



## Intersections in colonial and penal politics: The case of Queensland in the 1870s

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# Intersections in colonial and penal politics

## The case of Queensland in the 1870s

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Kerry Wimshurst

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In 1870 female prisoners from Brisbane were relocated to Toowoomba, principal town on the Darling Downs. The move angered townspeople who suspected that political reprisal was the motive for imposing the ‘terrible women’ on them. In fact, the relocation was primarily an attempt to solve longstanding problems related to prison labour, and especially the control of male labour. The movement of prisoners provides a penological perspective on social and economic conflicts that were played out at regional and metropolitan levels. There has been little written about penal politics in Australia in the second half of the nineteenth century. This article explores the political intersections that determined the evolution of one penal regime, but the issues are of perennial significance to the field of penal studies. The study points to the importance of investigating public reaction to prison policy and exploring political, economic and social particularities in correctional history.

This article has been peer-reviewed.

*Mr POWER: He believed if the Government attempted to carry out such a scheme, it would lead to the colony becoming a republic. If they imported such females, they ought to keep them in Brisbane. He believed there were as many good and virtuous people in Toowoomba as in any town in the colony, and the Government were not justified in the course they adopted of forcing such immoral characters upon them.*

Toowoomba Chronicle, 10 December 1870, 3.

On the evening of 5 December 1870, a meeting was held in Toowoomba to protest against the action of the colonial government 'in making Toowoomba a receiving house of the female outcasts of the metropolitan city'. The mayor noted his regret that the protest had not begun sooner, because already a few women prisoners consigned from the city had arrived at the local gaol.<sup>1</sup>

The townspeople's hostility at first seems puzzling, because in the early 1860s they had welcomed the building of the gaol to house local men and women.<sup>2</sup> In 1860 Toowoomba was one of the first assize towns established outside Brisbane to hear the cases of 'all criminals committed by the various Benches throughout the whole of the immense southern and western districts'. Judge Lutwyche of the Supreme Court was instrumental in promoting plans for a gaol in the town. A gaol meant that prisoners from the region, while on remand and waiting for their cases to be heard, would not have to be escorted back and forth to Brisbane 'at heavy outlay and considerable risk'. If housed locally, it was hoped, they might be employed on roads and public works. Lutwyche had condemned the moral turpitude of the young colony, and the building of a gaol signalled the uprightness of the town in the face of such criticisms.<sup>3</sup> Although early reports pointed to defects in materials and design, there was little opposition in the early 1860s to the gaol itself.<sup>4</sup> Completed in 1864, it symbolised for Toowoomba's citizens the growing prosperity of their town, which with a population of about 4600 was seeking to establish itself as the major service centre for the pastoral and farming interests on the Darling Downs.<sup>5</sup>

The anger of the townspeople in 1870 was sparked because female prisoners were now to be forwarded 'exclusively' to their gaol, while local men would be sent to the capital. The townspeople had been taken by surprise. Only one month before the protest meeting the liberal-leaning member for Toowoomba, William Henry Groom, wrote to the Premier and Colonial Secretary Arthur Hunter Palmer, noting that 'considerable feeling prevailed' about the 'alleged' transfer of prisoners, and asking for clarification.<sup>6</sup> The reply from the Colonial Secretary's office was the

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1 *Darling Downs Gazette*, 7 December 1870, 3; *Toowoomba Chronicle*, 10 December 1870, 3.

2 *Toowoomba Chronicle*, 26 September 1861, 2; *Darling Downs Gazette*, 16 June 1864, 3.

3 'The Black Assize', *Darling Downs Gazette*, 21 July 1864, 2.

4 *Toowoomba Chronicle*, 26 September 1861, 2.

5 D B Waterson *Squatter, Selector, and Storekeeper: A History of the Darling Downs 1859–93*, Sydney: Sydney University Press 1968; Maurice French *Pubs, Ploughs & 'Peculiar People': Towns, Farms and Social Life*, Toowoomba: University of Southern Queensland Press 1992.

6 *Toowoomba Chronicle*, 12 November 1870, 3.

first public confirmation that the movement of prisoners would go ahead. Initially, it seemed that town concern was about the removal of local men. By the time of the protest meeting, however, attention had shifted to the character of the incoming women who would 'necessarily resort to crimes of the most demoralising character to obtain a livelihood', once released upon the town.<sup>7</sup>

Studies of the official punishment of women in the late nineteenth century have argued that their incarceration was concerned as much with the control of refractory women as the control of crime. Penal strategies for inculcating acceptable womanly behaviours and punishing criminality varied from place to place, but had common disciplinary objectives. For example, penal approaches to the rehabilitation of criminal women in the United Kingdom were based increasingly on therapeutic and medical models compatible with the emergence of the liberal welfare state. Such 'progressive' views placed less emphasis on traditional notions of the inherent evil of female offenders, but produced an increasing array of institutions for restraining and treating 'deviant' women.<sup>8</sup> Similarly, reformatories in the United States of America, while intended for 'saving' young women, were also characterised by coercive practices premised on respectable views about normal and abnormal womanhood.<sup>9</sup>

In Australia penal strategies for governing deviance and criminality were also developing, to the apparent disadvantage of women compared with men. In New South Wales, John Ramsland has argued, 'women were not as well cared for as men' in gaols, and 'degradation was worse for women than men'.<sup>10</sup> Similarly, Peter Lynn and George Armstrong suggest that in Victoria 'females were worse off as discharged prisoners, just as they were as prisoners'. There was no permanent accommodation for women until the late 1890s, and they were 'frequently moved about in

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7 Female prisoners convicted in Brisbane, and undergoing sentence in Toowoomba (Petition), *Queensland, Votes and Proceedings of the Legislative Assembly* (hereafter QVP), third session of 1870, 259.

8 Lucia Zedner *Women, Crime and Custody in Victorian England*, Oxford: Clarendon Press 1991; Russell P Dobash, R Emerson Dobash and Sue Gutteridge *The Imprisonment of Women*, Oxford: Basil Blackwell 1986.

