"I did it to hide my shame": Community Responses to Suspicious Infant Deaths in Middlesex County, Ontario, 1850-1900

by

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Abstract

Coroner's Inquest documents provide a unique insight into public reactions to infanticide and the unwed women suspected or accused of the crime in Ontario between 1850 and 1900. As inquest witnesses testified in their own words, uninfluenced by questions from lawyers and judges or restricted by rules of admissibility, these records reveal contemporary attitudes towards illegitimate children and the women suspected of causing their deaths. The inquest records demonstrate that during an era that publicly celebrated motherhood as the ideal role for worthy women, Coroner's Inquest juries repeatedly intervened to prevent further criminal investigation and prosecution of women suspected of infanticide. In the eyes of Victorian Canadians the public humiliation and notoriety of the Coroner's Inquest may well have been deemed sufficient punishment for women who demonstrated shame and embarrassment for their transgressions.

Keywords: Concealment of birth, Coroner's Inquests, illegitimacy, infanticide, Middlesex County, moral supervision, women.

Acknowledgements

When I began thinking of a topic for my MA thesis I realised I had two choices: I could refine and expand one of my undergraduate research papers; or I could take the opportunity to explore a field of history I had not studied before. I chose the latter with innocent enthusiasm. While I soon came to appreciate why some students choose the first option, I have never regretted my decision to tackle the second.

My research into this area of women's social, legal, and medical history has benefited from the input and assistance of many faculty and staff members at Western. John Lutman and Theresa Regnier gave me full access to the primary documents in the J.J. Talman Regional Collection in the D.B. Weldon Library. More importantly, they offered suggestions, advice, and support that went far beyond what anyone could ask for. Similarly, Professor James Woycke provided me with an on-going stream of suggestions and secondary references that broadened my knowledge and challenged my thinking. Professor George Emery encouraged me to take risks, both with my topic and my methodology. Chris Speed, the Graduate Secretary in the History Department, answered my innumerable questions promptly and patiently. These people deserve public recognition and thanks for the support they gave me.

Professor Margaret Kellow deserves a special thank-you. As my supervisor and mentor, she provided me with guidance and freedom. She encouraged me to explore my topic broadly and allowed me to come to my own conclusions. When the time came to begin writing the thesis, Professor Kellow helped me transform my findings into what I hope is a logical argument. I owe her the greatest debt of academic gratitude.

Many other people also contributed to making the research and writing of this thesis a generally joyous experience. Family, friends, and classmates listened patiently as I relished my discoveries, worked out my theories, and complained when the work bogged down. These people will never know how much their caring support has meant to me. Most of all, I want to thank my children, Stephen and Katherine, for their patience and understanding during the last two years. And I want them to know how much joy they have given me by taking such perverse pleasure in telling people that their mother "studies dead babies."

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Chapter 1: Introduction

On Thursday, May 4, 1871 the coroner for the City of London called together a jury of thirteen men to investigate the death of Alice McManus's newborn son. McManus was an unmarried dishwasher who lived and worked at the Tecumseh Hotel in London. Five witnesses testified at the Coroner's Inquest and each described his or her impressions of and experiences with McManus. After giving their testimony the witnesses answered questions posed by the jury members.[1] The witness testimony helped the jurors determine how the child had died and who, if anyone, was criminally responsible for its death.

Edwin Moore, the hotel manager, testified first at the inquest. He confirmed that McManus had worked for him for ten months. He told the jurors he had recently noticed changes in McManus's appearance and behaviour that caused him to suspect that she had been pregnant.

> I observed the supposed mother about six weeks since unusually enlarged. She was in the habit of attending to her ordinary duties until last Sabbath. On Tuesday last I saw her going upstairs and noticed that she was very small and spoke to Mr. Derby [the hotel owner] about her. When we observed her increased size Mrs. Derby and the housekeeper spoke to her about her

[1] Jurors were the only people who questioned inquest witnesses. Although the questions are not recorded in the Coroner's Inquest documents, the nature of the questions can generally be determined by the recorded responses of the witnesses. In most cases the answers to questions are separated from the main statement of the witness by a long dash.

> unnatural state but she denied that there was anything wrong.

In response to a question from a juror, Moore stated that McManus "was generally in at regular hours and was thought to be in all night." Another juror asked how McManus had come to work at the hotel. Moore replied, "She formerly live[d] with Mrs. Briggs and brought a good character [reference] from her to the hotel."

Moore had indicated in his testimony that the hotel owner had called Dr. Haggerty to come and examine McManus. Dr. Haggerty confirmed that Mr. Derby had summoned him the previous day.

> Mr. Derby said that he wanted me to come and do something for him. I asked what it was. He said then that it was reported that one of the girls had been delivered of a child and that it was in a trunk and he wished me to examine her. On going to the room after dinner I found Mrs. Derby and Alice McManus in the room. Mrs. Derby left the room and I then asked the girl what was the matter and how long she had been ill. She said she had pain in the back since Saturday last but would not let me examine her.

The doctor did not mention anything about the baby or its whereabouts in his testimony. The only question the jury members posed related to the doctor's previous experiences with McManus. He confirmed he had lanced her hand earlier in the year.

Dr. Moore testified he had also been summoned to the hotel to examine McManus. He described his meeting with the

woman. "On speaking to her about her state she seem[ed] much excited and gave me the key of a trunk in her room. On opening the trunk I found the child in a cotton bag." Dr. Moore had performed a post-mortem examination on the child and presented his findings to the jury:

> The child is a male child and seemed to have gone its full time. The navel cord was torn cut but not tied. The mother stated it was born on Tuesday morning. I think it was born alive. One of its lungs had been inflated in a natural way. I think that it is more than probable that not tying the navel cord was the cause of death.

A juror appears to have questioned the doctor about his certainty that the child belonged to McManus. Dr. Moore responded, "I asked the supposed mother Alice McManus if she had had a child and she said she had and that it was in the trunk."

Euphemia Johnson, the housekeeper at the Tecumseh Hotel, testified McManus had worked at the hotel for ten months and had been absent from her work the previous Sunday, Monday, and Wednesday. She told the jurors:

> I thought she was in the family way and when she did not appear on Sunday I thought she had been confined. I went to her room on Monday morning and she seemed very ill and complained of pain in her back. I asked her what was the matter but she merely said that she had pains.

A jury member questioned Johnson about the care and attention McManus received. Johnson replied, "A girl of the name of Matilda took her nourishment to her on Monday and Tuesday. I asked Matilda occasionally how Alice was." In

response to a further question Johnson added, "She used to say that Alice was very ill."

Matilda McCulloch was the last witness to testify at the inquest. Like McManus, she lived and worked at the Tecumseh Hotel. For the previous four weeks, McCulloch had shared the same bed as McManus. McCulloch detailed her part in the events of the previous few days:

> On Saturday evening Alice began to complain first about 8 or 9 o'clock. We were both in the room together. She said she had a pain in her back. She was complaining more or less all night. She remained all day in bed on Sunday. I was with her nearly all day on Sunday. She had pain all Sunday night. Monday morning was worse than ever. I continued with her on Monday. On Monday morning about 7 o'clock I went down stairs to get a cup of tea and she was still complaining and when I returned she kept me about 20 minutes before she let me in. When I went in she was on the edge of the bed with her water proof coat on. I saw cloths coloured with blood under the bed. In about 3/4 of an hour I came up again and forced her in bed and [she] was all right. I saw marks of blood around the room, on the carpet. When I returned to the room about 3 o'clock she was in bed and comfortable. When I returned about 11 o'clock she was still in bed but said nothing about a child. When I got up on Tuesday morning she was preparing to get up and then went to her ordinary work.

In response to a question from a juror McCulloch explained, "I took the key on Tuesday during the absence of Alice and opened the trunk and saw the cloth which I supposed contained the child."

The jurors considered the testimony and reached their verdict on the cause of death. They wrote that the child "of Alice McManus came to its death from the ignorance on the part of the mother in neglecting to use proper means to save its life." The jurors then drew a line through these words and wrote their final verdict. The cause of death was "unknown".[2]

This thesis will attempt to explain how and why Coroner's Inquest juries refused to cite women as criminally responsible for the deaths of their illegitimate offspring, even when the evidence presented at the inquests strongly suggested the death had been intentional. When used as a tool for examining public reactions, Coroner's Inquest cases such as the McManus investigation highlight contemporary views towards illegitimate infants and the women who bore them. How serious a crime was the culpable death of an illegitimate newborn in Victorian Ontario? Did the province's citizens expect the guilty mother to be punished to the fullest extent of the law? This thesis uses

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[2] J.J. Talman Regional Collection, D.B. Weldon Library, University of Western Ontario, London, Ontario. "McManus, male baby, May 4, 1871," *Coroner's Inquests, Middlesex County*. Other references to the Coroner's Inquest documents will be referred to by the file name, date, and the abbreviated notation of *Coroner's Inquests*. Unless otherwise cited, all quotes are taken directly from the relevant inquest file.

Coroner's Inquest documents in an attempt to answer these questions and illustrate how and why Ontario citizens responded in the manner they did to the suspicious deaths of illegitimate infants between 1850 and 1900.

Many scholars have studied the issue of infanticide, and each has taken a different focus in the examination of the issue.[3] Some have studied the issue from the legal and criminal viewpoints.[4] Others have examined moral and philosophical arguments.[5] Still others have focused their arguments on infanticide as an escape from the financial

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[3] The definition of the term infanticide has varied by time and place. For the purposes of this study I will use the same definition nineteenth-century Ontario coroners used. Infanticide was the "murder of the child after birth." See William Fuller Alves Boys, *A Practical Treatise on the Office and Duties of Coroners in Ontario*, 2d ed. (Toronto: Hart & Rawlinson, 1878), 48.

[4] For discussions of legal responses to infanticide in Britain and North America see Peter C. Hoffer and N.E.H. Hull, *Murdering Mothers: Infanticide in England and New England 1558-1803* (New York: New York University Press, 1981); G.S. Rowe, "Infanticide, Its Judicial Resolution, and Criminal Code Revision in Early Pennsylvania," *Proceedings of the American Philosophical Society* 135, no. 2 (June 1991): 200-232; and Glanville Williams, "The Legal Evaluation of Infanticide," in *Infanticide and the Value of Life*, ed. Marvin Kohl (Buffalo, New York: Prometheus Books, 1978), 61-75. For the Canadian legal context see Constance Backhouse, "Desperate Women and Compassionate Courts: Infanticide in Nineteenth-Century Canada," *University of Toronto Law Journal* 34 (1984): 447-478. For a discussion of the criminal aspects of infanticide see F.W. Anderson, *A Dance with Death: Canadian Women on the Gallows 1754-1954* (Saskatoon: Fifth House Publishers, 1996), 185-210 and Neil Boyd, *The Last Dance: Murder in Canada* (Scarborough: Prentice-Hall Canada Inc., 1988).

[5] Mary Tedeschi, "Infanticide & Its Apologists," *Commentary* 78, no. 5 (November 1984): 31-35 suggests that infanticide is currently being used to rid North American society of mentally and physically challenged children.

crises that unwed motherhood created.[6] The purpose of this thesis is to examine public reactions to women who were suspected of killing their newly born illegitimate offspring.

