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## Outcast Women: Crime, gender and the politics of respectability in Fremantle, 1900 to 1939

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*Leigh Straw*

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Esther Warden was described in court in 1912 as ‘a dangerous woman’ and ‘an incorrigible nuisance’.<sup>1</sup> By 1939, when she was in her late sixties, Esther had notched up over 200 criminal convictions, mostly for drunkenness and being an idle and disorderly public nuisance.<sup>2</sup> In Fremantle she was one of the most notorious criminals of the early twentieth-century and known as the ‘terror’ of the West End.<sup>3</sup> Western Australia’s *Police Act* had been enacted in the late nineteenth century as a means to monitor and punish criminal behaviour—mainly such offences against good order as drunkenness, vagrancy and loitering. But it was also used to control female behaviour. The feminine ideal in the British world was then of a passive, chaste and moral woman who best contributed to society through respectable paid work or by upholding a domestic identity as a good wife and mother. Women who did not conform to this idea faced being outcast from society through convictions for good order offences. When Perth’s Magistrate Augustus Roe sent Clara Bull to the Salvation Army Home in 1902 he told her it was a ‘chance to be a better woman’.<sup>4</sup> His words, therefore, echoed the dominant public discourse about women who were charged with offences against good order. While they had committed crimes, their greatest offence was considered to be their failure to meet social expectations.

Beyond the local Fremantle context, drunken, loitering, vagrant and disorderly women were also outcasts of the British Empire. As the newly federated nation of Australia sought to embrace an imperial vision of order and moral citizenship, women who offended the good order were in direct conflict with expectations of femininity for British women. Anxieties about the moral fibre of the empire placed greater emphasis on female service and duty and the moral role of white women in settler-societies like Australia. The deviant lives of criminal women in Fremantle reveal public battles with moral decency based on a public discourse enabling gendered experiences of crime. Female offenders, knowingly or unknowingly, re-shaped the streets into sites of conflict as they contested accepted ideals of British femininity and constructions of ‘good’

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1 *Daily News*, 5 February 1912, p. 2; *Daily News*, 21 June 1912, p. 3.

2 Esther Warden’s record in the Fremantle Prison Register runs over four pages from the turn of the century to 1939. See: ‘F209 Warden, Esther Muriel’, *Register of Local Prisoners (Female)*, Gaol Department Western Australia, Series 678, Cons 4186/1, State Records Office of Western Australia (hereafter SROWA).

3 *Sunday Times*, 27 July 1913, p. 15.

4 *Daily News*, 20 January 1902, p. 2.

Christian women, often detailed in court proceedings. The female inebriate and street prostitute provide important insights into a public discourse constructed around good order offences as representing, for women, a 'fall' from femininity.

Respectable and deviant femininities were closely monitored and regulated in public from the first years of colonisation in Australia and influenced by trends in Britain.<sup>5</sup> As Penny Russell has shown, British manners were adapted into colonial Australian society to provide stability in a foreign environment.<sup>6</sup> Social codes 'defined 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'.<sup>7</sup> According to Jill Matthews, Australian women were expected to live up to particular ways of being, from speech and appearance to behaviour and thoughts that signified a woman's place within the gender order and power relations.<sup>8</sup> This regulation of female behaviours aimed to limit any deviance.

Discourse on female behaviour in Australia by the early twentieth century placed greater emphasis on female service and duty and the moral role of white women in settler-societies. Women were depicted as upholders of welfare, development and domesticity within the nation, commonwealth and empire.<sup>9</sup> The dominance of 'an ideology of maternalistic and reforming feminism' emphasised women's moral superiority in the lead up to federation and in the first decades of the twentieth century.<sup>10</sup> In Australia, citizenship (of the nation and the empire) was constructed closely around distinct gender orders and respectable femininities.

Women who committed offences against good order in Fremantle in the first decades of the twentieth century were depicted in public discourse as having 'fallen' from femininity and were thus outcast from respectable society. At a time when 'women's femininity was seen to derive in large part from their lack of physical prowess, their delicacy, and nervousness',<sup>11</sup> women like Esther Warden—who was charged with being disorderly and using obscene language after being tackled to the ground by police while trying to use a hatpin as a weapon in February 1912<sup>12</sup>—certainly challenged the authorities at the time.

The majority of women charged and convicted in the Western Australian courts from 1900 to 1939 were arrested for offences against good order. These accounted on average for around two-thirds of all cases before the courts, both Supreme and Petty. The police and the courts had little tolerance for offences against good order. Around 95 per cent of public order cases ended in convictions compared with 80 per cent for property offences

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5 Shani D'Cruze and Louisa A. Jackson, 'Introduction: "Vice" and "Virtue"?', in Shani D'Cruze and Louisa A. Jackson (eds) *Women, Crime and Justice in England Since 1660*, Hampshire, 2009, p. 1.