9 Mara L Dodge *Whores and Thieves of the Worst Kind: A Study of Women, Crime, and Punishment*, DeKalb: Northern Illinois University Press 2002; Estelle Freedman *Their Sisters' Keepers: Women's Prison Reform in America, 1830–1930*, Ann Arbor: University of Michigan Press 1981; Nicole Hahn Rafter *Partial Justice: Women in State Prisons, 1800–1935*, Boston: Northeastern University Press 1985.

10 John Ramsland *With Just But Relentless Discipline: A Social History of Corrective Services in New South Wales*, Sydney: Kangaroo Press 1996, 90, 163.

different types of accommodation'.<sup>11</sup> The reasons for such neglect are not explored in depth in the histories of corrective services in these states, although it seems clear that women remained an afterthought in penal policy. The only major study in Queensland concludes that the control of wayward women was an important objective of women's incarceration, but again it is not clear why women should have been removed from the metropolis, Brisbane, in 1870 to what contemporaries judged an inferior country gaol.<sup>12</sup>

This article argues that the gendered relationships produced by the emerging penal system were reciprocal relationships of control. That is, arrangements made for the control of male or female prisoners necessarily affected the other sex as well. The management of women thus depended on disciplinary and fiscal considerations relating to the control of male prisoners. This is not to deny that colonial Queensland developed criminal justice and public health systems aimed at the sexual control of marginalised women. For example, two years before the Toowoomba move the *Contagious Diseases Act* (1868) was introduced in Queensland, making it one of the few places in the world where such legislation applied across the colony and not just to locations with military personnel. A woman suspected of prostitution might be compelled by the police to submit to medical examination. Signs of venereal disease would lead to three months confinement in the lock hospital; non-compliance or absconding incurred a prison sentence. The legislation was aimed at controlling the growing number of prostitutes in Brisbane and regional ports.<sup>13</sup> It is likely that the removal of 'fallen women' from the metropolis was supported by respectable urbanites aspiring to 'civilised' ways in the new self-governing (but economically struggling) colony, a colony that had emerged from a convict past barely a generation earlier.<sup>14</sup>

Control of non-conforming and criminal women was certainly a concern for colonial authorities, but the primary impetus for rearranging

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11 Peter Lynn and George Armstrong *From Pentonville to Pentridge: A History of Prisons in Victoria*, Melbourne: State Library of Victoria 1996, 96, 111–114.

12 John McGuire, *Punishment and Colonial Society: A History of Penal Change in Queensland, 1859–1930s*, PhD thesis, University of Queensland 2002, chapter 3.

13 Mark Finnane and Stephen Garton 'The work of policing: social relations and the criminal justice system in Queensland 1880–1914, Part 2', *Labour History* 63, 1992, 43–64; Raymond Evans "'Soiled doves": prostitution in colonial Queensland', in Kay Daniels (ed) *So Much Hard Work: Women and Prostitution in Australian History*, Sydney: Fontana 1984, 127–161; Alana Piper 'Great expectations: efforts to entice women to Queensland from 1860 to 1900', *Queensland History Journal* 20 (8), 2008, 370–390.

14 Raymond Evans 'The hidden colonists: deviance and social control in colonial Queensland', in Jill Roe (ed) *Social Policy in Australia: Some Perspectives 1901–1975*, Sydney: Cassell Australia 1976, 74–100.

the gaol system in the 1870s was the control of the far larger number of male prisoners and their labour power. Two interwoven themes emerge from my study: on the one hand the place of female offenders in the gaol system and moralistic judgements imposed on them, and on the other contemporary concerns about the functions of prison labour.

The establishment of Toowoomba women's gaol also provides a penological lens on vehement regional and metropolitan contests. Toowoomba had developed a liberal political reputation by the 1870s. Groom, the local member, was the owner of the *Toowoomba Chronicle* and the spokesperson for the 'radical agrarians', an alliance of farmers, town shopkeepers and artisans who advocated land reform on the Darling Downs. He was also a prime mover behind the protest meeting and resulting petition against the incoming women. The town's relationship with squatter-dominated government was already problematic. The imposition of 'female outcasts' from the metropolis aggravated tensions because locals saw it as an insult. The townspeople 'believed that the wrong had been intentionally inflicted upon them, and that it was the desire of the Government to degrade and humiliate the residents of Toowoomba as much as they possibly could'.<sup>15</sup> Citizens in the early 1860s could envisage potential benefits from having a 'general' gaol in their town, but a decade later they could see only disadvantages arising from its conversion to a women's gaol.

This study does not focus on the characteristics and conditions of the women themselves, but upon the swirl of colonial and penal politics that surrounded – and impelled – their removal from the metropolis. The article is divided into two parts reflecting the two themes. The first section explores the opposition of Toowoomba residents, since their protest was the first indication of the impending changes to penal arrangements. The upheaval over the coming of the 'terrible women' was underpinned by competing social and economic aspirations in the fledgling colony. In fact these political tensions, exacerbated by divisions of class and gender, were particularly evident at the local level. The second section investigates the attempt by government and penal authorities to harness the labour of prisoners in the interests of economy *and* control. At the level of government, women prisoners were invisible.<sup>16</sup> Their condition

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15 *Darling Downs Gazette*, 7 December 1870, 3.

16 Kay Saunders and Raymond Evans 'Visibility problems: concepts of gender in Australian historical discourse', *Australian Historical Studies* 27 (106), 1996, 142–153; Trevor McClaughlin '“I was nowhere else”: casualties of colonisation in eastern Australia in the second half of the nineteenth century', in Trevor McClaughlin (ed) *Irish Women in Colonial Australia*, Sydney: Allen & Unwin 1998, 142–162.

was rarely considered comprehensively except in terms of providing a potential solution to the labour/disciplinary problem in the male system. In this sense, gendered penal relationships and conditions were reciprocal. Moreover, despite the aggravations between regional and central interests, and their different interpretations for the removal of city women to Toowoomba, attitudes to this small group were similarly ambivalent at all levels. They were seen both as deviants to be controlled and unfortunates to be protected. On reflection, such contrary views are not surprising because they indicate the persistence of that ‘fear and fascination of the “other” embodied in convict women’.<sup>17</sup> Competing views and expressions of respectability and deviance, and contrasting conceptions about different types of male and female identities, informed a social order emerging from the recent convict past.