Most historians agree that infanticide has occurred in almost every society but the reasons, justifications, methods, and acceptance of the action have varied according to time and place.[7] Similarly most believe economic factors have been the central force behind instances of infanticide. Sarah Pomeroy demonstrates that in ancient Greece fathers determined whether their newborn children would live or die. Fathers based their decisions primarily on the interrelationship between the availability of food and the size of the existing community. The sex of the child constituted a secondary factor, as Greek societies favoured

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[6] Rachel G. Fuchs and Leslie Page Moch, "Pregnant, Single, and Far from Home: Migrant Women in Nineteenth-Century Paris," *American Historical Review* 95, no. 4 (October 1990): 1007-1031 and John Gillis, "Servants, Sexual Relations and the Risks of Illegitimacy in London, 1801-1900," in *Sex and Class in Women's History*, ed. Judith L. Newton, Mary P. Ryan, and Judith R. Walkowitz (London: Routledge & Kegan Paul, 1983), 114-145 argue that women occasionally resorted to infanticide because loss of employment and hence extreme financial hardship generally followed the discovery of the birth of an illegitimate child. Joan Jacobs Brumberg, "'Ruined' Girls: Changing Community Responses to Illegitimacy in Upstate New York, 1890-1920," *Journal of Social History* 18, no. 2 (Winter 1984): 247-272 traces the rise of institutions for unwed mothers as a solution to the high death rate associated with illegitimate birth.

[7] None of the works studied in the course of research for this thesis named a society in which infanticide has never occurred.

male children over female.[8] Laila Williamson argues indigenous peoples such as Inuit, Australian aborigines, and some nomadic groups in Africa, used the same criteria to determine whether or not their newborns would be allowed to survive.[9]

Other societies based their decisions directly upon the sex of the newborn. Thomas Smith's *Nakahara* indicates that some eighteenth-century Japanese communities used infanticide as a method of balancing sex ratios within nuclear families. In this instance, the key factor in determining whether or not a newborn would be permitted to survive depended upon a combination of birth order and sex. If the baby was the third child of the same sex as the previous children, the infant would be allowed to die.[10] Similarly, India's dowry customs required a bride's parents to provide the groom's family with gifts of money and goods. As a household of daughters could mean financial ruin for a family, parents sometimes killed their female daughters to avoid the cost of future dowries. In this instance, sex selection of infants was directly linked to economic reasons that justified infanticide.

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[8] Sarah B. Pomeroy, *Goddesses, Whores, Wives, and Slaves: Women in Classical Antiquity* (New York: Schocken Books, 1995), 46, 69-70.

[9] Laila Williamson, "Infanticide: An Anthropological Analysis," in *Infanticide and the Value of Life*, ed. Marvin Kohl (Buffalo, New York: Prometheus Books, 1978), 67-68.

[10] Thomas C. Smith, Robert Y. Eng and Robert T. Lundy, "Fertility and Infanticide," in *Nakahara: Family Farming and Population in a Japanese Village, 1717-1830,* ed. Thomas C. Smith (Stanford: Stanford University Press, 1977), 65.

In each of the above instances, infanticide occurred within a group that accepted, condoned, and sometimes demanded the action. The society's members recognised and accepted the benefits of the death. They did not consider infanticide immoral or illegal.

William Langer, in his article, "Infanticide: A Historical Survey", argues the criminalization of infanticide is a fairly recent phenomenon that is directly linked to the rise and influence of Christianity. He traces social attitudes towards infanticide from the time of the early Greeks to modern Christian society and notes infanticide was an accepted part of life in many early societies. Langer believes the acceptance of the Christian belief system regarding the sanctity of all human life created a fundamental shift in attitudes towards infanticide. As Christian values became fixed in civil law in Europe, the act of killing a newborn child became a criminal offence.[11]

Keith Wrightson expands Langer's argument regarding the relationship between the criminalization of infanticide and Christianity in his article, "Infanticide in European History". Wrightson argues Christian values actually triggered and increased the number of instances of infanticide in Christian communities:

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[11] William L. Langer, "Infanticide: A Historical Survey," *History of Childhood Quarterly: The Journal of Psychohistory* 1, no. 3 (Winter 1974): 353-355. Langer notes that Jewish tradition has never condoned infanticide.

> Christian teaching on the value of infant life, expressed in both moral exhortation and law, strove to establish a strong cultural inhibition on infanticide, identifying the practice as a crime of peculiar enormity. At the same time, however, the gradual institutionalisation of the Church's moral teaching had the effect of strengthening sanctions against sexual immorality, thereby contributing to infanticide motivated by the need to conceal illegitimate births or to dispose of unwanted children.[12]

This connection between concealment and infanticide would have important consequences.

Both Wrightson and Langer agree that, prior to the nineteenth century, Christian Europeans viewed women who committed infanticide as inhuman and deserving of severe punishment. While European courts punished all people convicted of infanticide, punishments for unwed mothers were especially harsh. Their punishments included burial alive, drowning in a sack, decapitation after torture, and impaling. Hanging became the norm only after 1800.[13]

By the nineteenth century attitudes towards women accused of infanticide in Europe, Britain, and North America began to change. Phillipe Aries and Edward Shorter both argue that during this period public perceptions of motherhood and infancy became romanticised and idealised by the wealthier classes.[14] Motherhood was celebrated in books,

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[12] Keith Wrightson, "Infanticide in European history," *Criminal Justice History* 3 (1982): 15.

[13] Ibid., 1-2, and Langer, "Infanticide: A Historical Survey," 356.

[14] Both authors have written extensively on this subject and argue that the nineteenth century marked the beginning

poetry, sermons, and newspapers as the ultimate role in life for women. The belief that all women aspired to motherhood enjoyed widespread acceptance.[15] Given these public expectations of motherhood as the best role for women, one would assume these societies would react in horror towards

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of the celebration of family life and the evolution of the nuclear family as a cultural norm. For more information see Phillipe Aries, *Centuries of Childhood: A Social History of Family Life*, trans. Robert Baldick (New York: A. Knopf, 1962) and Edward Shorter, *The Making of the Modern Family* (New York: Basic Books, 1975).

[15] Numerous historians have written on issues of motherhood, especially as it relates to the latter half of the nineteenth century. To examine the reality of Victorian womanhood in daily life see Patricia Branca, "Image and Reality: The Myth of the Idle Victorian Woman," in *Clio's Consciousness Raised: New Perspectives on the History of Women*, ed. Mary S. Hartman and Lois Banner (New York: Harper Torchbooks, 1974), 179-191. Barbara Brookes deals with the issue of reproduction as the central role for women in Britain in her article "Women and Reproduction c. 1860-1919," in *Labour and Love: Women's Experience of Home and Family, 1850-1940*, ed. Jane Lewis (Oxford: Basil Blackwell Ltd., 1986), 149-171. Jane Lewis provides a historiography of the discussions of the forces acting on Victorian women and explains why women accepted the role of motherhood in her article "Motherhood Issues During the Late Nineteenth and Early Twentieth Centuries: Some Recent Viewpoints," in *Ontario History* 75, no. 1 (March 1983) 4-20. To trace the changing attitudes and parenting styles of mothers in Europe during the nineteenth century see Priscilla Robertson, "Home As a Nest: Middle Class Childhood in Nineteenth-Century Europe," in *The History of Childhood*, ed. Lloyd de Mause (New York: Harper Torchbooks, 1974), 407-431. For a similar discussion of the American situation during the nineteenth century see Nancy Schroom Dye and Daniel Blake Smith, "Mother Love and Infant Death, 1750-1920," *Journal of American History* 73 no. 2 (September 1986): 335-346. For the opposite view of motherhood during the early years of the nineteenth century in America see Paul Gilje, "Infant Abandonment in Early Nineteenth-Century New York City: Three Cases," *Signs* 8, no. 3 (Spring 1983): 580-590. Gilje argues that for some women the romantic image of motherhood was easily shattered by poverty. From the Canadian perspective, Lorna Hutchinson demonstrates that happiness in the role of motherhood could be directly linked to marital happiness and financial security. See "'God Help Me for No One Else Can':

women who murdered their babies. One could expect juries at all levels in the judicial process to extend little sympathy towards women who appeared to have rejected their ultimate role in society. Yet this was not generally the case. A number of historians have demonstrated Criminal Court juries treated women accused of infanticide leniently and while each of their arguments has a different focus, they are not mutually exclusive. Constance Backhouse explains the leniency of Canadian Criminal Court juries by stating the jurors had little to fear from these women, as their crimes did not threaten the stability of society. The killing of illegitimate infants did not threaten legitimate bloodlines or the orderly passage of wealth from generation to generation.[16] Ann R. Higginbotham argues British Criminal Courts treated the accused women leniently because jurors recognised the social and economic difficulties faced by unwed mothers. Male members of the British middle class were more willing to tolerate a certain level of infanticide in their society than they were to deal with the causes of economic hardship faced by unwed mothers.[17] James R. Donovan believes French juries treated these women leniently because the jurors did not view the crime as particularly serious. Infants, particularly illegitimate ones, were not highly

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The Diary of Annie Waltham, 1869-1881," *Acadiensis* 21, no. 2 (Spring 1992): 72-89.

[16] Backhouse, "Desperate Women and Compassionate Courts", 477-478.

[17] Ann R. Higginbotham, "'Sin of the Age': Infanticide and Illegitimacy in Victorian London," *Victorian Studies* 32, no. 3 (Spring 1989): 336-337.

valued in nineteenth-century French society and the jurors believed women who killed these infants did not deserve the severe punishment the law mandated.[18]

While each of these arguments is valid, the historians based his or her research on Criminal Court records. Criminal trials represent the end stage of a process that was both investigative and discretionary. This process filtered out cases at every stage. Before any case could be tried and judged before the Criminal Courts a number of events had to occur. First, someone had to find the infant's body and report the discovery to the authorities. An inquest had to be held and a verdict of criminal death had to be cited. The police had to locate the suspects and charge them with the crime. Only then could a trial be held. At each stage of this process there was room for human choice and discretion.[19] In all likelihood many infant bodies were never discovered. The small size of the bodies made it easy to dispose of them. Even when a body was found, the discoverer had the option of not reporting the event to the authorities. If the person who discovered the child's body knew or suspected who the mother was, he or she may have chosen to shield the woman from the notoriety of the investigative process by not reporting the discovery. In instances when someone did report the discovery, coroners

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[18] James R. Donovan, "Infanticide and the Juries in France, 1825-1913," *Journal of Family History* 16, no. 2 (1991): 163, 172-173.

[19] Gwynn Nettler, *Explaining Crime*, 3rd ed. (Toronto: McGraw-Hill Publishing Company, 1984), 37-49.

and police officers had the options of actively investigating the case or giving it only cursory attention. The coroner had the right to waive calling an inquest if he believed it was unnecessary.[20] If the coroner called an inquest and the jury cited a cause of death other than murder or culpable neglect, the investigative process generally stopped. Numerous cases of suspicious infant death never progressed through the criminal court system because, in spite of strong evidence to the contrary, inquest juries cited forces other than murder or culpable neglect as the cause of death. Like the coroners, the police had a degree of discretion available to them. They could actively investigate cases or they could record the event but devote little time or energy to the investigation. Without active co-operation from the police, no woman could be brought to trial. Therefore, at each step of the process, human discretion played a role that could and did reduce the number of cases available for criminal proceedings. Coroner's Inquest records therefore provide a more accurate insight into the incidence of suspicious infant deaths during the era because they document cases at an earlier stage in the filtering process. Of the eighty-two inquests examined in this study, only ten cases (12%) progressed to the Criminal Court stage.