6 Penny Russell, *Savage or Civilised? Manners in Colonial Australia*, Sydney, 2010, p. 3.

7 Mary S. Hartman, *Victorian Murderesses: A True History of Thirteen Respectable French and English Women Accused of Unspeakable Crimes*, London, 1985, p. 2.

8 Jill Julius Matthews, *Good and Mad Women: The Historical Construction of Femininity in Twentieth-Century Australia* (1984), North Sydney, 1992, p. 88.

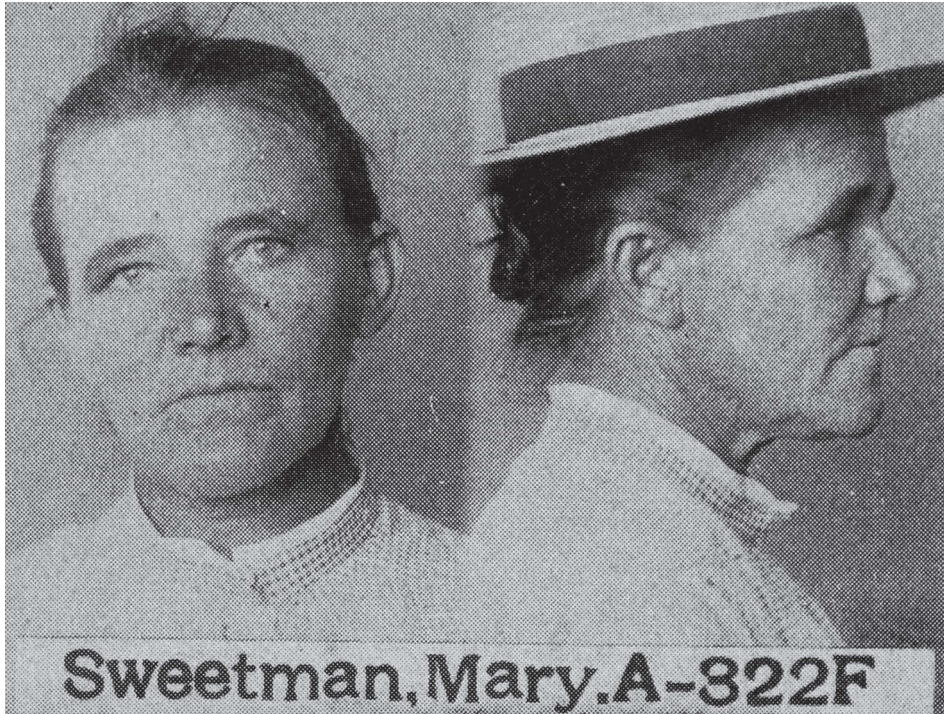
9 Philippa Levine, 'Sexuality, Gender and Empire', in Philippa Levine (ed.) *Gender and Empire*, Oxford, 2007, pp. 134-7.

10 Angela Woollacott, 'Gender and Sexuality' in Deryck M. Schreuder and Stuart Ward (eds) *Australia's Empire*, Oxford, 2008, p. 325.

11 Philippa Levine, 'Introduction', in Levine, p. 7.

12 *Daily News*, 5 February 1912, p. 2.

and 50 per cent for offences against the person. Women charged with offences against public order were almost guaranteed a conviction. In general, they were sentenced to between three and six months' gaol with hard labour.<sup>13</sup>



Womens' Prison records often include 'mugshot' photos of prisoners, including Mary Anne Sweetman.

#### *Drunken women*

When Cecilia Reilly was arrested on the Fremantle Esplanade in October 1910 she was sleeping on the grass, holding a beer bottle and sporting a black eye. With no means of support or a place to live, police charged her as a rogue and vagabond and the magistrate sentenced her to one month in prison. Like other men and women frequently coming to the attention of the police for drunkenness, idle and disorderly conduct and vagrancy, Reilly was arrested that evening under the provisions of the *Police Act* and made a criminal. Police targeted Reilly because she was found alone in the park and unchaperoned.<sup>14</sup> Reilly was outcast from Fremantle society by a public discourse that

13 Government Statistician's Office, *Statistical Register of Western Australia, 1903–1940*, 319.41 (WES), The Leah Jane Cohen Reading Room, J.S. Battye Library of Western Australian History (Hereafter SLWA).