## The ‘female outcasts’ and colonial politics

A range of sentiments emerged during the protest meeting in December 1870, including disgust at female offenders, desire to protect family and even pity for the unfortunates about to be imposed on the town. Some protestors wanted to form vigilante committees to ensure that women left town on the expiration of their sentences. Others expressed concern for the women’s welfare and wanted to establish a fund to assist those deserving of assistance. Nevertheless, the mood remained angry at what was seen as the government’s insult. The comments of a local hotel keeper, Mr Grigg, indicated other underlying anxieties. Grigg suggested strongly that the imposition of the women on their town might be an act of political reprisal.

He would like to remark that the people of Toowoomba sometimes acted foolishly, and did things they ought not to do. Did they not burn the effigies of Messrs Palmer and Mackenzie on a former occasion, and were they not now being paid off for it? Did they not also condemn the action of the Government in refusing to allow immoral characters to travel by the railway, and which was no doubt remembered?<sup>18</sup>

The first incident recalled the visit in February 1868 by the Duke of Edinburgh, Prince Albert, second son of Queen Victoria. The Prince paused briefly in the town and was then whisked off to Jondaryan station

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17 Joy Damousi *Depraved and Disorderly: Female Convicts, Sexuality and Gender in Colonial Australia*, Cambridge: Cambridge University Press 1997, 58.

18 *Toowoomba Chronicle*, 10 December 1870, 3.

for an evening with the squatters.<sup>19</sup> During the short stopover, the Prince had been introduced to the conservative member for the Western Downs, but not to the more liberal mayor and town councillors.<sup>20</sup> The local press raged against the slur cast upon the municipality and townspeople. A mock trial was held of the Premier, Robert Mackenzie, and the Colonial Secretary, Arthur Palmer, in effigy. Mackenzie was lampooned as indecisive and weak and his effigy was dressed as an elderly woman, Mother Mackenzie. Palmer, who had accompanied the Prince to the Downs and would become Premier in 1870, was portrayed as a vindictive and arrogant northern squatter, especially unfriendly to the 'liberal' municipality of Toowoomba. According to reports, though 'somewhere not far short of two thousand persons took part in the affair', the crowd was orderly and police intervention was not required. Both conservative politicians were convicted of incompetence and insulting the town, and their effigies were burnt.<sup>21</sup>

The second of Grigg's 'foolish acts' would have been still fresh in the minds of the protestors, and was especially germane to their current concerns. In June 1870 Helen McKay was prevented from catching a train from Toowoomba to Allora, a neighbouring town. The ticketing clerk claimed he had instructions from William Walsh, the Secretary of Public Works responsible for railways in Palmer's government, not to allow immoral women on trains. One report claimed only that she was not permitted to travel first-class, but otherwise could have travelled. Another said that her luggage had already been forwarded, leaving McKay stranded in Toowoomba.<sup>22</sup> All reports noted that she was well-behaved at the station. McKay sued the Department of Railways. No documents were produced at the trial confirming that such instructions had been promulgated. The press assumed she was a prostitute and took to calling her the 'girl in blue', but the court disallowed any questions about her supposed immorality, and she was awarded £50 in compensation.

The civil trial was held in Toowoomba and the four jurymen were portrayed, perhaps tongue-in-cheek, as 'gallant' locals coming to the assistance of a distressed woman on her way to be married. McKay's counsel saw the episode as a democratic struggle against a conservative

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19 *Darling Downs Gazette*, 27 February 1868, 2; Maurice French (ed) *Travellers in a Landscape: Visitors' Impressions of the Darling Downs 1827–1954*, Toowoomba: University of Southern Queensland Press 1994, 181–183.

20 *Toowoomba Chronicle*, 26 February 1868, 2.

21 *Darling Downs Gazette*, 29 February 1868, 3; *Toowoomba Chronicle*, 29 February 1868, 3.

22 *Toowoomba Chronicle*, 31 August 1870, 3; *Darling Downs Gazette*, 31 August 1870, 3.



government bent on dictating Toowoomba's morals. The Brisbane press picked up the story and, clearly aware of the irony, satirised the government for 'planning revenge on a virtuous community' by sending the 'colony's immoral women' to this region of 'Arcadian simplicity'.<sup>23</sup> Walsh was accused of planning 'a terrible revenge on the people of Toowoomba for the sympathy they had manifested' for McKay. It was reported that he was 'striving to persuade Palmer to make the Toowoomba Gaol a female prison'.

The citizens of Toowoomba, whom Duncan Waterson describes as 'one of the great urban bourgeois success stories of Queensland',<sup>24</sup> certainly felt that 'this serious injury [had been] undeservedly inflicted on them' as political payback. The petition that emerged from the protest did not specifically mention this suspicion, but it did note that the local gaol was 'no suitable asylum or reformatory' for such women, and that the results would be regrettable for the 'Colony at large'.<sup>25</sup> The petition mainly decried the characters of the women who, it was claimed, would be let loose on the town.<sup>26</sup>

The 'good burghers' were not simply morally offended by the anticipated influx of criminal women. Inflaming their suspicions were deeper economic anxieties. The colony was in the grip of economic depression (1866–71), which 'shook the nascent colonial order to its core'.<sup>27</sup> While economic crisis set the backdrop for a pervasive sense of insecurity, the ongoing dispute over land reform was a more focused concern for Darling Downs inhabitants. Struggle over land reform characterised most Australian colonies, but competition was especially fierce on the Downs, one of the few regions in Queensland where soil and climate suited closer settlement, where as Ross Fitzgerald observes, 'agricultural land was richest and squatter monopolies strongest'.<sup>28</sup> Townspeople and farmers supported land reform and opposed the pastoralists whose interests dominated the cabinets of Mackenzie and Palmer. The *Crown Lands Alienation Act* (1868) introduced by the Mackenzie government was unpopular with smaller selectors, who believed it benefited the squatters by allowing them to retain control of large tracts of prime land they already leased from sympathetic

23 *Brisbane Courier*, 11 November 1870, 2; *The Queenslander*, 12 November 1870, 3.