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[20] William Fuller Alves Boys, *A Practical Treatise on the Office and Duties of Coroners in Ontario*, 2d ed. (Toronto: Hart & Rawlinson, 1878), 7.

Criminal Court proceedings were also conducted under very different circumstances from Coroner's Inquests. Court proceedings were very controlled situations and these conditions directly influenced the quality of the records available to historians who want to trace public reactions to suspicious infant deaths. Criminal Court trials were held in official, formal settings in the presence of lawyers and judges who represented figures of authority in the community. The physical setting of the courtroom may have intimidated witnesses and caused them to self-censor their testimony. Additionally, lawyers directly questioned witnesses and structured their questions to elicit specific responses. Lawyers also had the power to restrict comments made by witnesses during their testimony. Furthermore, certain types of questions and comments were disallowed in Criminal Court proceedings. In short, Criminal Court trials were highly orchestrated affairs and the information found within the records of these events reflects the framework of the court system.

In contrast, Coroner's Inquests were much less formal and choreographed events. Inquests were frequently held in private homes, hotels, or other public settings that were much less intimidating to the witnesses than the Criminal Court buildings.[21] As the primary purpose of the Coroner's

[21] During the early years of the period under study, coroners in both rural areas and the City of London held their inquests in private homes close to where the bodies were found. As the century progressed the locations of the investigations shifted from the private realm into a more

Inquest was to investigate a suspicious death and determine the cause of that death, assigning guilt and punishment was not the main focus of the jurymen. The proceedings were therefore less threatening to most of the individuals involved. Witnesses testified in their own words about their knowledge of the events in question and freely gave their opinions of the parties involved. There were no judges or lawyers present to pressure the witnesses or restrict their testimony. Only the jurors questioned the witnesses. As the jurymen were farmers, tradesmen, and small business owners from the local community, these men were much less intimidating to the witnesses.[22]

More importantly for the purposes of this study, Coroner's Inquest testimony provides a wonderful insight into contemporary values and moral expectations of women because they include statements that were inadmissible in the Criminal Courts. Hearsay evidence, personal opinions, and local gossip abound in Coroner's Inquest records. Statements such as "I understood that this was the second or third time for this woman Shaw to do the same"[23] [kill her newborn], "She had been there all night with the men. They

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public one. By the end of the century all investigations took place in institutional settings: funeral homes, hospitals, police stations, court houses, town halls, fire stations, and schools. In some rural investigations the coroners held their inquests at local hotels. An examination of the reasons for this shift from the private to public domain is not included in this thesis but would be an interesting field for future inquiry.

[22] The make up of the juries and the procedures of the inquests will be examined in detail in Chapter Two.

had connection with her to the best of my knowledge",[24] and "Alice McKay about two or three months ago told me her mother would fix the baby when it came if there was no one around"[25] shed light on community reactions to women who were suspected of having been involved in multiple premarital sexual encounters. Conversely, comments such as "The girl is not over intelligent but rather innocent",[26] "She seemed to me to feel the loss of the child keenly",[27] and "The mother had rolled the child in the petticoat and seemed fond of it and held it to the bosom,"[28] document sympathetic reactions towards women who were suspected of having committed infanticide. Comments such as these disclose the social and moral values that informed the jurors' verdicts, and thus provide a useful window on community standards. Yet, these types of comments would rarely be recorded in Criminal Court documents.

In particular, testimony that included gossip and hearsay evidence in the Coroner's Inquest records documents some of the opinions and values of working and middle class Canadians and thereby provides a unique opportunity to

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[23] Testimony of Isaac Nixon, "Unidentified female baby, June 27, 1854," *Coroner's Inquests*.

[24] Testimony of George Percival, "Armstrong, female baby, August 27, 1855," *Coroner's Inquests*.

[25] Testimony of Mrs. Emmerson Hunter, "McKay, female baby, February 4, 1892," *Coroner's Inquests*.

[26] Testimony of Mrs. Murphy at the inquest into the death of Mary McGrath's illegitimate son, as quoted in the *London Advertiser* (London, Ontario) 2 August 1897.

[27] Testimony of John Gosling, "Norton, male baby, November 26, 1884," *Coroner's Inquests*.

[28] Testimony of Eliza McDowell, "Reid, male baby, October 23, 1853," *Coroner's Inquests*.

explore the ideas and values of these people. While doctors, lawyers, judges, and clergymen left written records of their opinions on social and moral questions in the form of letters, diaries, judgements, and sermons, few other members of society left similar records.[29] Coroner's Inquest records demonstrate that members of the professional classes did not view infanticide and the women suspected of the crime in the same light as middle class jurymen did. The inquest records document a growing power struggle between doctors and jury members over whose responsibility it was to determine the cause of death at an inquest. "What is the use of having a jury if Dr. Gardiner's opinions are going to go for everything?"[30] a juror demanded at an 1897 inquest. Similarly, there is evidence in the records to indicate some members of the legal profession believed that jurors in both the Criminal Courts and the Coroner's Inquests were not judging infanticide cases properly. "I do not feel satisfied with this," lawyer James Mcgee wrote in 1895 in a letter to the Deputy Attorney General in Toronto of a recent

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[29] For some contemporary views from the medical community on infanticide and motherhood see George H. Napheys, *The Physical Life of Woman: Advice to the Maiden, Wife and Mother* (Chicago: William M. Wood & Co., 1880) and William Burke Ryan, *Infanticide: Its Law, Prevalence, Prevention, and History* (London: J. Churchill, New Burlington Street, 1862). For views from the religious community see Reverend Robert Sedgewick, "The Proper Sphere and Influence of Woman in Christian Society," in *The Proper Sphere: Woman's Place in Canadian Society*, ed. Ramsay Cook and Wendy Mitchinson (Toronto: Oxford University Press, 1976), 8-34.

[30] As quoted in a report on the inquest into the death of Mary McGrath's newborn son in the *London Advertiser* (London, Ontario) 19 August 1897.

infanticide case in Strathroy. He continued, "Yet this is just the sort of case in which it would be difficult to get a conviction. And it is an encouragement to infanticide if the idea gets abroad that children can be got rid of in such a way without more serious risk."[31] Yet the absence of public criticism in the local press of Coroner's Inquest rulings suggests that the wider community tended to agree with the decisions and judgements of the jurors.[32] In the eyes of local citizens, the judgements rendered by the inquest jurors were sufficient and proper for the issue at hand. Therefore, Coroner's Inquests records offer new insights into the attitudes of the wider society towards unwed mothers and the deaths of their illegitimate children.

To examine the changing values, beliefs, and attitudes towards unwed motherhood and infanticide over this fifty year period in Ontario, this thesis uses a case study of Coroner's Inquest records of Middlesex County. The inquest records for the county span the years between 1831 and 1904 and are remarkably complete. There are only eight years between 1850 and 1900 in which there are gaps in the surviving records. Whether these gaps occur because of the loss of original documents or from the temporary suspension

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[31] Unmailed letter to the Deputy Attorney General from James Magee, "Muxlow, male baby, December 16, 1895," *Coroner's Inquests*.

[32] For each of the cases included in this study, I reviewed the newspapers for the week following the decision to see if there was any response by the general public to the inquest finding. There were no instances of public response in any of the available newspapers.

of inquests is unknown.[33] In total 914 coroners' inquests took place between 1850 and 1900 and eighty-two cases, or 9% of the total, involved suspicious infant deaths. The number represents all known investigations into infant deaths during the era and is sufficiently large to trace changes in attitudes and values within the community.

Middlesex County provides a good opportunity for a case study tracing the social attitudes in Ontario during the second half of the nineteenth century. Demographically the county represented a satisfactory sample of the "average" of Ontario's inhabitants. The population of the county was split between rural areas and the City of London, with the rural population always exceeding the urban one. Racially, ethnically, and religiously, Middlesex County mirrored the general population mix of Ontario counties with citizens who were predominantly Protestant and of British extraction. The county had balanced sex and age ratios and was comparatively unstressed by rapid fluctuations in population numbers or by ethnic diversity. Unlike the experiences of the citizens of the City of Toronto, on which some historians have chosen to focus their studies,[34] the opinions

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[33] George K. Behlmer, "Deadly Motherhood and Medical Opinion in Mid-Victorian England," *Journal of the History of Medicine and Allied Sciences* 34, (1979): 408. Behlmer notes that variations in the number of inquests do not necessarily mean that suspicious deaths did not occur during the period. As local governments paid for the inquests, occasionally there was pressure placed on the coroners to suspend inquests as a cost cutting measure.

[34] Some works regarding the reactions of Toronto's citizens to the issues under study in this thesis include Paul Craven, "Law and Ideology: The Toronto Police Court

and experiences of the people of Middlesex County more accurately reflect those of the majority of the population of the province of Ontario during this era.[35]

This study will attempt to demonstrate changing community attitudes toward unwed mothers suspected of having committed infanticide during the last half of the nineteenth century. Furthermore, the thesis will attempt to explain why and how these changes occurred. By using the Coroner's Inquest documents as a window through which to view the late nineteenth century society, a new and clearer picture of the broader community's reaction to these women and their crimes may emerge.

1850-80," in *Essays in the History of Canadian Law II*, ed. David H. Flaherty (Toronto: University of Toronto Press, 1983), 248-307; Wayne Roberts, *Honest Womanhood: Feminism, Femininity and Class Consciousness Among Toronto's Working Women 1893 to 1914* (Toronto: New Hogtown Press, 1976); Lori Rotenberg, "The Wayward Worker: Toronto's Prostitute at the Turn of the Century," in *Women at Work: Ontario, 1850-1930*, ed. Janice Acton, Penny Goldsmith, and Bonnie Shepard (Toronto: Canadian Women's Educational Press, 1974), 33-69; and Carolyn Strange, "Wounded Womanhood and Dead Men: Chivalry and the Trials of Clara Ford and Carrie Davies," in *Gender Conflicts: New Essays in Women's History*, ed. Franca Iacovetta and Mariana Valverde (Toronto: University of Toronto press, 1992), 149-188.

[35] Canada, *Census of the Canadas 1851 and Census.* Census data reveals that London and Middlesex County reflected the demographic realities of other Ontario counties. The 1901 *Census* shows the average growth of cities and towns in Ontario between 1871 and 1901 was 125%. The only major deviation from the norm was the city of Toronto at 250%. Toronto's population also deviated from the provincial norm in sex and age ratios and ethnic make up of its citizens. The city had greater percentages of young people, males, and immigrants than was the norm for the other areas of the province.

