in this study. As aforementioned, upon closer analysis, a gap between public mores and the spirit and implementation of the law seems apparent over much of the period from 1900 till the late 1930s. The remarkably different outcomes in the three cases could suggest that, by 1939, this gap had begun to narrow. Alternatively, the cases discussed in this study may simply be three independent incidences not amenable to effective comparison. The disparities may simply be due to differences in the judges, the juries and the particular sets of facts. An in-depth study of all cases of marital dispute over the period would be necessary to confirm whether or not judicial opinion was shifting as this study suggests.
Valid conclusions can still be made about the ongoing centrality of the institution of marriage in New Zealand society, and the powerful role it played in shaping gender roles. Examining the cases of these three women also opens a portal into domestic relations between men and women in the first four decades of the twentieth century. Fraught relationships at times resulted in murder and this gave the public an opportunity to debate how men and women should, ideally, behave.
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APPENDIX 1: Petition for Sarah Fogo

Source: Otago Daily Times, 19 December, 1900, 8

To his Excellency the Right Honourable Uchter John Mark, Earl of Ranfurly; K.C.M.G., Governor of the Colony of New Zealand.

The petition of the undersigned persons resident in and about Dunedin humbly showeth: -

1. That at Dunedin Sarah Fogo, wife of Thomas Fogo, of Dunedin, painter, was on the 30th day of November, 1900, tried and found guilty of the murder of her husband, the said Thomas Fogo.

2. That the evidence adduced in her case directly and indirectly showed as follows:
   (a) That the said Sarah Fogo is 63 years of age, and that her married life extended over a period exceeding 30 years, during the whole of which period she resided in the City of Dunedin; (b) that during that period of 30 years she was a patient, industrious, forbearing, affectionate, and estimable wife; (c) that she was a judicious, fond, devoted, and affectionate mother; (d) that without seeking to parade her kindness, she, with the full consent and approval of her husband, had always been in her humble and unassuming way, most helpful, diligent, and constant in affording relief to the poor and distressed wherever any necessity had been made known to her.

3. That we are sure that she is far removed from the ordinary criminal class, and her guilt, whatever its degree, must have been the result of sudden, unpremeditated, and provoked passion after years of patient endurance of great trial, resulting from the excessive intemperance of her husband and all the suffering thereby entailed.

Your petitioners therefore humbly and earnestly pray that your Excellency will give every consideration to her exceptionally good character and to her trials and sufferings, and will, to the fullest extent possible, give effect to the jury's strong recommendation to mercy. And your petitioners will every pray.
APPENDIX 2: Petition for Alice Parkinson

Source: AJHR, 1916, E-I, 1-2A

To Mr. Speaker and members of the House of Representatives in Parliament assembled.
The petition of the undersigned electors of the Dominion of New Zealand showeth as follows: -

1. Alice May Parkinson was on the 9th and 10th days of June, 1915, tried before His Honour the Chief Justice at the Supreme Court, Napier, for the murder of Walter Albert West at Napier on the 4th day of March, 1915.

2. On the said day of June, 1915, a verdict of “Guilty of manslaughter” was returned by the jury, who strongly recommended the accused to mercy on account of the great provocation which she had received.

3. The learned Judge sentenced the accused to imprisonment for the term of her natural life.

4. Your petitioners pray that the mercy of the Crown may be graciously extended to the prisoner, on the grounds, -

   (1.) That the jury has strongly recommended her to mercy:

   (2.) That the prisoner’s character prior to the tragedy was unblemished:

   (3.) That she is only twenty-five years of age:

   (4.) That the offence for which she was convicted was committed while she was mentally irresponsible, if not legally insane:

   (5.) That she had spend all the money which she had saved as a servant girl in furnishing a home because of West’s promises to marry her:

   (6.) That her child born of her intimacy with West was lost to her after an extremely painful labour shortly prior to the tragedy:

   (7.) That the tragedy supervened on West having repulsed her in gross language:

   (8.) That in October, 1915, a petition was presented to His Excellency the Governor in Council requesting clemency and praying for a reduction of the said Alice May Parkinson’s sentence, which petition was signed by nearly seventy thousand electors of this Dominion:

   (9.) That on the 7th day of October, 1915, a petition was presented to Mr. Speaker and the House of Representatives similarly praying for clemency and praying for a reduction of the said Alice May Parkinson’s sentence.

Your petitioners therefore renew their request for clemency, and pray that the sentence imposed on her may be reduced, and your petitioners will every pray.

CLARA E. RAE (And 39 others)