24 Waterson *Squatter, Selector, and Storekeeper*, 80.

25 QVP, third session, 1870 (petition), 259.

26 QVP, third session, 1870 (petition), 259.

27 Raymond Evans *A History of Queensland*, New York: Cambridge University Press 2007, 85–87.

28 Ross Fitzgerald *From the Dreaming to 1915: A History of Queensland*, Brisbane: University of Queensland Press 1982, 187.

conservative administrations.<sup>29</sup> The *Toowoomba Chronicle* criticised what it saw as the conservative intent of the 1868 legislation, fearing that 'it [was] far more likely to increase the number of large than small free holders, or in other words, that it [would] prove to be a capitalists' rather than a peoples' Bill'.<sup>30</sup> On the other hand, a meeting attended by representatives from the 'leading stations' on the Downs indicated that pastoralists were also dissatisfied with the complexities of the legislation, lack of compensation and the accusations of deviousness levelled against them by liberal opponents in parliament and press.<sup>31</sup> These were the economic and class antagonisms boiling away at the time Palmer's government decided to relocate Brisbane women to the Toowoomba Gaol.

Fitzgerald suggests that 'When the political power of the "Pure Merinos" was finally broken, it was the storekeepers combining with selectors who were largely responsible, aided by powerful business oriented politicians.'<sup>32</sup> This coalition of shopkeepers and farmers was represented prominently on the protest petition. Of the 178 signatures, 156 (88 per cent) were decipherable.<sup>33</sup> Table 1 summarises the occupations for 106 (68 per cent) of those identified, and the bases on which 135 (87 per cent) were eligible to vote in the Legislative Assembly. Enfranchisement was restricted to males and was based on property qualifications, principally 'ownership of freehold of the value of £100 or occupancy of property which had an annual value of £10'.<sup>34</sup> Petitioners did not need to be voters, just 'humble' residents, but farmers, storekeepers and tradespersons predominated. A comparison of petitioners with voters registered in the Toowoomba district shows the protestors were representative of the majority who owned or rented property. These protestors were moderately successful citizens who were able to vote, and were affluent enough to advertise in the post office directories. They identified their futures with the maintenance of a law-abiding region, and defending their interests in the face of a squatter-dominated government that, to them, wanted to impose immoral women on the town.

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29 S H Roberts *History of Australian Land Settlement, 1788-1920*, London: Frank Cass and Co. 1969, 259-268.

30 *Toowoomba Chronicle*, 25 April 1868, 2

31 *Darling Downs Gazette*, 9 April 1870, 2.

32 Fitzgerald *From the Dreaming to 1915*, 187.

33 The manuscript with signatures is housed in the Queensland Parliamentary Library.

34 R D Lumb *The Constitutions of the Australian States*, Brisbane: University of Queensland Press 1977, 20.

Occupational groups	Petitioners No.	Petitioners %	
Storekeepers, publicans	29	27.4	
farmers	26	24.5	
tradespersons	23	21.7	
carters and carriers	11	10.4	
others*	17	16.0	
total	106	100	
Basis of franchise	Petitioners No.	Petitioners %	Toowoomba electorate %
freehold	77	57.0	67.7****
household	30	22.2	14.0
resident**	13	9.6	12.4
salary***	9	6.7	2.2
leasehold	6	4.4	3.7
total	135	100	100

\* clerk, auctioneer, overseer, bushman, stockman, clergy, labourer; \*\* from 1875 roll only

\*\*\* from 1871 roll only; \*\*\*\* Toowoomba electoral district, registered voters n=2185.

**Table 1. Occupations (n=106/156) and basis of voting eligibility (n=135/156) of signatories to the 1870 protest petition.**

Sources: Queensland Post Office Directories (1868, 1874); Queensland Electoral Rolls (1870–71, 1875).

In addition, there was clear evidence of contrasting and competing conceptions of manhood aroused by the threat that the incoming women and their potential liaisons with lower class males posed for respectable masculinity. It has been claimed that storekeepers and selectors ‘mentally exchanged mateship for respectability’ and got ‘the best of the bargain’ over mobile rural and town workers.<sup>35</sup> One of the first comments made at the 1870 protest (and made by a shopkeeper) was the remark that some categories of men, especially bush workers, many of whom remained unmarried because of the colonial gender imbalance, might welcome the disreputable women:

Perhaps the Government considered they were doing Toowoomba a favour by their proceedings in the matter – they might probably think there would be a lot of lusty young fellows who would shortly have done shearing and washing, and were desirous of providing them with consorts – but their action in the matter was not appreciated. Perhaps drapers ought not to grumble, for such females were generally good customers of theirs.<sup>36</sup>

35 Waterson *Squatter, Selector, and Storekeeper*, 107; Clive Moore ‘Colonial manhood and masculinities’, *Journal of Australian Studies*, 56, 1998, 35–50.

36 *Toowoomba Chronicle*, 10 December 1870, 3.

Significantly, no similar remarks were reported for the remainder of the meeting. There was no indication that townswomen spoke at the meeting or signed the petition, and perhaps their presence was not considered appropriate to the matter at hand. The protestors, as male heads of household, were concerned for the welfare of their families, a point made by a number of speakers. While the petition claimed that the incoming women were 'propagators of vice', the citizens did not see themselves as vindictive. Some speakers were concerned about the welfare of the women, and they didn't want to hear suggestions (even jokingly) that these 'unfortunates' might be sexually used by rural workers from the pastoral runs, or commercially exploited by some shopkeepers. The protest meeting in 1870 reflected the anxieties and milieu of an aspiring petite bourgeois formation confronted by the arrival of *déclassé* women. Toowoomba's resistance to the women may have reflected a fear of metropolitan evils in general, but these shopkeepers and small farmers were most concerned about criminality and the perceived threat of moral contamination presented by the women and their associates.

The petitioners claimed to be in no doubt about the character of the incoming women and were concerned that they would be 'discharged without the means of providing for themselves return passages to Brisbane, nor even the common necessities of life'.<sup>37</sup> Perhaps the townspeople really did know what to expect because they already had local exemplars. The incoming women and their offences were very similar to the few local women already incarcerated in Toowoomba Gaol. The only significant differences were that the majority were charged with offences in Brisbane and that sentences involving 'hard labour' were increasingly imposed. Otherwise, characteristics of the incomers were similar to the local (female) gaol population who preceded them. Indeed, the boundaries between offences were sometimes vague: vagrancy might cover a range of circumstances from prostitution to drunkenness to destitution.<sup>38</sup> Much depended on how assiduously the authorities were policing working-class lives at any particular time.