Chapter 2: The Form and Function of Coroner's Inquests

As this thesis uses Coroner's Inquest records as the central research tool, an explanation of the structure and procedures of mid to late nineteenth-century inquests is necessary. To fulfil their duties during this period properly, coroners in Ontario followed guidelines laid down in various editions of a handbook written by William Boys. Boys' *Practical Treatise on the Office of Coroners*[1] detailed the responsibilities of coroners and their juries, and outlined the established format and procedures of the inquests. Four editions of the *Treatise* appeared between 1864 and 1905. Each edition expanded upon the explanations of the previous edition and noted any changes in the law relating to Coroner's Inquests. The law and the guidelines regarding infanticide remained unchanged throughout the period under study.

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[1] The various editions of the book had slightly revised titles and different publishers, but their content remained fundamentally unchanged between 1864 and 1905. See William Fuller Alves Boys, *A Practical Treatise on the Office and Duties of Coroners in Upper Canada* (Toronto: W.C. Chewett & Co., Law Publishers, 1864); *A Practical Treatise on the Office and Duties of Coroners in Ontario*, 2d ed. (Toronto: Hart & Rawlinson, 1878); and *A Practical Treatise on the Office and Duties of Coroners in Ontario and the Other Provinces, and the Territories, of Canada, and in the Colony of Newfoundland*, 4th ed. (Toronto: The Carswell Co., Limited, 1905). Unfortunately, I was unable to locate a copy of the third edition but the consistency of the guidelines between the other editions indicates that, in all likelihood, there were no changes in procedure between the second and fourth editions. Further references to Boys' books in this chapter will use the shortened form of *Treatise* in both the text and the notes. The notes will also include the specific edition of the citation.

The *Treatise* discussed in detail the role and qualifications of a coroner. Technically, almost any male citizen could be a coroner. The only requirements were that he be over the age of twenty-one years, of sound mind, and sufficiently intelligent to fulfil the duties required of him. A final stipulation required that the Lieutenant-Governor of Ontario appoint the coroner on the recommendation of a "Member of Parliament."[2] A coroner's responsibilities included determining if an inquest was necessary following a death, summoning jurymen and witnesses, attending post-mortem examinations, recording testimony of witnesses, and advising jurors on relevant points of law. While it might appear that lawyers would have made suitable coroners because they were in a position to discuss the law with the jurors, increasingly in late nineteenth-century Ontario medical doctors received the appointment to act as coroners.

The *Treatise* also indicated who could serve on inquest juries. The law required a minimum of twelve men, but did not establish an upper limit on the number of jurors. Juries in London averaged thirteen men, but rural juries tended to be larger, with an average of fifteen men. Coroner's Inquest juries differed from other types of juries in that the law exempted inquest jurymen specifically from

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[2] Boys, *Treatise*, 2d ed., 2-3, 134. According to the *Treatise*, a doctor who presided as the coroner at an inquest was not allowed to perform the post-mortem examination, but he was permitted to assist the primary physician with the examination.

the property requirements of the Jury Act.[3] Non-property holders could serve as inquest jurors. Other than the requirement that jurors be "lawful and honest men", there were few other necessary qualifications. The guidelines suggested that all jurors be able to write their names and that householders be given priority, but these were merely suggestions and not requirements. Certain groups of people were not allowed to serve as inquest jurymen, however. These included men over sixty years of age, government officials and employees, clergymen, members of the Law Society, medical practitioners, teachers, newspaper staff, and railroad employees.[4] These preferences and exemptions ensured the majority of jurymen were from the middle class and the upper levels of the working class.

The *Treatise* outlined the circumstances under which an inquest should be held and detailed the procedure such an inquest should follow. An inquest was required when there was reason to believe "the deceased person came to his death from *violence*, or *unfair means*, or by *culpable or negligent conduct*, either of himself or of others."[5] Upon notification of a death the coroner summoned jurymen and witnesses to appear at a specified time and place for the inquest. After being duly sworn, the jurors accompanied the coroner to view the body. The jurors were then ready to

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[3] Ontario, *Revised Statues of Ontario, 1877* and *1897* indicated citizens had to own specified amounts of property before they could qualify as jury members.

[4] Boys, *Treatise*, 2d ed., 112-115.

[5] Ibid., 7.

hear the testimony of the witnesses. The coroner determined whether or not the inquest was open to the public. The *Treatise* noted that "for the sake of decency, or out of consideration for the family of the deceased" the coroner could close the inquest to the public.[6] If the inquest was conducted privately the coroner cleared the room of everyone except the jurors, the physician who performed the post-mortem, and the accused party, if there was one.[7] If the inquest was public then anyone with an interest could attend and hear the testimony. Public inquests had particular ramifications in cases of suspected infanticide. Prior to 1870 the majority of inquests were probably private as they were held in private homes and newspapers rarely, if ever, reported on the proceedings.[8] As the century progressed venues for inquests shifted to more public settings and public hearings became the norm.[9] The local press began to carry detailed stories of the proceedings. These public inquests exposed women accused or suspected of infanticide to more public scrutiny than would have happened in earlier years.

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[6] Ibid., 111-112.

[7] Boys refers to the person suspected of having caused the death as the "accused". At inquests involving suspicious infant deaths, the mother would have generally been the suspected party.

[8] Surviving issues of newspapers for the middle years of the century are incomplete. Of the records available for the period under study, none reported on Coroners Inquests during the early years.

[9] By the end of the century inquests were never held in private homes. Inquests were held in police stations, fire halls, hospitals, and, in rural areas, in hotels and schools.

As the inquest began each witness swore an oath that he or she would tell the truth. The witness then testified in his or her own words, giving any information he or she had regarding the death and the person suspected of having caused the death. The coroner recorded the witness's testimony and then read it back to him or her. At this point the jurors could question the witness for clarification of the testimony. The accused also had the right to question the witnesses, although the records indicate that few, if any, women exercised this right.[10] The coroner recorded all responses and the witness signed the statement. The physician who performed the post-mortem examination testified last. According to the *Treatise* this allowed the physician to hear the testimonies of the "unprofessional witnesses, in order that he may have their testimonies to aid his conclusions, and to avoid having to recall him for the purpose of asking additional questions suggested by other evidence."[11] As with the other witnesses, jurors and the accused were allowed to question the physician if they wanted to. This was a right jurors used with greater regularity as the century progressed.

When the testimony was complete, the coroner summed up the evidence for the jury and explained the relevant details of the law. This summation included explaining the differences between murder and accidental or natural causes

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[10] See J.J. Talman Regional Collection, D.B. Weldon Library, University of Western Ontario, London, Ontario, *Coroner's Inquests, Middlesex County*.

of death. This was especially important at inquests investigating suspicious infant deaths. It was the coroner's responsibility to explain that, in cases where the suspected mother had concealed her pregnancy, the law deemed concealment had no connection with the cause of death.[12] The coroner charged the jurors to determine the cause of death and to name any accessories to the death.[13] Then he left the room to allow the jurors to reach their verdict in secret. The jurors notified the coroner when twelve of them reached agreement on their verdict.[14] The coroner recorded the verdict, officially closed the inquest, and dismissed the jurors.

In cases where the verdict indicated an infant's mother was criminally responsible for its death, legal prosecution began after the inquest closed. In cases where the verdict did not specifically name the mother as being responsible for the deaths of her infant' death, the closing of the inquest generally marked the end of all public investigations.

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[11] Boys, *Treatise,* 2d ed., 134.
[12] Ibid., 53.
[13] Ibid., 9, 131.
[14] Ibid., 131-132. If the jury was large and did not agree unanimously on a verdict the coroner canvassed the jurors for their opinions and the majority opinion, provided it was supported by at least twelve members, became the official verdict. If twelve members could not agree on a verdict the coroner dismissed the jury and turned the inquest over to the criminal courts.

Chapter 3: Coroner's Juries and "Supposed" Mothers

Coroner's Inquest juries in Middlesex County investigated eighty-two suspicious infant deaths between 1850 and 1900. Of these investigations, thirty-four involved unidentified infants. Of the remaining forty-eight inquests, twenty-three involved infants who were known to be illegitimate. The contrast between the verdicts on the thirty-four unidentified infants and those on the twenty-three infants of unwed mothers are the focus of this study. Through a close examination of the Coroner's Inquest documents, changing patterns in testimony and verdicts will provide closer insight into the morals and values of the era.

To most Victorian Canadians, unwed motherhood constituted the most serious social and moral transgression a respectable young woman could commit. Some churches still practised public shaming as punishment for illicit sexual activity.[1] Newspapers periodically published stories of young women who committed suicide when they found themselves pregnant and abandoned by their lovers. Early in 1886, the *London Advertiser* reported the suicide of a young woman from Sarnia. The article's title, "The Old Story", gives an indication of how familiar the scenario would have been to Victorian English-speaking Canadians. Adelaide Davies, a domestic servant, poisoned herself because she was "in

trouble". In her suicide note, Davies had written that she knew her family was searching for her, but she could not bear to see them.

> I was accused of wrong long before I was guilty; but now I am guilty. . . . What will my friends think now that this has been divulged? I cannot live. . . . My poor sisters! I am glad that I am the one who has been led astray instead of any of them, for they will see by my ways that sin has ruined me body and soul.[2]

The newspaper account presented a cautionary tale to other young women who might otherwise have been tempted to engage in premarital intercourse. By the same token, Davies' despair illustrates the extent of the social and economic catastrophe that unwed motherhood entailed in late nineteenth-century Ontario.

Yet cautionary tales in newspaper reports and celebrations of sexual purity did not prevent all women from engaging in premarital sexual activity. Many, if not most, women who found themselves pregnant and unmarried quickly arranged to marry their lovers. Prompt matrimony tended to negate the stigma attached to premarital pregnancy. The old saying, "First babies come anytime, the rest take nine months" was often joked about during this era.[1] However, for some women, marriage was not an option. Men sometimes

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[1] W. Peter Ward, "Unwed Motherhood in Nineteenth-Century English Canada," *Historical Papers* 34 (1981): 45.

[2] *London Advertiser* (London, Ontario), 2 January-3 January 1886.

abandoned their lovers when women told them of their pregnancies. In other instances, for personal reasons, pregnant women chose not to marry their lovers. Some women turned to their families for emotional and financial support during and immediately after their pregnancies.[4] Other women had to contend with pregnancy and birth on their own. A few desperate women committed suicide.[5] The Coroner's Inquest records reveal that some women attempted to conceal their pregnancies and subsequent births of their unwanted children.

Unwed women had valid reason to try to hide their pregnancies. Throughout this era the greatest asset a woman could possess was public recognition of her "good character". To most middle class Victorian Canadians sexual purity comprised the essence of a good reputation, especially for unmarried women. Many Victorian employers believed a direct connection existed between their employees' moral reputations and their ability to perform

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[3] Frank W. Anderson, *A Dance with Death: Canadian Women on the Gallows 1754-1954* (Saskatoon: Fifth House Publishers, 1996), 200.

[4] W. Peter Ward, "Unwed Motherhood": 55.