14 *Daily News*, 5 October 1910, p. 4.

singled out female drinkers 'lounging about the streets ... to the deep degradation of their sex'.<sup>15</sup>

Convicted female drinkers, like Reilly, publicly displayed their deviance and were seen as a threat to gender roles.<sup>16</sup> Women were expected 'not to be seen in the principal streets, especially in broad daylight but confine themselves and their patronage to the low public houses in their own neighbourhood'.<sup>17</sup> When found on the streets of Fremantle, drunk women sparked numerous commentaries in the press. In March 1904, *Truth* published an article under a partial heading of 'Sickening and Degrading Sights' in which the writer complained of the 'very large number of women to be seen in our principal thoroughfares under the influence of liquor'.<sup>18</sup> The paper claimed drunken women could apparently be found in hotels drinking all day until closing time. One reporter told of four drunken women who 'lurched' out of a city hotel in front of him. One tried to dance but fell over, giving her friends a good laugh. According to the report, these scenes were a regular occurrence in the city.<sup>19</sup>

By the advent of the twentieth century, the judiciary, police, press, churches, medical professions and social purity campaigners constructed the good Australian woman as 'domestic, home and family-bound, pure, clean and rationalised'.<sup>20</sup> Some Australian feminists also incorporated a maternalistic approach to their 'new social order' for the twentieth century, identifying mothers as key to the ideal of the moralistic female citizen.<sup>21</sup> The drunken mother, therefore, represented a major form of deviancy from the domestic ideal of British women, and for their deviation from a domestic ideal, Cecilia Reilly and other intoxicated women were depicted as a public shame.

Reilly was portrayed several times in the court and press reports as a bad mother. In the fifteen years that followed Reilly's first conviction in 1898, she notched up over seventy convictions for neglect, drunkenness, loitering and soliciting. When charged with leaving her child in a perambulator (pram) in the streets while she went drinking around Fremantle in August 1898, Reilly objected in court and argued she had only gone off to run a short errand. She spent the next month in prison, depicted as a 'negligent mother' in the press.<sup>22</sup>

The female inebriate posed a particular dilemma for society: weakness of the will in women, it was argued, had a direct impact on the next generation. Degenerate theories of the late nineteenth century identified heavy drinking—'part vice, part disease'—as directly affecting offspring and thus poisoning future generations.<sup>23</sup> In February 1904, Mary Ann Sweetman was described as an habitual drunk and was caught in a cycle of offending and incarceration that would end only with her death in 1922.<sup>24</sup> In 1913, Sweetman appeared in court after police alleged she had gathered with a group of women

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15 *Sunday Times*, 9 January 1915, p. 7.

16 Peter Kelly, Jenny Advocat, Lyn Harrison and Christopher Hickey, *Smashed! The Many Meanings of Intoxication and Drunkenness*, Clayton, 2011, p. 11.

17 *Truth*, 5 March 1904, p. 2.

18 *ibid.*

19 *ibid.*

20 Matthews, p. 88.

21 Marilyn Lake, *Getting Equal: The History of Australian Feminism*, St Leonard's, 1999, p. 53.

22 *West Australian*, 1 September 1898, p. 3.

23 Mariana Valverde, *Diseases of the Will: Alcohol and the Dilemmas of Freedom*, Cambridge, 1998, pp. 51-2.

24 *West Australian*, 17 February 1904, p. 3.

in West Perth and was drunkenly holding her child in her arms. Despite Sweetman's plea that she had just bought the child sweets and was on her way home to Fremantle, she was sent to prison for three weeks.<sup>25</sup> Sweetman did not think she posed a threat to her children, despite the views of authorities and medical opinion that she was an habitual drunk. She pleaded in court in November 1909 that she would 'not hurt a hair of my children's heads'.<sup>26</sup> Therefore, the female drunk on the streets was not only criminalised for public drunkenness but was simultaneously punished as a woman who had fallen from domestic ideals espoused as a key part of an Australian society upholding feminine ideals.

### *Fallen Women*

The supposed 'fall' experienced by criminal women is most obvious in the lives of street prostitutes, notably Fremantle's May Ahern. Apprehended in Fremantle on Boxing Day 1919, May was brought before the courts the next day. Charged with loitering, idle and disorderly conduct and use of foul language, May was arrested for soliciting for sex in public. May was portrayed in the press as tempting 'unaware males from the paths of virtue'. In only a couple of hours,



Prison photograph of May Ahern.

while working her patch in Phillimore Street, according to press reports, , May misled a number of men, her 'mugs', who fell prey to her 'warm, pink, palpitating femininity'. Ahern was sentenced to three months for loitering; a further three months for being idle and disorderly, and her foul language gained her another week.<sup>27</sup>

While men in the British world were reprimanded for paying for sex, and could be charged with living off the proceeds of prostitution, the 'fallen woman', according to Matthews,<sup>28</sup> was a greater concern. After drunkenness, prostitution was the offence for which women were most frequently tried and convicted in Fremantle. Historically, prostitution has been 'conspicuously fragmented, individualistic and non-professionalised. It has been widely associated with social and geographical exclusion, stigmatisation and moral indignation'.<sup>29</sup> Females soliciting on the streets were outcast from respectable society for the perceived threat they posed to the sanctity of marriage and, therefore, society as a whole.