Comparing Toowoomba Gaol's female population in 1866–70 (n=56) with that of 1875–77 (n=249), more of the Brisbane women used an alias (9 per cent) compared with the country women (2 per cent) but the difference was not significant. The majority were convicted of vagrancy (34 per cent), drunkenness (14 per cent), larceny (14 per cent) and obscene language (12 per cent). Few were convicted of serious offences against the

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37 QVP, third session, 1870 (petition), 259

38 Finnane and Garton 'The work of policing', 47–48.

person such as assault (4 per cent). The mean sentence (14 weeks) and the mean age (33 years) remained consistent over the decade spanning the transfer of women to Toowoomba. A large proportion had arrived in the colony from Ireland (48 per cent) followed by England/Wales (25 per cent) and Scotland (13 per cent).

While many of the arrivals at the gaol were Irish women, there is little evidence that ethnic or religious bigotry informed the townspeople's protest.<sup>39</sup> Toowoomba had a large Irish-born population, 30 per cent according to the 1881 census, and 33 per cent of the Downs population were Roman Catholic.<sup>40</sup> There was less sectarian strife on the Downs than in the capital, and Queensland in general was said to be an 'intensely Irish' environment.<sup>41</sup> Nor were concerns expressed about any other racial or ethnic group that might be relocated to the town. The main factor inflaming tensions between the town and colonial government was not the ethnic backgrounds of the women, but their disreputable character.

Acrimony between the town and Palmer's administration continued until the change of government in 1874. The local member, Groom, writing a year after the first women arrived, complained of female 'innocents' who remained in Toowoomba to carry on their trade. He cited the 'abomination' of Rebecca W who 'took cottages in different localities and carried on a system of infamy, enticing young females whose acquaintance she had formed in the gaol to reside with her'. He said more would be 'let loose to pollute the town' since there were 'sixteen such women currently in the gaol'.<sup>42</sup> The governor of Toowoomba Gaol, Henry Blaney, responded that the accusations were a 'tissue of falsehoods from beginning to end'. Rebecca W had been supplied with a pass to get her back to Brisbane, but had committed offences along the way in Ipswich and was sentenced to return to Toowoomba. He concluded: 'There is [sic] none of those Brisbane prostitutes to my knowledge in Toowoomba with the exception of four or five and they are in service and conducting themselves well.'<sup>43</sup>

Groom made one further attempt in 1874 after the change of government to have the Brisbane women removed. The report of his 'quiet endeavours' was conciliatory in tone, speaking of those incarcerated as 'unfortunates'

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39 Libby Connors and Bernadette Turner "I cannot do any more": resistance, respectability and ruin – recapturing the Irish orphan girls in the Moreton Bay districts', in Trevor McCloughlin (ed) *Irish Women in Colonial Australia*, 105–122.

40 Waterson *Squatter, Selector, and Storekeeper*, 259–262.

41 Patrick O'Farrell *The Irish in Australia: 1788 to the Present*, Sydney: University of New South Wales Press 2000, 132–133, 144.

42 *Darling Downs Gazette*, 25 October 1871, 3.

43 Letterbook of Toowoomba Gaol, series 635, item 515999, 26 November 1871, 161, Queensland State Archives (QSA), Runcorn (hereafter Letterbook of Toowoomba Gaol).

and noting that the imposition of these women had been a 'sore point for some time'.<sup>44</sup> The government agreed to consider the matter, but it was unlikely that policy would be reversed as extensions had been made to accommodate additional women in the gaol.<sup>45</sup> Critics of Toowoomba Gaol increasingly drew attention to the institution's inability to effect rehabilitation and to defects in its construction and flood-prone location, rather than directing attacks on the characters of the women within.<sup>46</sup> When Groom and the Colonial Secretary (R M Stewart) visited the Gaol in 1876 they were pleased with the cleanliness of the place, and undertook to ensure the Colonial Storekeeper supplied sewing machines and materials sufficient for the women to work.<sup>47</sup> Production of institutional clothing, considered medium labour, might assist government coffers and distract the women from 'comparing notes about the past and arranging mischief for the future'.

## Penal politics

Toowoomba citizens thought the women had been transferred to their town in an act of political revenge. Such an act would not be out of character for William Henry Walsh, that 'Demon of discord' who has been described by his biographers as 'gauche, nasty, devious, highly egocentric' and 'probably one of the most hated men of his time'.<sup>48</sup> Yet Walsh was also a 'credible administrator',<sup>49</sup> and it seems likely that, as Secretary for Public Works in 1870, he advised the new Palmer government of potential ways to tackle penal problems that had occupied previous administrations. Palmer himself would have been well aware of these problems. As Colonial Secretary and Secretary for Public Works in Mackenzie's government (1867–68) he had responsibility for the conduct of public institutions and infrastructure.

There were two closely related problems. First, what to do with 'idle' prisoners who, by contemporary accounts, constituted most of the prison population: this was really a question about the efficacy of prison labour. The second was an allied question about the future of St Helena, a penal

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44 *Toowoomba Chronicle*, 21 March 1874, 3; *Darling Downs Gazette*, 21 March 1874, 2.

45 Gaols of the Colony, Sheriff's Report, QVP 1873, vol 1, 1289.

46 Letterbook of Toowoomba Gaol, 15 July 1876, 362.

47 Ibid, 10 November 1876, 373.

48 D Denholm and H J Gibney 'Walsh, William Henry (1823–1880)', *Australian Dictionary of Biography*, vol 6, Melbourne: Melbourne University Press 1976. Available from: <http://www.adb.online.anu.edu.au/biogs/A060373b.htm>.

49 Ibid.

island recently established off the coast, close to the capital. The reports of two select committees (1868–69) show how both concerns meshed, and how attempted solutions to these questions led almost inevitably to transferring Brisbane women to Toowoomba.