[5] Although newspapers seized on reports of unmarried women killing themselves because of unwanted pregnancies, suicide as an escape from the stigma attached to unwed motherhood appears to have been quite rare. The inquest records of Middlesex County reveal a single suicide of a pregnant unmarried woman in the fifty year period under study. See J.J. Talman Regional Collection, D.B. Weldon Library, University of Western Ontario, London, Ontario. "Elizabeth Earhart, August 5, 1872," *Coroner's Inquest, Middlesex County*. Other references to the Coroner's Inquest documents in this chapter will be referred to by the file name, date, and the abbreviated notation of *Coroner's*

their jobs. Domestic servants especially depended on their good reputations when they sought employment. Public disclosure of the loss of one's sexual purity led to loss of reputation. Loss of a good reputation often precipitated loss of a good job and threatened economic ruin. Without a good character reference prospects of finding other suitable positions diminished rapidly. The quality of a woman's character also affected potential negotiations in the marriage market. Women with sullied reputations had less chance of attracting desirable marriage partners.[6] The importance of being seen as having a "good" character helps explain why some unmarried women concealed their pregnancies and hid the births of their illegitimate offspring.

Infanticide was often the last phase of concealing an illegitimate pregnancy. As Coroner's Inquests were held

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Inquest. Unless otherwise cited, all quotes in this chapter are taken directly from the relevant inquest file.

[6] Many historians have written on the issue of the importance of women's reputations. For information on earlier periods see Peter N. Moogk, "'Thieving Buggers' and 'Stupid Sluts': Insults and Popular Culture in New France," *William and Mary Quarterly* 36, no. 3 (1979): 524-547 and Mary Beth Norton, "Gender and Defamation in Seventeenth-Century Maryland," *William and Mary Quarterly* 44, no. 1 (1987): 3-39. For discussions of the nineteenth-century see Genevieve Leslie, "Domestic Service in Canada, 1880-1920," in *Women at Work: Ontario, 1850-1930*, ed. Janice Acton, Penny Goldsmith, and Bonnie Shepard (Toronto: Canadian Women's Educational Press, 1974), 83; Wayne Roberts, *Honest Womanhood: Feminism, Femininity and Class Consciousness Among Toronto Working Women 1893 to 1914* (Toronto: New Hogtown Press, 1976), 14 and Sharon Ann Burnston, "Babies in the Well: An Underground Insight into Deviant Behaviour in Eighteenth-Century Philadelphia," *Pennsylvania Magazine of History and Biography* 105, no. 2 (April 1982): 185. See Lorna Hutchinson, "'God Help Me for No One Else Can': The Diary of Annie Waltham 1869-1881," *Acadiensis* 21, no. 2

only when a death occurred, the following cases represent instances where women failed to hide their illicit sexual activities, their pregnancies, and perhaps most importantly, the births of their infants. The testimony of witnesses and jury verdicts illustrate community responses to both the women and their illegitimate offspring. The records also highlight the attitudes and ideals that caused some women to hide their pregnancies and kill their children.

Concealment brought its own hazards. In some instances the death of the mother triggered discovery of the concealed pregnancy and birth. In May 1853, Ann Terrill died as a result of postpartum haemorrhage. Terrill had lived with her adoptive family, Mr. and Mrs. Orr, but had hidden her pregnancy from them. She delivered her son alone and called for help only when she started to haemorrhage. Thomas Orr told the jurors he rushed to his daughter's room and asked what was wrong. Although bleeding to death, Terrill replied, "I dare not tell you." After Terrill's death, Mrs. Orr discovered the body of Terrill's newborn son among the bedclothes.[7] Similarly, Mary Jane Richardson concealed her pregnancy from her family in 1867. After she died of eclampsia[8] her father told the inquest jury "I was not at

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(Spring 1992): 72-89 for an illustration of how one woman negotiated her marriage.

[7] "Ann Terrill and male child, May 27, 1853," *Coroner's Inquests*.

[8] Eclampsia is a disorder of late pregnancy. The condition is characterised by high blood pressure and fluid retention in the mother. Eclampsia can result in convulsions, seizures, and death for both the mother and child if it is left untreated.

all aware that she was in that condition."[9] Isabella Simpson also died of pregnancy-related complications after concealing her pregnancy from her family in 1870.[10] In all likelihood, hiding their pregnancies from their families cost these women their lives. However, these women seem to have feared that the consequences of disclosing their premarital sexual activity outweighed the risks of concealment.

Most inquests into infant deaths began either because someone discovered the body of an unidentified infant, or because the child of an unmarried woman died. Of the eighty-two cases included in this study, thirty-four involve unidentified infants. Coroner's juries investigated nineteen of these cases between 1850 and 1880 and cited culpable causes of death in five instances. Between 1880 and 1900 however, of the fifteen remaining cases involving unidentified infants, juries cited culpable death in ten instances. The rate of culpable death verdicts increased from 26% of the cases in the first three decades to 67% in the last twenty years of the century in instances where the mother's identity was unknown. Over the fifty year period coroner's juries became increasingly willing to cite murder or culpable neglect as the cause of death for unidentified infants. The wording of these verdicts clearly illustrates the increasingly harsh reactions of the jurors:

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[9] "Richardson, Mary Jane and child, September 25, 1867," *Coroner's Inquests*.

> [D]eath in an unlawful manner being by suffocation and we hope that every effort will be made by the authorities to try to bring to justice the perpetrator or perpetrators of the deed.[11]
> wilful neglect of the mother and that she is guilty of murder.[12]
> This child was murdered by some person or persons unknown . . . .[13]
> death caused by wilful neglect of person or persons unknown at the birth and we do deem them guilty of murder.[14]
> did feloniously, wilfully and of their malice aforethought did kill and murder one male infant child.[15]

The condemnatory tone of the verdicts in these cases suggests that juries perceived these incidents as the work of women who had managed successfully to conceal their pregnancies and the births of their illegitimate infants and thus avoid communal censure.[16]

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[10] "Simpson, Isabella and child, April 28, 1870," *Coroner's Inquests.*

[11] "Unidentified male baby, April 20, 1883," *Coroner's Inquests.*

[12] "Unidentified male baby, November 13, 1884," *Coroner's Inquests.*

[13] "Unidentified male baby, January 24, 1887," *Coroner's Inquests.*

[14] "Unidentified male baby, April 5, 1892," *Coroner's Inquests.*

[15] "Unidentified male baby, March 17, 1899," *Coroner's Inquests.*

[16] Both W. Peter Ward and Ann R. Higginbotham suggest that not all unidentified infants were illegitimate, although neither author explains the reasons for their assertions. See Ward, "Unwed Motherhood": 45 and Higginbotham, "'Sin of the Age': Infanticide and Illegitimacy in Victorian London," *Victorian Studies* 32, no. 3 (Spring 1989): 323. In the majority of cases involving unidentified infants in this study, the infants' umbilical cords were torn rather than cut. Torn cords seemed to indicate unassisted births, and unassisted births were the norm for women who had concealed their pregnancies. For the most part, married women had no need to hide their pregnancies or the births of their children, especially

Although the attitudes of inquest jurors became increasingly severe in cases where they could not identify the mother, the opposite trend is evident in cases where the jurors were able to identify the deceased child's mother. The second scenario, when the child of an unmarried woman died, triggered thirty-three inquests during the fifty year period. The testimony of witnesses and verdicts of jurors in these inquests clearly reveal a trend away from harsh judgement and treatment of women suspected or accused of having caused the death of their illegitimate offspring. Coroner's Inquest juries held mothers responsible for their infants' deaths in only five of twenty-three instances and these five all took place between 1853 and 1862. After 1862 no Coroner's Inquest jury in Middlesex County cited an unmarried woman as responsible for her infant's death, even when the evidence presented at the inquest left little doubt that the women had brought about the death of her child.

The differences in jury reaction to the crime of infanticide in the two scenarios initially appear strange. One has to wonder why jurors would express so much outrage regarding an infant death in cases when they did not know who had committed the crime and yet refuse to attach blame for similar deaths in cases where they knew or strongly suspected the identity of the perpetrator. The explanation

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during an era of high infant mortality. If married couples wanted to kill their infants they could do so easily and few would question the infant's death. Of the eighty-two inquests in this study, only fourteen involved legitimate children.

for the differences between the two scenarios appears to have had less to do with the crime of infant murder than it did with the community policing of sexual morality of unwed women. In cases where the jurors did not know the identity of the mother, the women escaped punishment for their crime. These women had broken moral codes by engaging in premarital sexual activity and had successfully avoided detection of their transgression. The umbrage expressed in the wording of the verdicts had less to do with the fact that these women might have got away with murder than it did with the fact that they had successfully avoided detection of their illicit sexual activity.

In cases where the mother's identity was known, the verdict of the jurors generally halted all further public investigations into the death of the infant. In these cases the jurors appear to have deemed the public shaming inherent in the inquest procedure as sufficient punishment for the death of an illegitimate child. This is especially evident in cases where the mother displayed the character and emotional traits jurors expected from worthy Victorian women. If a woman cried, displayed embarrassment or fear, or expressed shame for past actions, jurors invariably cited causes other than murder for the deaths of the infants. In these cases the public disclosure of one's loss of sexual purity constituted sufficient punishment for illicit sexual activity and for involvement in the death of one's illegitimate offspring.

The jurors' sense of themselves as sufficient arbiters of communal moral values did not go uncontested. The cases also illustrate an on-going dispute between doctors who performed post-mortem examinations and jury members. As a consequence, the question of how much weight to attach to a physician's statement intensified over the period and is clearly illustrated in many of the cases. Over the fifty year period medical testimony become more detailed and explicit as doctors exhibited greater confidence in their ability to determine causes of death and greater determination to exert their special knowledge and status. Jury members did not share the same level of confidence in the doctors' abilities nor did they necessarily want to hear what the doctors had to say. Jurors appeared to accept medical information and opinions when they suited the jurors' purposes. When medical testimony appeared to implicate the infants' mothers the jurors often disregarded the testimony. If the jurors had accepted the physicians' testimony as fact, they would have had to cite the mothers as being criminally responsible for the deaths. This, in turn, would have led to the women being criminally charged and tried for the deaths of their infants. The jurors did not believe that criminal prosecution was necessary for these women and was, in fact, an overly harsh punishment for the crimes they had committed. For the jurors, enduring the public attention of a Coroner's Inquest was sufficient punishment for these women.

The rift between physicians and jurors intensified over the period and probably led to some feisty off-the-record discussions between coroners and jurymen, particularly since the vast majority of coroners were doctors.[17] Some jurors seemed to believe the physicians were trying to take over the inquest proceedings and have their testimony override the information given by other witnesses. In effect, some jurors feared doctors were trying to usurp the jurors' responsibility, authority, and autonomy in determining the cause of death at inquests. These tensions are most obvious in inquests where the jurors knew the identity of the deceased infant's mother. In these cases jurors closely questioned doctors' opinions and occasionally suggested other possible causes of death to the physicians. Frequently the jurors worked diligently to avoid citing the mothers as criminally responsible for the deaths of their illegitimate infants, even in the face of compelling medical evidence of deliberate murder.