25 *Daily News*, 28 July 1913, p. 4.

26 *Daily News*, 20 November 1909, p. 8.

27 *Truth*, 3 January 1920; 'F459-Ahern, May', Gaol Department Western Australia, Series 678, Cons 4186/1, SROWA.

28 Matthews, p.125.

29 Roger Matthews, *Prostitution, Politics and Policy*, Hoboken, 2008, p. 22.

The 'fallen' woman dominated Western Australian discussions about female respectability from the late nineteenth century. It coincided with the 1890s gold discoveries that dramatically increased the non-Western Australian-born population and caused rapid urbanisation across the metropolitan area. While the same can be said for other major Australian cities, and also Britain and the United States at the time,<sup>30</sup> Western Australia's gold rush was more marked than other places given it had struggled for decades to attract immigrants. The gold rushes changed this, as they had done in Victoria in the 1850s.<sup>31</sup> By March 1901, Western Australia's population had increased dramatically to over 184,000 from the 29,708 of April 1881.<sup>32</sup> Breadwinners who left the eastern colonies looking to make a fortune in the gold rushes were responsible for some of the population increase. Desertion records in the *Police Gazettes* show the other side of this population movement, with wives and children left behind.<sup>33</sup> Concurrently, Western Australia experienced a boom in prostitution as rapid urbanisation and heightened immigration increased the demand for sexual services.

Prostitutes were characterised as visible examples of deviant women who failed to meet social expectations. From the 1890s, prostitution came to be seen as a serious social problem, particularly with an increase in demand for prostitutes caused by the mining boom and the rapid urbanisation of the metropolitan area. Western Australia followed the pattern of other western societies in its approach to prostitution: preaching suppression, regulation and abolition.<sup>34</sup> As Paula Bartley writes, 'prostitution commanded attention from the church, the state, the medical profession, philanthropists, feminists and others, each of which offered a range of solutions to control and ultimately to end it'.<sup>35</sup> The social purity movement from the late nineteenth century aimed to create a 'moral climate' in which prostitution would cease to exist.<sup>36</sup> One major impact was the social, medical and legal regulation of the 'fallen' woman.

Representations of the fallen woman date back as far as the Old Testament and in more recent history with John Milton's *Paradise Lost*. The prostitute is depicted in a socio-religious manner linked to Eve's fall and the corruption of man.<sup>37</sup> With the growth of Evangelical movements in the nineteenth century<sup>38</sup> and increasing discussions about 'morality and progress', the female prostitute needed to be saved to prevent further moral degradation in society.<sup>39</sup> Social purity movements from the 1880s in Britain and

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30 Melissa Hope Ditmore, *Prostitution and Sex Work*, Oxford, 2011, p. 43.

31 Raelene Frances, *Selling Sex: A Hidden History of Prostitution*, Sydney, 2007, p. 129.

32 *Statistical Register of Western Australia for the year 1916*, 'Part 1, Population and Vital Statistics', Government Printer, J.S. Battye Library of West Australian History, p. 3.

33 Frances, p. 129.

34 Raelene Davidson, 'Prostitution in Perth and Fremantle and on the Eastern Goldfields, 1895–September 1939', Master of Arts thesis, University of Western Australia, 1980, pp. 163–4.

35 Paula Bartley, *Prostitution: Prevention and Reform in England, 1860–1914*, London, 2000, pp. 1–2.

36 *ibid.*, p. 2.

37 Nina Auerbach, 'The Rise of the Fallen Woman', *Nineteenth-Century Fiction*, vol. 35, no. 1, June, 1980, p. 34.

38 Frances, p. 162.

39 Clive Emsley, *Crime and Society in England, 1750–1900*, Harlow, 2005, p. 97.

the United States influenced Australian responses to prostitution and heralded an era of intervening in the lives of the 'dangerous classes' to purify private and public lives.<sup>40</sup>

Prostitution, labelled the 'great social evil', represented a 'fall from femininity'.<sup>41</sup> Prostitutes failed to live up to the Victorian ideal of the chaste, morally superior woman.<sup>42</sup> The prostitute was characterised as morally corrupt and unnatural within the gender order.<sup>43</sup> As Lucy Bland highlights, 'To say that a woman had "fallen" implied that she had lost her modesty and become quite "other"'.<sup>44</sup> So when Rose Skivington and Lizzie Molyneaux were described in the press as 'abandoned women' in 1902,<sup>45</sup> they were not literally abandoned women. Rather, they had abandoned the feminine ideal.