The report on prison discipline (1868) heard that there was insufficient labour to occupy prisoners at Brisbane Gaol, which then contained about 140 males and 35 females. The select committee was told that during this period of deep economic depression, the state made considerable outlay just to keep ‘reckless’ prisoners in idleness. The lack of provisions for carrying out hard labour sentences made prison attractive to the ‘felon class’.<sup>50</sup> Brisbane Gaol was over-crowded, according to Sheriff Halloran, which meant prisoners could not be classified properly to separate recidivists from those who might be reformed.<sup>51</sup> While the major concern was for control of the larger number of men, the Visiting Justice to Brisbane Gaol (L A Bernays) testified that a similar situation existed for women, most said to be prostitutes, who were ‘indifferent to gaol’. He agreed that if materials were supplied, then these women could produce garments for other government institutions, but with little to do, ‘the impression on the mind of a visitor would probably be that they look well fed, sleek and perfectly contented with their position’.<sup>52</sup>

The problem of prisoner ‘idleness’ had seemed insoluble. However, potential solutions began to suggest themselves. St Helena had commenced as a penal establishment in May 1867 and was described as ‘experimental’.<sup>53</sup> Some longer term male prisoners were employed on the island in small-scale agriculture and land clearance, but there had always been uncertainty about the type of prisoner to be sent to St Helena, ‘trustworthy’ men or the worst long term cases.

Decisions were made quickly. The dire condition of colonial finances, combined with concerns for maintaining discipline, settled the future of the penal system for the next fifty years. The government hoped that St Helena could become self-sustaining and perhaps profitable. A range of trades and workshops would be introduced, and for this able-bodied men, preferably with skills, were required. By the time of the report on St Helena (1869), the government’s view was that St Helena should become the premier penal establishment for men. Brisbane Gaol would process

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50 Report of the Select Committee on Prison Discipline (hereafter SCPD) QVP, 1868, vol 1, 1087–1161.

51 SCPD, Halloran’s evidence, 1107–1110.

52 SCPD, Bernays’s evidence, 1112–1114.

53 Report from the Select Committee on the Penal Establishment at St Helena (hereafter SCSH) QVP, 1869, vol 1, 859–904.

able-bodied men who would no longer be kept in regional gaols.<sup>54</sup> Rather, after classification and observation in Brisbane, these men would be forwarded to St Helena. However, since Brisbane Gaol was overcrowded, the women incarcerated there would need to be removed and housed elsewhere – but where?

It is clear that Sheriff Halloran, who was responsible for gaols, did not fully comprehend government thinking and the direction of penological events as they unfolded 1868–70. As late as 1869, Halloran wanted a ‘temporary’ and ‘inexpensive’ wooden structure built for the women and attached to Brisbane Gaol. He thought this structure adequate for the women because most of them were short term prisoners. He estimated the cost of the building and fence at £250.<sup>55</sup> Yet he also argued that ‘as many hard labour men as possible’ should be sent to Toowoomba, once local female prisoners were moved into a new ward, as yet not approved for construction. In effect, he wanted room at Brisbane Gaol for more men, with the women hived off into a wooden shelter, but he also wanted more male prisoners housed at Toowoomba, to raise its status above that of a country ‘house of detention for short periods’. His thinking was expansionist, but his strategy was misjudged. The chairperson of the St Helena inquiry was Arthur Palmer, whose effigy had been recently burnt at Toowoomba and who was now sitting on the opposition benches. Soon, as Colonial Secretary and Premier, he would be making decisions about the relocation of male and female prisoners in the colony.

What must have tipped the scales against the sheriff’s plans was that Toowoomba increasingly appeared unsuitable for the males already there, but adequate for additional women. The gaol was secure, but difficult to guard, more suited to short term prisoners. There was little in the way of productive labour to occupy male prisoners, since economic depression left little call for gaol-manufactured items in the locality. Even gaol authorities agreed that the institution ‘could not be called a reformatory prison, quite the reverse’. The earlier inquiry on prison discipline (1868) was told that young males were worse when they came out of Toowoomba, because the men were not occupied and they spent their time ‘contaminating the minds of each other’.<sup>56</sup>

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54 Letterbook of the Sheriff Containing Letters to Heads of Departments (1865–71) series 15170, item 89488, 17 April 1869, 218, QSA.

55 SCSH, 895–896.

56 SCPD, 1155–1159.



However, the government's decision to move women to Toowoomba, and remove most of the men, was still made with haste. Little thought was given to what the women would do once transferred. The uncertainty applied both to how the women would be occupied and their welfare once released. The first female turnkey who arrived in December 1870 (shortly before the protest meeting) noted 'the need for suitable work to be set afoot' to prevent the increasing number of unoccupied women from quarrelling.<sup>57</sup> The gaoler asked what to do about the first women coming up for release who wanted to return to Brisbane.<sup>58</sup> The sheriff provided a 'limited number' of signed passes so the women could progress by train to Ipswich and then riverboat to Brisbane. Gaoler Blaney gave these passes to the 'most incorrigible', presumably to get them out of Toowoomba. The Colonial Secretary (Palmer) concurred that only the 'worst characters' should get a pass and that 'it was not his intention to send the whole of them back' to Brisbane as he hoped they would seek employment locally on the Downs. His advice was to discharge the incorrigibles entitled to a pass a day early, because then authorities could compel them to leave town by train.<sup>59</sup>

The government's vision that at least some of these city women might settle into domesticity on the Downs perhaps explains the ambivalence in Sheriff Halloran's comments about the transfer. He held little hope for these women, and seemed uncertain whether the move was for the good of the women themselves. If the women were to be rehabilitated then why, he implied, send them to a country municipality where they might be even more stigmatised:

The females are almost wholly of a class degraded by drink, and by its associate vices, and are seldom clear of gaol, beyond three or four weeks at a time. In a comparatively small population like that of Queensland, women of this description become locally known, and lose their self-respect, more determinately than in countries where an offender, removed from the place of her fall to one where she will hardly be recognised, can be better benefited by decent and moral associations.<sup>60</sup>

Many of these women, of course, did stand out and became identified locally as troublesome. The visiting magistrate insisted that Elizabeth C be sent back to Brisbane rather than released into the town. This was the

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57 Letterbook of Toowoomba Gaol, 5 December 1870, 102; 7 January 1871, 105.