Doctors were not the only people who worked at cross-purposes to the Coroner's Inquest jurors. By the 1870s the local police force was trying to establish and prove its reputation as a professional body. The London police force

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[17] J.J. Talman Regional Collection, D.B. Weldon Library, University of Western Ontario, London, Ontario, *Coroners for Middlesex 1860-1870*. After 1870 most *Coroner's Inquest* documents specifically list the coroner as a medical doctor.

hired their first detectives in 1874.[18] From that point a noticeable increase in the involvement of the police in infanticide investigations occurred. The police were anxious to demonstrate to the public that they could solve crimes and bring perpetrators to justice. The force's notion of justice consisted of bringing the criminal to court. However, the inquest jurors' notion of justice did not necessarily involve the criminal court system for women suspected of having committed infanticide. The unwillingness of inquest jurors to cite suspected women as responsible for infant deaths appears to have frustrated police officers on occasion. As the century progressed, the police pursued increasingly rigorous investigations to ensure they provided inquest jurors with all the proof the latter needed to find the women responsible. Yet, whenever possible, inquest jurors responded to the police in the same way they did the doctors; they ignored them when they could and took their evidence as fact only when they had no other choice.

The first four cases of suspicious infant death share many similarities. They all occurred in an eighteen month

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[18] Charles Addington, *A History of the London Police Force: 125 Years of Service* (London, Ontario: Phelps Publishing Company, 1980), 29.

period between October 1853 and May 1855. In each instance the unmarried woman concealed her pregnancy, failed to make preparations for the impending birth,[19] and delivered her full-term baby alone.[20] Yet, in each instance, jury members reached very different verdicts.

When Helen Reid's three day old son died in London in October 1853, her landlord, John McDowell immediately notified the coroner. Reid had not made any preparations for her illegitimate child's birth and had delivered the baby alone and in secret. These conditions automatically made the death suspicious. The coroner immediately summoned a jury to investigate the death. At the inquest McDowell and his wife testified Reid had come to their house as a lodger and had delivered her child there. Both stated they

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[19] Peter C. Hoffer and N.E.H. Hull, *Murdering Mothers: Infanticide in England and New England 1558-1803* (New York: New York University Press, 1981), 26. While it was not illegal to fail to prepare for the birth of an infant, British lawyers often used the "benefit of linen" argument when defending a woman accused of infanticide. If a woman made clothes for the infant and gathered blankets in anticipation of its birth, then lawyers could argue the death was not intentional. Conversely, lawyers prosecuting the same woman could argue that, because she failed to prepare for the birth, she had intended the child would not survive. As Canadian trial proceedings were based upon the British system, lawyers in this country probably used the same strategy.

[20] Giving birth alone has never been a crime in Canada. William Fuller Alves Boys, *A Practical Treatise on the Office and Duties of Coroners in Ontario and the Other Provinces, and the Territories, of Canada, and in the Colony of Newfoundland,* 4th ed. (Toronto: The Carswell Co., Limited, 1905), 133-134, notes that after 1892 if a child died because its mother purposefully neglected to get help with the birth, the woman could be criminally charged. The maximum penalty, if found guilty, was life imprisonment. The *Criminal Code*, 1892 55 & 56 Vict. (1892) c. 29, s 239 (D.C.).

were "not aware that any injury was done to the child." Eliza McDowell added she had seen the infant shortly after birth. "The mother had rolled the child in the petticoat and seemed fond of it and had it to the bosom." Three other boarders in the house offered similar evidence that Reid had treated her newborn well.

Dr. Hobbs performed the post-mortem examination of the infant. He told the jurors he found a large blood-filled "tumour" on the back of the child's head, inflammation in the abdomen, and a deformity in the bone structure of the child's face. Informing the jury that, "[A]ll marks of a healthy appearance were absent," he summed up his testimony:

> My opinion is that there had been some obstruction made when this child was alive to its free respiration, that depressing it as a matter of course, of the inhalation of atmospheric air which would produce those appearances found in the bowels, chest and abdomen which were sufficient to cause death. I would suppose the tumour in the head could be cause by the griping [*sic*] of the hands of the individual in it.

Dr. Hobbs insinuated the child had been murdered.

Helen Reid attempted to explain her child's death and her lack of preparation for its birth:

> The cord broke of itself. [I] did not ask any person to be present with me. [I] did not think I could have been confined for three weeks longer than I was. That is the reason I had for not preparing in a better way for the birth of the child.

She told the jurors the "tumour" was there when the child was born and could offer no other explanation for its presence.

The jurors appear to have accepted portions of the doctor's testimony and disregarded others when they determined the cause of death. They refused to attach any blame directly to Reid and instead cited the official cause of death as "a congested state of the lungs and other injuries". Even when they added, "death [was] brought on by culpable means on the part of some person to them at present unknown," to their verdict, they failed to cite Reid explicitly.[21] Whatever Dr. Hobbs' intentions, the jury saw no purpose in pursuing Reid any further.

Eliza O'Reilly did not experience the same leniency from the jurymen at the inquest into her newborn daughter's death later the same year. Like Reid, O'Reilly concealed her pregnancy, did not prepare for the birth, and delivered her child alone. Unlike Reid, O'Reilly lived at home with her parents. The only witnesses at the inquest, other than the doctor who performed the post-mortem, were members of her immediate family. O'Reilly's father told the jurors he had not been aware of his daughter's pregnancy and had not noticed any preparations for birth. Mary Ann O'Reilly, Eliza's mother, told the jurors she had not known her daughter was pregnant. She explained she had followed the young woman out to the barn because she thought she was ill

and needed assistance. Mrs. O'Reilly testified she cut and tied the cord after the birth and washed the newborn. She added she fed the child water and flour scraped from a cake. O'Reilly's sister testified she had never seen O'Reilly feed the child. O'Reilly's only explanation for concealing her pregnancy and refusing to nurse her infant was her fear of her mother's wrath.

Dr. Andrew McKenzie performed the post-mortem examination and indicated that while there were no external marks of violence on the body, the lungs and back of the brain contained blood. He suggested that "a laying of a handkerchief" might have caused death but added, "I think that the child had died from natural causes, exposure to the cold may have brought on the appearances." Once again the jurors appeared to accept only portions of the doctor's testimony regarding the infant's death when they cited the cause of death as the "culpable neglect of the mother Eliza O'Reilly."[22]

Like Reid, Louisana Chambers boarded with a family. She too failed to make any preparations for the impending birth of her child. When Chambers complained she wasn't feeling well and went to bed, Hannah Johnston, her landlady, followed her to her bedroom. "I suspected Louisana was with child but she continually denied it," Johnston explained to

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[21] "Reid, male baby, October 23, 1853," *Coroner's Inquests.*

[22] "O'Reilly, female baby, November 26, 1853," *Coroner's Inquests.* The surviving records do not indicate if O'Reilly was committed to trial.

the inquest jury. Johnston added she had not seen any preparations for the child's birth. When Johnston found the lifeless baby in Chambers' room, she called for assistance from Lydia Appleman, a local midwife.

Appleman testified she examined the baby and saw no marks of violence on the body. Her testimony indicates she did not necessarily believe the infant's death was from natural causes. She told the jurors, "I have no particular reason to suspect that there had been any foul play regarding the child. I merely thought that the child had been smothered and I cannot give any reason why it was so."

Six other boarders from the house testified before the jury. Three stated they knew nothing at all about the child's birth or death. The other three admitted they had seen the child's body and testified they had not noticed any marks on the child.

Dr. McKenzie performed the post-mortem examination and confirmed he saw no marks of violence. He stated he could see no reason to suspect foul play in the child's death.

Chamber's statement before the jury members indicates she was aware of the potential difficulties she faced because her child died after she had concealed her pregnancy and attempted to hide its birth:

> [I] did not make any preparation of clothing or anything else for the birth of the child. I had cambric and calico in my chest. I had not time to make the clothing. I thought there was time enough afterwards. I did not tell any person I was in the family way, not even after the labour was commenced. I was

> sure of the suspicion that would rest upon me if any thing injurious happened to the child if I did not make preparation for its birth or tell some one that I was with child.

Apparently Chamber's demeanour was such that the jurors had no reason to contradict Dr. McKenzie's conclusion. The jury ruled Louisana Chambers' child died "in a natural way."[23]

In much the same manner as O'Reilly, Ann Jane Place hid her pregnancy from her family. Like Chambers, women who knew Place suspected she was pregnant and so came to her aid quickly when she called for help. Ann Brice, Place's neighbour, heard the young woman calling out and ran to her bedroom to assist her. Brice told the jury members she found Place sitting on the chamber pot when she arrived. When Brice asked Place what was wrong the young woman replied she did not know but that she feared she was dying. Brice testified she originally thought Place was ill but soon realised she was in labour. She called Place's mother and Margaret Daiton, another neighbour, to assist her in getting Place up from the chamber pot. Brice testified she told Place the child would smother if she did not get up. Brice concluded her testimony by stating, "I think that if the usual care had been used at the birth of the child that the child would have been alive, that was my opinion."

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[23] "Chambers, female baby, April 27, 1855," *Coroner's Inquests*.

Similarly, Daiton explained her suggestions to Place and Place's reactions to the jurymen. "Seeing that there was a suspicion of her being with child I suggested the propriety of her getting up off the pot. She said that she could not get up, that all that was in her was in the pot." Daiton recounted that it took almost half an hour before the three women were able to successfully remove Place from the pot. By then the child was dead. "I suppose that the child had been smothered in the pot by looks of the thing. We could not tell," Daiton testified.

Dr. McKenzie's post-mortem examination determined the child was full term but had never breathed. "If the child was in the pot and the mother sitting on it, the child could not breathe in my opinion and would certainly die," he told the jurors.

Place testified she had only felt movement one week earlier. "I thought I was with child," she told the jurors, "but I was not certain."

The jurymen reached their verdict. The cause of death was "unknown".[24]

How did four different juries within an eighteen month period come to such different conclusions in cases that shared so many similarities? Both O'Reilly and Place lived at home with their parents and their mothers assisted after the births. Yet the O'Reilly jury found her responsible for her child's death and the Place jury cited unknown causes as

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[24] "Place, male baby, May 26, 1855," *Coroner's Inquests*.

the reason for the death of her child. O'Reilly admitted she had known she was pregnant and had consciously hidden the pregnancy because she was afraid of her mother. The jury appears to have judged O'Reilly as much on the idea that she was a cowardly and disobedient daughter as it did on the lack of nurturing of her infant. Place's refusal to get up from the chamber pot because she feared her insides had fallen out and her testimony that she had been uncertain of her condition allowed the jurors to believe Place might not have known what was happening to her. Place's proclaimed lack of knowledge allowed the jurors to view her as a sexual innocent. Sexual, moral, and intellectual innocence were tied together as indicators of a "good" Victorian woman in the minds of most nineteenth-century Canadians. Once the jurors perceived Place as a "good" young woman, they could believe she was truly unaware of her condition. If she was innocently unaware of what was happening to her the jurors could not hold her responsible for the consequences of her actions and hence, the death of her baby.

Although both Reid and Chambers gave birth to their infants away from their familial homes, the juries investigating their infants' deaths do not appear to have censured these women for leaving their parental homes. The jurors may have recognised that by leaving home these women may have been attempting to shield their families from disgrace. Their actions acknowledged their shame. Reid's

jury cited the death as one involving culpability, but stopped short of naming her as being responsible for the death. In this instance the jury members seemed to base their verdict on the testimonies of Reid's fellow lodgers. She had held her child and nursed it in front of witnesses. Her character seemed reputable and the maternal behaviour she exhibited fell within expectations of Victorian womanhood. Chambers' jury may have been swayed by her testimony when she stated she was well aware that she would be a suspect in her child's death. Her expressions of fear and concern may have elicited sympathy from the jurors and that prevented them from assigning responsibility to the young woman for the death of her illegitimate child. Chambers' jury released her of all responsibility when they cited natural causes as the reason for the child's demise.