From 1895 the Western Australian government increasingly favoured a regulatory model. Police and authorities labelled the prostitute as an idle and disorderly person, immorally contributing to society, and a serious social problem. As a result, legal changes were enacted in Western Australia giving police the power to deal with unrespectable women in public. Idle and disorderly charges were levelled on women in a number of public situations. As was then also evident across Australia, women labelled as prostitutes were then also charged with such street offences as loitering, vagrancy, disorderly conduct and idleness.<sup>46</sup> Not all women charged with idle and disorderly offences were prostitutes. However, the Idle and Disorderly section of the *Police Act* (1892) allowed for prostitutes to be prosecuted as vagrants if they were unable to show lawful means of

support.<sup>47</sup> Common prostitutes could therefore be fined £2 or imprisoned for at least a month.<sup>48</sup> Brothel keeping under the Criminal Code was a misdemeanour which carried a three-year gaol sentence with hard labour.<sup>49</sup>

In Western Australia, the discretionary use of the *Police Act* recognised varying degrees of female respectability. In general, streetwalkers were shown leniency, so long as no complaints were made against them and they were discreet.<sup>50</sup> But when streetwalkers became a public



Esther Warden's prison photograph.

40 Lucy Bland, 'Purifying' the public world: feminist vigilantes in late Victorian England', *Women's History Review*, vol. 1, no. 3, 1992, p. 399.

41 Emsley, p. 79; Matthews, p.125.

42 Martha Vicinus, 'Introduction: The Perfect Victorian Lady', in Martha Vicinus (ed.) *Suffer And Be Still: Women in the Victorian Age*, Bloomington and Indianapolis, 1973, p. xiv.

43 Matthews, p.127.

44 Bland, p. 407.

45 *West Australian*, 23 December 1902, p. 7.

46 Matthews, p.127.

47 Raelene Davidson, 'Dealing with the Social Evil': Prostitution and the police in Perth and on the eastern goldfields, 1895-1924', Kay Daniels (ed.), *So Much Hard Work: Women and prostitution in Australian history*, Sydney, 1984, p. 165.

48 *ibid.*

49 *ibid.*, p. 8.

50 *ibid.*, p. 116.



problem they were charged as idle and disorderly persons and faced weeks or months in Fremantle Prison.<sup>51</sup> Containment within brothels helped limit soliciting in the streets. Regulation and containment of prostitution within the brothel areas of Bannister and Cantonment Streets in Fremantle increasingly meant that street prostitution represented a smaller section of the sex industry. By the second decade of the twentieth century, police were largely successful in having driven most women off the streets.<sup>52</sup>

Amid efforts to contain prostitution, the streetwalker was also stereotyped as a health threat. Esther Warden's appearance in court in October 1909 on a charge of idle and disorderly was used by the *Sunday Times* to weigh into debates about the regulation of medical checks for venereal disease on prostitutes:

A battered relic of womanhood ... Esther Warden was before the Police Court during the week on the charge of being an idle and disorderly female. 'I've never seen the accused in the company of a respectable person,' observed an outraged John Hop. ... A weary bench sent her down for a month, there being no other way of dealing with the frowsy, dreadful females who nightly infest the streets of Perth. Badly wanted—a C.D. Act.<sup>53</sup>

The main purpose of such press reports was to argue for a Contagious Diseases Act, similar to that which had existed in Queensland since 1868 and Tasmania since 1879.<sup>54</sup> So far NSW and Victoria had failed to pass similar legislation.<sup>55</sup> According to the *Sunday Times*, weekly medical tests under a Contagious Diseases Act would prevent Perth from becoming the 'moral sewer of the Commonwealth'.<sup>56</sup>

While a Contagious Diseases Act was not introduced in Western Australia, debates about the introduction of an act covering contagious diseases were similar to those in Britain from the middle of the nineteenth century. The *Contagious Diseases Acts* passed by the British Government in 1864, with amendments in 1866 and 1869, were largely influenced, first, by social concerns about prostitution as a 'social evil' and, secondly, the spread of diseases amongst the armed forces during and after the Crimean War of 1854 – 56.<sup>57</sup> Some weekly health checks had existed in Perth and Fremantle from the 1890s, but from 1904, police and magistrates were exerting more than their allocated authority. If they believed a prostitute suffered from a venereal disease, police and magistrates often worked together to secure a prison term.<sup>58</sup> The First World War heightened concerns about the spread of venereal diseases, particularly after cases were reported among recruits while training in Perth in 1914.<sup>59</sup> An increase in the demand for prostitution was evident during the war: convictions for soliciting in Perth and Fremantle in fact

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51 *ibid.*

52 Frances, p. 155.

53 *Sunday Times*, 3 October 1909, p. 4.