58 Ibid, 27 January 1871, 108.

59 Ibid, 28 March 1871, 123.

60 Report on the Prevention and Repression of Crime, Including Penal and Reformatory Treatment in Queensland, QVP 1872, vol 1, 1488.

third time she had been sent down from Brisbane, convicted of wilful and malicious damage and vagrancy, and there had been 'several complaints made against her by inhabitants of the town'.<sup>61</sup> In addition, local police were accused of harassing the women after their release, including informing potential employers about the women's backgrounds.<sup>62</sup>

There were problems providing prison work for the women because of a longstanding rift with the Colonial Storekeeper who provided material with which the women produced garments. Blaney pointed to the difficulties of filling a regular quota, either because of fluctuating numbers of prisoners, or because insufficient material had been sent to the gaol.<sup>63</sup> The Storekeeper complained of slovenly work. Blaney responded that while the women were closely supervised, making serge clothing was beyond many of them as such work required 'tailors and people brought up in the business'.<sup>64</sup> The supply of sewing machines in the mid-1870s caused further argument, with the gaoler complaining the machines broke down, and it seems that initially the Storekeeper was opposed to the use of machines because he could not supply enough material.<sup>65</sup> Yet, despite accusations of their worthlessness and lack of domestic and sewing skills, the women fulfilled work expectations when possible. The sheriff was moved to acknowledge:

The value of work performed by the female prisoners, after paying for material, is three hundred and thirty-six pounds, nine shillings and five pence. Considering the degraded and useless class of women to be dealt with in this prison, this result is very satisfactory. Against some of these women upwards of fifty convictions are on record, in fact the Gaol appears to be considered their home. Many of them are unable to sew even the coarsest work.<sup>66</sup>

The tension between storekeeper and gaoler again highlighted the ongoing problem of delineating clearly the purposes of prison work. McGuire's study of penality in Queensland argues that the fiscal crisis of the state was the most powerful incentive to achieve economies in the system in the late nineteenth century.<sup>67</sup> It is certainly the case that

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61 Letterbook of Toowoomba Gaol, 10 July 1871, 147.

62 *Darling Downs Gazette*, 21 December 1872, 2. For other instances of tensions between the gaol and police, see *Darling Downs Gazette*, 9 November 1872, 3; Letterbook of Toowoomba Gaol, 18 December 1872, 215; 14 July 1875, 324.

63 Letterbook of Toowoomba Gaol, 7 September 1871, 157; 17 November 1873, 255; 9 May 1876, 356.

64 Ibid, 3 January 1877, 382–383.

65 Ibid, 10 November 1876, 374; 16 November 1876, 376; 3 January 1877, 383.

66 QVP, 1877, vol 1, 1026.

67 McGuire *Punishment and Colonial Society*, chapter 7.

gaols and prisons were expected to pay as much of their way as possible, especially in a 'mortgaged economy' such as Queensland's, but there were other functions of labour. In fact, the question of prison labour was central to penal politics in the late nineteenth century. While the government was especially concerned with fiscal aspects, penal administrators were also cognisant of the control function of labour and argued strongly that prison labour should retain a balance of objectives.

Penal officials kept reminding the government that there was more to prison labour than just economic considerations. Contemporary discourse about prison labour ranged across three core concerns: labour for productive work and *economic* reimbursement to the state, labour that was *reformatory* of character and, third, what was referred to as 'penal labour', hard, repetitive and *disciplinary*. Prior to moving the women to Toowoomba and reorganising male accommodation, provisions for achieving any of these objectives were lacking. Sheriff Halloran was adamant about the need to 'balance profitable labour against the punishment of penal labour' and insisted that penal labour should never 'be sacrificed to the immediate concerns of profit'.<sup>68</sup> In fact, the sheriff and likeminded officials frequently quoted from British government documents produced 20 years earlier at a time when, following the cessation of transportation, officialdom was starting to question the mid-century emphasis on the reformatory mission of the new British prisons and to advocate a harder line on discipline.<sup>69</sup> In the case of male prisoners, Halloran said the disciplinary 'pain' of penal labour should always be a legitimate consideration: 'The great want in all the gaols is means of employing the prisoners in a profitable manner, and the still more effectual punishment of penal labour.' In the year he retired, Halloran referred to the question of labour as 'a matter of great difficulty and perplexity'.<sup>70</sup>

Other colonies were attempting also to grapple with the twin problems of prison labour and prison discipline. In Victoria, for example, prisons made greater use of solitary confinement and punishment cells to impose discipline. Thus, the system moved slowly toward a policy that emphasised prison labour as reformatory and character building, rather than mainly punitive.<sup>71</sup> On the other hand, lack of space in Queensland, because of

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68 QVP, 1885, vol 1, 538.

69 Prison Discipline (Despatch Respecting). QVP, 1869, 263–264; Neil Davie "Business as usual?" Britain's first women's convict prison, Brixton 1853–1869', *Crimes and Misdemeanours* 4 (1), 2010, 37–52.

70 QVP, 1888, vol 1, 903.

71 Lynn and Armstrong *From Pentonville to Pentridge*, 91–104, 110–113.

the disinclination of governments to invest in facilities, meant that there could only be limited recourse to solitary confinement, and hence the insistence of Halloran and other prison officers on the importance of prison work for penal and disciplinary purposes. Moreover, prison life in Queensland tended to be lived in association with other prisoners, a mode of accommodation said to be conducive to moral contamination. Paradoxically, while some progressive penologists were decrying the 'evils' of associated accommodation, others were pointing to the deleterious effect on the mental health of prisoners when kept isolated for long periods in single cells.<sup>72</sup>

The problem of labour remained intractable. The Board of Inquiry (1887) reported that prisoners on St Helena were productively engaged, albeit in a narrow range of agricultural and industrial pursuits, and the women at Toowoomba appeared to be usefully occupied, but opportunities for labour at other regional gaols and Brisbane Gaol were sporadic or non-existent.<sup>73</sup> A persistent problem was that work intended to impart useful skills had to be provided by the gaol system rather than found outside. Prison officials had always hoped that municipalities might employ prisoners on public works, but governments were anxious to avoid 'interfering with free labour', particularly during times of economic depression and public unrest, so little eventuated. Prison authorities continued to advocate the disciplinary role of punitive labour, but governments and official inquiries increasingly distanced themselves from the concept of 'purely penal labour', which produced 'resentment, obstinacy, and hardness in the labourer'. Penal labour as punishment came to be seen by progressive commentators and liberal governments as 'torture in disguise [and] totally non-reformatory in its effect'.<sup>74</sup>