Louisa Armstrong did not garner any sympathy from the jurors who investigated the death of her infant daughter. Armstrong's character and behaviour deviated so substantially from the acceptable norms of Victorian womanhood that the jurymen appear to have taken these deviations into consideration when they reached their verdict on the cause of death. The discovery of an infant's body wrapped in a shirt triggered the inquest in late August 1855. At the inquest Martha Elliott, the housekeeper at Chapman's Saloon, identified the infant and the wrap as belonging to Armstrong. Elliott testified she had seen Armstrong twice at the saloon. She related Armstrong had

come first ten days earlier, looking for lodging and demanding to see Salomon Dean, a saloon employee. When Elliott told her Dean was not there, Armstrong ran upstairs yelling his name. Elliott refused to rent a room to Armstrong and the woman went away. Armstrong returned three days later in the company of George Percival, a coach driver. Elliott testified that on the second visit to the saloon Armstrong carried a newborn infant wrapped in a shirt. Elliott told the jurors how she and Armstrong had responded when the baby began to cry. "She [Armstrong] pulled the wrap off it and said, 'Shut up, you damned Son of a Bitch[25] or I'll choke you to death'. No, said I, you won't do it here. She went out with the child in her arms, the child I could hear crying clear down to the corner of King Street."

Joseph Chapman, the owner of Chapman's Saloon, testified Salomon Dean worked for him and had once introduced Armstrong to him as his wife. Two weeks earlier Dean and Armstrong had approached him asking for a room but, as all the rooms at the saloon were rented, he had been forced to tell them to go elsewhere.

George Percival testified he brought Armstrong to the saloon on the Monday morning in question. He told the jurors he had seen Armstrong the previous evening with a group of men near the workshops at the train yard. He picked her up

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[25] In all likelihood, Armstrong's reference to her newborn daughter as a "Son of a Bitch" did nothing to endear her to the male jury members. Armstrong probably used the term as a manner of cursing rather than as a comment on her child's gender or parentage.

near the train yard the next morning. "She had been there all night with the men," he testified, "They had connection with her to the best of my knowledge. I had connection with her."

Dr. McKenzie performed the autopsy on the infant's body and noted that there were no marks of violence. He testified he was unable to determine the cause of death because the body was in an advanced state of decomposition.

Armstrong did not testify before the jury because she had left town. The jurymen weighed the evidence before them. The medical evidence and Elliott's testimony indicated the baby had been born alive. They considered the character of the woman, based on Elliott's and Percival's testimony, and they reached their verdict:

> the said Louisa Armstrong did smother
> the said new born female child in manner
> and by the means aforesaid, feloniously,
> wilfully and of there malice
> aforethought, did kill and
> murder . . . .

The jurors, without supporting medical evidence but based on the description of her generally inappropriate behaviour for a Victorian woman and, more importantly, her reputation for illicit sexual activity, cited Armstrong for murder.[26] Yet, according to the surviving records, the police did not arrest Armstrong nor did they continue to investigate the death.[27]

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[26] "Armstrong, female baby, August 27, 1855," *Coroner's Inquests*.

[27] There are no Criminal Court records or newspaper reports that indicate Armstrong was ever brought to trial. See J.J. Talman Regional Collection, D.B. Weldon Library,

Perhaps the police did not believe they had sufficient evidence to link her to the crime, or the small size of the police force meant they lacked sufficient manpower and expertise to track the woman and bring her to trial.[28] A greater possibility is that Armstrong had already solved the community's problem by removing herself from the neighbourhood.

Unlike the Armstrong case, where jurymen went beyond the medical evidence to arrive at a finding of murder, the jurymen who heard the evidence at the inquest into the death of Maria Calcut's child refused to hold her responsible for her infant's death despite a clear indication of neglect. In 1862, while on her way to her cousin's house, Calcut gave birth to a daughter in a wooded area in Caradoc Township. At the inquest Calcut testified she left the child in the woods while she went to look for help. When she was unable to find anyone to assist her, she continued to her cousin's home. Calcut did not tell the jury why she did not return for her child and the inquest records do not give any indication that the jury members asked the obvious question. In the opinion of the doctor who performed the post-mortem examination, the infant had been born alive, but the umbilical cord had not been tied. He determined the cause

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University of Western Ontario, London, Ontario, *Criminal Court Records for Middlesex County 1846-1892.*

[28] Addington, *A History of the London Police Force*, 1-31. There were only seven constables on the London police force in 1855 and their duties consisted of walking the beat and keeping the peace. They were not trained or expected to track criminals outside of the London area.

of death to have been "want of attention following birth and exposure".

In the Calcut case, the jurymen appear to have disregarded the medical testimony when they reached their verdict: "the said child came to her death not from any neglect on the part of the mother and so hold her guiltless."[29] Unfortunately the inquest records give few clues why the jury specifically released Calcut from all responsibility for her child's death. We can only assume that something about Calcut's personality or appearance so moved the jurors that they refused to cite her as guilty of failing to preserve her daughter's life.

In contrast, events surrounding the death of Mary Springstead's illegitimate child in 1870 compelled a reluctant inquest jury to hold Springstead responsible for the death of her baby.[30] When a child's body was found near a bridge in London the doctor who performed the post-mortem examination recognised the clothing on the infant as those he had seen one of his patients put on her illegitimate newborn. The doctor informed the coroner of Springstead's identity. The coroner then informed the police, who arrested Springstead and charged her with murder. A local newspaper detailed Springstead's confession and explanation of her actions:

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[29] Calcut, female baby, June 4, 1862," *Coroner's Inquests.*

[30] The *Coroner's Inquests* records for this case are missing from the files in the Regional Collection. In this

> While in this capacity [a domestic servant in a private home in London] she made the acquaintance of a young man, who, on the pretence of a tender devotion, succeeded in accomplishing her ruin. In process of time the illicit intercourse bore fruit, when she was basely abandoned by her betrayer, and left to support her charge alone and in intense bitterness of soul. At length, overcome by shame, and unwilling that her child should grow up to bear the stain of her indiscretion, and encounter the sneers of the uncharitable, she determined to put an end to its existence. To do this, she deliberately put it in the water."[11]

At the inquest Springstead recounted her life story for the jurors. She told them she had come to London two years earlier to work as a servant. She confessed she had stolen sixteen dollars from her employer[12] and had served two months in jail for her crime. She told the jurors she had married but, when her husband deserted her, she found work again as a servant. Her employer confirmed she was a "fine, industrious girl".

The jurors were obviously moved by Springstead's story and confession. They did all they could to prevent her case from progressing through the judicial system to the Criminal Court. The newspaper reported, "A juror called attention to the fact that the body had not been identified as that of her child and it was the opinion of the Coroner and jury that

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instance newspaper reports provide the details of the inquest proceedings.

[11] *London Free Press* (London, Ontario) 29 April 1870.

[12] M.C. Urquhart, ed. *Historical Statistics of Canada* (Toronto: The Macmillan Company of Canada Ltd., 1965), 94 indicates sixteen dollars equalled approximately two months' wages for a domestic servant during this period.

this link should be supplied."[33] A zealous police officer showed the infant's clothes to the midwife who had attended Springstead during her labour and delivery. The midwife positively identified the clothing as that of Springstead's infant. As additional proof, the police officer also produced the young girl who had sewn the baby's outfit. She too identified the clothing as belonging to Springstead's child. In light of her confession, the inquest jury had no option but to cite Springstead as being responsible for the death of her infant. The newspaper described the woman's reaction to the jury's verdict, "The unfortunate being appeared to be overwhelmed with grief and hung her head, sobbing aloud."[34] The next day Springstead appeared in Criminal Court and was sentenced to eighteen months in jail. The records of the London jail indicate Springstead was discharged on October 1, 1871.[35]

The men on the Coroner's Inquest jury felt an obvious degree of sympathy for Springstead. They only held her responsible for the death of her child because they had no other option. She had confessed to the crime and the child had been positively identified as hers. The newspaper reporters portrayed Springstead as a quintessential victim of male selfishness, an image the jurors seemed to uphold. More importantly, Springstead's words and actions reinforced the

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[33] Ibid., 4 May 1870.
[34] Ibid.
[35] J.J. Talman Regional Collection, D.B. Weldon Library, University of Western Ontario, London, Ontario. *General Register of the Gaol at London, 1867-1920.*

image that she was a female worth saving. She confessed to her past crime and described how she had tried to reform her conduct. She married but had been deserted. She had found suitable work and then she was deceived once more by a lecherous male. Even Springstead's reasons for killing her baby fit the image of maternal concern; she claimed she was trying to protect her child from a lifetime of jeers and shunning brought about by her own indiscretion. While the trial judge could not let a woman who admitted to killing her own infant go free, the relatively light sentence indicates the judge believed neither Springstead nor her crime deserved harsher punishment. The lack of public comment after the trial indicates the general public believed justice had been served.

Another case, that of Elizabeth Jane Norton's child, demonstrates the unwillingness of inquest juries to allow further public prosecution of women suspected of having committed infanticide and the determined refusal of jurors to accept medical testimony that worked against these women. Norton, a seventeen year old unemployed domestic servant, delivered her son in jail in September 1884. She was serving a one month term with hard labour for vagrancy at the time of the birth. This was the third time Norton had been jailed on the same charge.[16] When released from jail, she and her infant went directly to the Women's Refuge and Infant's Home on the understanding that she would remain for

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[16] Ibid.

a year and help care for other infants. However, Norton left the Home a few days later because she did not want to nurse other infants.[37] Norton then travelled to Lucan, Mitchell, Toronto, and Hamilton before she returned to London, where she rented a room for the night at John Gosling's hotel. Sometime during that night her infant son died. When the police became aware of the baby's death they immediately took Norton into custody pending the result of the inquest.

At the inquest Gosling testified he had not heard the infant crying in the night, but admitted he was a heavy sleeper. In the morning, when Norton had not appeared for breakfast by nine o'clock, he sent his wife and two of his servants to awaken the woman. He described his impression of Norton's reaction to her child's death, "She seemed to me to feel the loss of the child keenly." Matilda Gosling and three servants all confirmed Gosling's testimony regarding

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[37] The Infants' Home required that women agree to stay for a year in the facility and that they help care for the other infants in the institution. See the Women's Christian Association of London, Ontario Archives, Parkwood Hospital, London, Ontario, "Refuge Committee Report, "*Sixth Annual Report of the Women's Christian Association,*" 6 May, 1880, 13-14. Ann R. Higginbotham and others argue that one of the reasons these institutions required women to stay for a full year was so that the staff could ensure these women had been suitably reformed. Proper moral training would mean they would be less tempted to "fall" again in the future. See Higginbotham, "Respectable Sinners: Salvation Army Rescue Work with Unmarried Mothers, 1884-1914," in *Religion in the Lives of English Women, 1760-1930,* ed. Gail Malmgreen (Bloomington: Indiana University Press, 1986), 216-233; Joan Jacobs Brumberg, "'Ruined' Girls: Changing Community Responses to Illegitimacy in Upstate New York, 1890-1920," *Journal of Social History* 18, no. 2 (Winter 1984): 247-272;

the events leading up to the child's death. No one was able to offer any further information regarding Norton or her child.