54 *Sunday Times*, 12 January 1908, p. 6.

55 Frances, p. 158.

56 *Sunday Times*, 12 January 1908, p. 6.

57 Paul McHugh, *Prostitution and Victorian Social Reform*, London, 1980, p. 17.

58 Davidson, 'Dealing with the Social Evil', p. 175.

59 *ibid.*, p. 74.

doubled from 1914 to 1915 alone.<sup>60</sup> However, as Sharyn Anleu argues, 'sex workers have a particular interest in remaining healthy, as their occupation entails no compensation for ill health'.<sup>61</sup> Nonetheless, the CD Acts, proposals for them and vagrancy laws across Australia had the combined effect of outcasting sex workers and labelling them as a threat to society.<sup>62</sup>

Application of the *Police Act* to the control and regulation of prostitution, namely female involvement, combined with police evidence and press denunciation of the street prostitute, stereotyped the idle woman on the streets as a threat to society after having 'fallen' from a respectable female identity. Street prostitutes experienced institutional sexism through the courts, police and press and restrictive legislation in a way that made female offenders more visible as women who did not conform to social mores. Imperial considerations also underpinned the control of sexuality in Fremantle. One dominant feature of British discourse and policy across the empire was 'male control over wayward female sexuality'.<sup>63</sup>

Prostitution was experienced differently across the community, however. Despite their different social and economic roles, working-class women were still expected to uphold a social ideal of 'the reputable working class and the deserving poor'.<sup>64</sup> The feminine ideal, applied directly to monitoring working-class lives, accorded little attention to the realities of working-class identities where femininity was re-fashioned to suit the needs of local communities. As Raelene Frances demonstrates, there persisted in Australia from the late eighteenth century acceptance in working-class communities of female sexual identities, prostitution, drinking and general rowdiness. Prostitutes in the first decades of the twentieth century generally lived and worked in their local communities and were not necessarily outcast as they were by middle and upper-class opinion. However, respectability still influenced working-class lives. Acceptance of prostitution was based on a distinction between respectable, semi-respectable and common prostitutes. A woman gained greater acceptance in the local community when she was not loud or obscene in public and if she worked inconspicuously. The 'appearance of respectability' was crucial to a prostitute's acceptance in the community.<sup>65</sup> Lilly Doyle was labelled a common prostitute by police in Fremantle and vilified in the press in the first decades of the twentieth century. However, Bill Marks, who grew up in South Fremantle at the same time, remembered a drunken Doyle walking the tramlines late at night and singing. For Marks, she was one of the local characters with a feminine identity that was not entirely at odds with expectations of the local community.<sup>66</sup>

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60 *ibid.*, 176-7.

61 Sharyn L. Roach Anleu, *Deviance, Conformity and Control*, Frenchs Forest, 2006, p. 197.

62 Frances, p. 160.

63 Levine, p. 154.

64 Vicinus, 'Introduction', pp. x, xiii.

65 Frances, pp. 29, 169, 244-7.

66 Bill Marks, *The Fall of the Dice*, Fremantle, n.d, pp. 8-10.

*Bad women speaking*

The Victorian feminine ideal, championed within the British world, and the dichotomy of the good and bad woman, has been challenged in recent feminist scholarship in recognition of the ways in which women negotiated feminine constructs.<sup>67</sup> Jill Matthews' work on female identities in the years after the First World War highlights the ways in which women negotiated their own subjectivity. Using dancing and entertainment as examples, Matthews argues that the line between good and bad women shifted as women used pleasure as a means to engage with modernity.<sup>68</sup> Melissa Bellanta's work on female larrikins in Brisbane, Sydney and Melbourne from the late nineteenth century shows how young women 'rejected demure femininity' by involvement in gangs, prostitution, and popular entertainment.<sup>69</sup> Some young women told the authorities in reformatories they had 'no desire to be respectable'.<sup>70</sup> Early twentieth-century Australian feminists also argued for greater recognition of women's 'sexual embodiment'.<sup>71</sup> Such research suggests that the dichotomy of the good and bad woman was not utilised by feminists as much as was the campaign for equal moral standards and 'the right of women to control their bodies'.<sup>72</sup>

Impoverished, marginalised criminal women living on the streets of Fremantle were directly impacted by sexism, defined as negative evaluations based on their gender.<sup>73</sup> Feminist arguments that all women have a sense of their own femininity but it is socially constructed against 'what it is to be a good woman, and what it is to fail',<sup>74</sup> is most relevant to female criminal lives. By virtue of their actions in public, mainly engaging in illegal activities, female offenders deviated from the feminine ideal. Women appearing before the Police Courts in Fremantle were publicly singled out for any social and gender transgressions by way of magisterial, police and public evidence presented to the court. Judith Allen also argues that female criminality is interpreted as 'a form of deviation from natural or normal womanhood'.<sup>75</sup>

Female appearances in court on charges of drunkenness and idle and disorderly conduct gained more attention in the press at a time when the state was already trying to address what it saw as a growing problem of habitual drunkenness and low morals within the population. The *Police Act* of 1892 (amended in 1902) was introduced to directly tackle the anti-social offences of drunkenness, idle and disorderly and vagrancy.