In the case of women, there was always less emphasis on the 'pains' of penal labour. Official views of women mirrored those mixed views expressed by the Toowoomba protestors in 1870. Distaste for dealing with this most 'degraded and difficult class', mingled with sympathy for the 'unfortunate class' of women.<sup>75</sup> While most agreed that there was little hope of rehabilitating these women, they still might be protected from themselves and each other, and useful work provided the key. Women prisoners were never to be used in hard manual labour, either

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72 Ibid, 101–102.

73 Report with Minutes of Evidence taken before the Board of Inquiry appointed to Inquire into the General Management of Gaols, Penal Establishments, and Lockups of the Colony of Queensland, *QVP*, 1887, vol 1.

74 Ibid, xviii–xix.

75 *QVP*, 1879, vol 1, 743.

inside or outside of the gaol, but this left them with a very narrow range of useful work, which might also be disrupted by events external to the correctional system. In the early 1890s the Colonial Storekeeper complained that the superintendent of Toowoomba was trying to dictate the amount of goods and materials to be processed by his store. He began to look elsewhere for the supply of institutional clothing with a consequent loss of work for Toowoomba women. The new sheriff (W Townley) spelt out that the 'essential question is really how best to supply prisoners in penal establishments with remunerative work'.<sup>76</sup> He reminded the Under Colonial Secretary that materials needed to be regularly supplied 'otherwise orders cannot be filled, and prisoners cannot be taught to become experts unless they are regularly employed'. If the current situation of supply in 'fits and starts' could not be obviated, 'then it would be better for discipline and manufacture of products to put prisoners to other labour even if un-remunerative'. Prison labour was not only concerned with profit and loss accounting; in Townley's view it was also fundamentally concerned with maintenance of discipline and order. Aside from the need for productive labour, Townley concluded with his most telling observation from a recent visit to Toowoomba Gaol:

I found all the female prisoners in a state of enforced idleness for want of material – the horrors attendant upon 50 reckless women compelled on account of faulty prison construction to live in association and without work may be easily imagined.<sup>77</sup>

## Conclusion

Correctional histories of developments in the second half of the nineteenth century tend to focus more on penal institutions and related policy than on public responses to penal policy and prison reform. The case of Toowoomba women's gaol indicates the need for finer-grained analysis of penal politics and public perceptions of penal policy. The conservative, squatter-based government of Arthur Palmer decided to move women to Toowoomba for reasons of economic expediency and the need to organise large numbers of male prisoners and their labour power. However, the policy was seen very differently at the regional level where Darling Downs residents rejected the move of female prisoners to

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76 Sheriff of Queensland to the Under Colonial Secretary, series 15160, item 89419, 15 August 1891, 901–904, QSA.

77 Sheriff of Queensland to Under Colonial Secretary, series 15160, item 89420, 9 March 1892, folio 142, QSA.

their locality. They were not concerned with questions of prison labour or colonial fiscal troubles, as was the government, but rather with the perceived social problems that they believed their town would face after the arrival of women prisoners from the city.

The townspeople were mistaken about the relocation as an act of political revenge, although there were good reasons for their suspicions. Regional and colonial politics in the period were contested around sectional issues and the need to maintain sometimes shifting local power bases. The decision to relocate female prisoners from Brisbane to Toowoomba was a fraught one, as a range of interested parties sought to gain political advantage and favour. Citizens were concerned about the potential for increased vice and crime, but the agrarian radicals also sought to mobilise town anger against squatter interests. The government provided little warning about the imminent relocation of the women, but then the decision was taken quickly. The government had few channels by which to disseminate information on policy likely to impact on the town because on this matter, as with others, local members, the town council, and the regional press were at loggerheads with the government. The furore over the Prince's visit in 1868 was indicative of the lack of communication and the existing political divide between the government and the townspeople. It seems also that many of Blaney's problems running the gaol, at least in the 1870s, arose from local and parochial politics – criticisms from the townspeople and regional press, disputes with local police, irregular supply of work materials for the women – rather than from pressures internal to the gaol itself.<sup>78</sup>

The relocation was part of an attempt to work through the problem of prison labour, and especially to find ways of balancing productive labour with punitive labour. Inquiries had reported on the 'idleness' of men and their drain on resources at a time of acute economic depression. Removal of the women from the metropolis opened the way to reorganise male labour. It is possible to read other interpretations into the relocation of urban women to Toowoomba. However, evidence of concerted attempts to further punish these marginalised women by isolating them on the Darling Downs is not particularly forthcoming.

Nevertheless, a characteristic of the gendered correctional system in Queensland had been firmly established and would be repeated into the twentieth century. That is, in addition to any concern that authorities

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78 Toowoomba Gaol was, however, roundly criticised by the 1887 Board of Inquiry, partly because of inadequate construction and the associated accommodation of the women, and also because of Blaney's paternalistic administration of the gaol. *QVP*, 1887, vol 1.

may have had to control and isolate female deviance and 'depravity', the fortunes of women prisoners were determined by the need to control men.

The scenario would later be repeated. When Toowoomba Gaol closed at the beginning of the twentieth century, women were returned to Brisbane to occupy what was seen at the time as a modern brick and stone facility. Yet from the 1920s, as men were returned to the metropolis from the deteriorating facility on St Helena and had to be accommodated, the women were finally forced into a wooden house on the Brisbane Prison reserve. Halloran's cheap and 'temporary' accommodation for women had finally eventuated and lasted to the mid twentieth century as further evidence of the ongoing official neglect of women prisoners.<sup>79</sup>

## About the author

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79 Kerry Wimshurst 'Punishment, welfare and gender ordering in Queensland, 1920–1940', *Australian and New Zealand Journal of Criminology* 35 (3), 2002, 308–329.