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67 Alana Piper, "'A growing vice': The Truth about Brisbane girls and drunkenness in the early twentieth century', *Journal of Australian Studies*, vol. 34, no. 4, 2010, pp. 485-497; Clare Wright, *Beyond the Ladies' Lounge: Australia's Female Publicans*, Melbourne University Press, Melbourne, 2003.

68 Jill Julius Matthews, 'Dancing modernity', in Barbara Caine and Rosemary Pringle (eds) *Transitions: New Australian feminisms*, St Leonards, 1995, pp. 74-87.

69 Melissa Bellanta, *Larrikins: A History*, St Lucia, 2012, chapter 2; Melissa Bellanta, 'The larrikin girl', *Journal of Australian Studies*, vol. 34, no. 4, 2010, pp. 499-512.

70 Bellanta, *Larrikins*, p. 47.

71 Lake, p. 93.

72 *ibid.*, pp. 93-4.

73 Janet K. Swim and Lauri L. Hyers, 'Sexism', in Todd D. Nelson (ed.) *Handbook of Prejudice, Stereotyping and Discrimination*, New York, 2009, p. 407.

74 Matthews, p.88.

75 Judith A. Allen, *Sex and Secrets: Crimes involving Australian Women since 1880*, Oxford and New York, 1990, p. 11.

Police were also able to use their powers under the *Police Act* to shift idle persons off the streets and out of public view.

The extent to which female offenders negotiated constructions of sexuality was limited. With minimal or no familial or financial support, and caught in a cycle of offending and incarceration, underclass criminal women were confined to a life more or less decided by legislation, the courts, police and press. Women were expected to adhere to an ideal of the passive, moralistic, chaste and family-oriented female. Institutionalised sexism stereotyped them as bad women. As similar feminist research in Canada shows, court authority was upheld over the female accused through magistrates consulting with police and women rarely being represented by counsel. Forced to reveal private aspects of their lives in public, female offences were then interpreted by magistrates, based largely on police evidence, and then interpreted again for the public in newspaper reports.<sup>76</sup> However, subtle negotiations were possible within the courtroom too. Female testimonies and comments directed at the magistrate or police officers in the courtroom demonstrate the ways in which criminalised women engaged with the stereotype of the bad woman and negotiated the politics of respectability.

Much of what we know about female offences against good order in Western Australia in the early twentieth century comes from newspaper reports. Court evidence books, for example, only cover the years from 1915 onwards, whereas press reports are available from 1900. Such reports usually included statements from the bench and evidence from police, witnesses and sometimes the accused. Yet the press also offers wider insight into police and court business, shaped as they are by the values of editors and journalists. Yvonne Jewkes argues the self-evident: that journalists ‘will select, produce and present news according to a range of professional criteria that are used as benchmarks to determine a story’s “newsworthiness”’.<sup>77</sup> Then and since, newspapers use sensationalist headlines to accompany ‘stories about crime designed to shock, frighten, titillate and entertain’.<sup>78</sup>

Regular court reports were published in the leading newspapers of Perth and Fremantle—the *West Australian*, *Sunday Times*, *Daily News* and *Truth*—and can be mined for information on female criminality. The sensationalism of the stories in *Truth*, in particular—a scandal sheet of its times—is obvious, but is nevertheless useful in gauging the behaviour people thought was most outrageous in these years. All four papers were consistent in their objectification of female criminals as bad women and rarely employed humour in dealing with their offences against good order. As crime historian Michael Sturma has argued, newspapers are complicit in detailing and also shaping community perceptions of crime.<sup>79</sup> Women who committed offences against good order were marginalised through regular crime reports.<sup>80</sup>

Newspapers framed stories about female offenders in particular ways to educate and entertain readers. However, newspaper reporting can also contribute to the humanising of female offenders. While most court reports used magisterial and police evidence to

76 Joan Sangster, *Through Feminist Eyes: Essays on Canadian Women’s History*, Edmonton, 2011, p. 184.

77 Yvonne Jewkes, *Crime and Media*, Los Angeles and London, 2011, p. 37.

78 *ibid.*, p. 3.

79 Michael Sturma, *Vice in a Vicious society: Crime and convicts in mid-nineteenth century New South Wales, St Lucia*, c.1983, p. 4.

80 Julie Kimber, ‘“A nuisance to the community”: Policing the vagrant woman’, *Journal of Australian Studies*, vol. 34, no. 3, 2010, p. 281.

establish the details of the crime(s) committed, some reports included testimony from the accused. In these snippets of information—compared for their accuracy with the Court Evidence Books where possible—we can hear the voices of the women appearing in court. Charged with vagrancy in August 1908, Mabel Gilday told the magistrate: ‘It is only two years ago since I was a good woman’.<sup>81</sup> Mary Ann Martin also conferred a bad female identity on herself. Appearing in Fremantle Police Court in March 1911, Martin told the magistrate:

Your Worship, I am so bad now. Yesterday morning I was making for the hospital, and I was too late. I went down the street and met some of my friends, and I don’t remember any more. I am bad.<sup>82</sup>

Yet two-thirds of women in the early twentieth century, where their own responses were recorded, also challenged the institutional sexism in Western Australia or disputed the negative police characterisation of their activities. Susan Long contested police characterisations of her as a drunk in August 1907. Long claimed she was not in the least bit inebriated, saying it took ‘two bottles of whisky, a dozen bottles of lager, and a drop of vermouth, to get her “going”’.<sup>83</sup> Mary Sweetman, a well-known offender from Beaconsfield, appeared on a charge of using obscene language in August 1910 and blamed both the police and her husband:

Accused: Yes—Them records have got me seven years in gaol. As soon as I get out the police get me agin, an’ I get no chance. It’s all me ‘usband’s doin’; ‘e won’t keep me children; it breaks me ‘eart, and I takes to a drop of drink, yer Washup! I gets a job, then the police go an’ tell me’ missus that I’ve been in gaol an’ I’m done agin!<sup>84</sup>

Some responses show open resistance in the courtroom. One woman in the Perth Police Court in April 1920 contested Policewoman Dugdale’s evidence against her, shouting that she was ‘as good a bloody woman as any bloody woman around here’.<sup>85</sup> When Riley was sentenced to six months in gaol for vagrancy in October 1903, she replied, ‘Thank you, your Worship. May you be stiff dead when I come out.’<sup>86</sup> While being escorted out of court after being sentenced for drunk and disorderly, Doyle yelled at the magistrate: ‘You dirty old bastard, I should have known not to plead with a bludger with a bloody head like yours’.<sup>87</sup>

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81 *West Australian*, 18 August 1908, p. 6.

82 *Daily News*, 3 March 1911, p. 3.

83 *West Australian*, 6 August 1907, p. 7.

84 *Daily News*, 31 August 1910, p. 6.

85 Davidson, ‘Prostitution in Perth and Fremantle’, p. 176.

86 *West Australian*, 22 October 1903, p. 6.

87 Marks, p. 9.

### Conclusion

Women were not expected to engage in crime. Crime statistics, historically, tell us that more men engage in crime than women. Within the broader criminal justice system in Australia even today, male offenders far outnumber females.<sup>88</sup> Women, therefore, are not expected to commit crimes, so when they do their appearance in court often creates a sensation. In Fremantle's courts in the early twentieth century, justice was still a gendered experience. The female in court was judged as in need of greater social control to reform her deviant behaviour. Men who engaged in criminal activities were rarely questioned about the extent to which this represented a 'fall' from masculinity—men never suffered a 'fall' from masculinity; rather, they 'entered' into crime.

Female experiences of crime and punishment in Fremantle during the early twentieth century reveal the ways in which social and gender transgressions overlapped to create a double punishment for women. Female offenders were equally criminal and deviant, suffering strict sentences for moral offences and a lack of conformity to ideals of female sexuality. They were punished with stringent sentences and also socially marginalised outside the judicial system.<sup>89</sup> Whereas the behaviour of convicted men was understood as a matter of criminality, convicted women were punished *in jail* for their crimes and *out of jail* for their failure as women. They were, variously, the drunk, the fallen and the foul-mouthed.

Women who regularly committed offences against good order in Fremantle in the early twentieth century were not only judged by a local public discourse of respectability. Their lives were shaped by wider imperial discussions of feminine identities in the British world. Female public deviancy also provides an opportunity to see Fremantle streets in the early twentieth century as sites of conflict. In a variety of ways—from soliciting and drunkenness to general idle and disorderly—female offenders challenged common constructions of femininity and at times upheld their own sense of identity in court.

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88 Emma Ogilvie and Mark Lynch, 'Gender, Race, Class, and Crime in Australia', in Adam Graycar and Peter Grabosky (eds), *The Cambridge Handbook of Australian Criminology*, Cambridge, 2009, p. 197.

89 I agree with recent research into women and crime in England. See: D'Cruze and Jackson, *Women, Crime and Justice in England*, p. 163.