Anne Bugler, matron of the Infant's Home to which Norton had originally been sent, offered conflicting statements regarding her impression of Norton. Bugler confirmed Norton had stayed in the Home for four days and "seemed to show a good deal of affection for her child." Yet, when Norton left the Home, Bugler wanted the police to keep an eye out for her as she "was afraid that she would desert her child and that it would be sent back to us." In response to a question from a juror Bugler replied, "She did not do anything contrary to the rules of the Home while she was there." In response to a final question Bugler answered, "I recollect Jane Norton saying at one time that she would not part with her child." In spite of the fact that Norton had left the Home because she did not want to abide by the rules, the Matron's testimony was surprisingly positive.

Dr. Hutchinson performed the post-mortem examination. He described his findings and detailed his opinion on the cause of death:

> On examining the spinal column and the neck, I found it very moveable. I found the sheath enveloping the cord intact but upon opening this sheath I found the cord ruptured. I should say the rupture took place before death. This rupture could take place in two or three ways:

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and Andrée Lévesque, *Making and Breaking the Rules: Women in Quebec, 1919-1939* (Toronto: McClelland and Stewart, 1994).

> by pressure on the neck, say a person's elbow with the weight of the body added to it could produce this rupture; by twisting the head upon the body (I hardly think this was done this way as it would probably rupture the sheath enveloping the cord); by concussing or shock as for initiating the fall of the babe, and striking the head might do it. I am inclined to think that the pressure of an elbow would most likely cause this condition than the other ways I speak of.

The records indicate the jurors questioned the doctor further. In response he stated, "The child seemed to be well cared for." The doctor's final answer was unequivocal. "The rupture of the cord was the cause of death of the child."

The phrasing of Norton's testimony indicates she answered specific questions rather than simply recounting her knowledge of what had happened to her infant. She wept as she testified.[38] She opened her testimony with "I am the mother of this child. The child was born in jail." In short sentences she described her life after the birth of her baby. She told the jurors that she had moved from the jail to the Infant's Home and from there she had travelled from city to city looking for a place to stay. She explained she had returned to London the previous evening and told the jurors what happened during the night. "In the night the child cried real hard and I done (*sic*) all I could to keep it quiet. I thought it had the stomach ache and I

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[38] "An Infant's Death," *London Advertiser* (London, Ontario) 27 November 1884.

laid it across my heart and after it went to sleep I laid it by my side. This morning when I awoke the child was dead."

The jury members took part of the doctor's testimony into consideration when they reached their verdict on the infant's death. The condition of the body, which they viewed as part of the inquest proceedings, forced them to acknowledge the child's neck had been broken. The jurors listed the cause of death as "rupture of the spinal cord in the neck," and then added, "but we think that it was accidently [*sic*] ruptured."[39] Not only did the jurors refuse to cite Norton as being responsible for the death of her infant, but after the inquest they collected a few dollars among themselves and presented the money to her.[40]

How and why the jurors came to the verdict they did will never be known for certain. Dr. Hutchinson offered them three possibilities as to how the rupture could have occurred, all of which suggested either deliberate intention or serious neglect. The jurors consciously disregarded the doctor's suggestions. Norton's tears and personal situation may have evoked the sympathy of the jurors and triggered an urge to protect her from further prosecution, or the jurors may have decided that there was no benefit to society in committing the young woman to jail.[41]

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[39] Norton, male baby, November 26, 1884," *Coroner's Inquests.*

[40] *London Advertiser,* "An Infant's Death,"

[41] Carolyn Strange, "Wounded Womanhood and Dead Men: Chivalry and the Trials of Clara Ford and Carrie Davies," in *Gender Conflicts: New Essays in Women's History,* ed. Franca Iacovetta and Mariana Valverde (Toronto: University of

The fact that Norton's illegitimate child appeared destined to be raised at the community's expense may also have affected the jurors' choice of verdict. While the jurors may not have consciously relieved Norton of responsibility for her child's death based on financial concerns, there is evidence to support the idea that citizens in towns and cities had little desire to assist unwed mothers financially and therefore did not harshly punish women when their infants died under suspicious circumstances. In her testimony before the inquest jury Norton described her travels around southern Ontario. She had paid for her travel to Lucan and Mitchell herself but once she arrived in Mitchell a new pattern emerged. The mayor of Mitchell gave her a pass on the railroad to go to Toronto. Once in Toronto she went to a refuge where the administration officials gave her a pass to Hamilton. The mayor in Hamilton sent her back to London by train. Norton's actions demonstrate that some unwed mothers turned to local communities for financial assistance. The reactions of public officials to Norton demonstrate how reluctant civic leaders, and the public who voted for them, were to have unwed mothers living in their communities. By

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Toronto Press, 1992), 178 argues male jurors in criminal courts based their verdicts on their own ideas of male chivalry while Constance B. Backhouse, "Desperate Women and Compassionate Courts: Infanticide in Nineteenth-Century Canada," *University of Toronto Law Journal* 34 (1884): 477-478 argues criminal court jurors could afford to treat women accused of infanticide leniently because their crimes did not threaten social stability by disrupting the power base

providing transportation to other towns public officials tried to reduce the number of women who could potentially need financial assistance from their citizens. This may explain why the jurors gave Norton money after the inquest. It was their way of encouraging her to move on.

The inquest into Norton's baby's death was also held within a year of the highly publicised infanticide case of Marie McCabe. McCabe was a Hamilton woman who drowned her infant in late 1882. At her infanticide trial McCabe told the jurors she had been driven to kill her infant because, as an unwed mother, she had been unable to find suitable employment and officials at local charities had refused to assist her. Newspapers in all parts of Ontario followed the proceedings closely and published sympathetic versions of her story that emphasised her desperation.[42] The *London Free Press* reported on McCabe's arraignment in Hamilton. The story told what happened after McCabe pleaded guilty to the charge of murder. "A painful silence ensued, and the Judge asked [the] prisoner if she pleaded guilty deliberately. She replied in the affirmative." The next day, when she was sentenced to hang for her crime, the newspaper moved McCabe's story to the front page.[43] London jurors would have recognised the similarities between the two cases and may

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of society. These arguments are not mutually exclusive and both are valid.

[42] The Canadian government publication, *Dominion Annual Register and Review 1883*, gave the story nation-wide publicity.

[43] *London Free Press* (London, Ontario) 17 and 18 October 1883.

have wanted to avoid the province-wide scrutiny the juries in Hamilton had faced.[44]

Mary McGrath, a domestic servant in London, followed the now familiar pattern of concealing her pregnancy and the delivery of her illegitimate child.[45] On Friday, July 30, 1897, McGrath complained to her employer, Hattie Eckert, that she was feeling ill. McGrath went to her room and refused to let her employer in when she came to check on her. Eckert became suspicious and threatened to have someone climb in McGrath's window if she did not open the door. McGrath finally let her employer in. Eckert found McGrath's bloodstained clothes and threatened to call the doctor. McGrath begged her employer not to notify the physician and Eckert agreed. The next day, after consultation with her husband, Eckert called the doctor. Eckert and Dr. Gardiner questioned McGrath together. They asked if she had ever been pregnant before and McGrath replied, "Yes, once - about three years ago."[46] McGrath told the doctor and her employer her child was in the outhouse. Although the doctor sent McGrath

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[44] Anderson, "Marie McCabe: More Sinned Against, " in *A Dance with Death,* 186-190. McCabe was originally sentenced to death but the sentence was later reduced to fourteen years in prison. When women's charity groups in Hamilton indicated they would be willing to assist the woman in re-establishing her life, McCabe was released from prison. She spent slightly more than five years in jail for her crime.

[45] The *Coroner's Inquest* files from this case are missing. All information on this case is derived from newspaper reports and the *General Register of the Gaol at London*.

[46] *London Advertiser* (London, Ontario) 2 August 1897. Apparently no one asked what had become of the child of the previous pregnancy. The issue of a previous birth was not introduced at the inquest or at the subsequent trial.

immediately to hospital no one searched for the child's body until the next day. On Sunday morning the Eckerts found the infant's body in McGrath's trunk. There was a strip of muslin tied tightly around the child's neck.

At the inquest on Monday morning, Mrs. Eckert recounted the events of the previous three days. She told the jury McGrath had been in her employ for three weeks. Eckert explained that McGrath's sister was her usual servant but, as she was ill, McGrath had come to fill her place.

Mrs. Murphy, McGrath's previous employer, testified McGrath had worked for her for three or four years. She told the jurors, "About two months ago [I] noticed Mary's condition but did not suspect the cause. Mary had never been sick at [my] place. The girl is not over intelligent but rather innocent. She is an orphan and has no relatives but her sister."[47]

The coroner adjourned the inquest, pending the results of Dr. Gardiner's post-mortem examination. On August 18, the doctor described the condition of the infant's body to the inquest jurors and gave his opinion of the cause of death:

> The tape was wound three times around the child's neck. The first two rounds were very tight, causing a deep indentation, sufficient to bruise the interior muscles. I can safely say the child was born alive. I don't think the child bled to death, because of the congested condition of the internal organs. I should say the child died of suffocation or strangulation.[48]

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[47] Ibid.

E.J. Rumball, a local undertaker, also testified before the jury on that day and his testimony led to a heated discussion between the coroner and some members of the jury. Rumball told the jurymen he had removed the child from McGrath's trunk on the Monday morning. He testified the umbilical cord was around the child's neck when he found the body. He added, "In lifting the child out I lifted it by the cord." After Rumball explained he took McGrath's clothes to her sister because the police told him they did not need them, a juror seized on the issue of the bloodstained clothes. "My object in asking about the clothes is because I think the child might possibly have bled to death after being placed in the trunk." Dr. Flock, the coroner, responded, "Dr. Gardiner, in his evidence, stated it was his opinion that death resulted from strangulation, and from the quantity of blood in the heart cavity it could not have bled to death." To which another juryman angrily retorted, "What is the use of having a jury if Dr. Gardiner's opinions are going to go for everything?" Another juror added, "This is the first we have heard of any bloodstained clothes." [49]

Dr. Gardiner was recalled and expanded on the reasons why he believed the death was caused by smothering or strangulation:

> [T]here was not sufficient blood on the covering of the child in the trunk to show that it bled to death. If the child had bled to death after being placed in the trunk there would have

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[48] *London Advertiser* (London) 19 August 1897.
[49] Ibid.

> been blood clots and many more marks. The marks on the neck might have been made after death, but they would not in that case account for the bruised impression on the interior. If the child had been smothered, it would have bled even less than if strangled.[50]

After one hour of deliberation the jury reached its verdict, "death was caused by strangulation."[51] Although they did not cite McGrath specifically as being responsible for the death, she was held in jail and a court date was set for September.

On September 27, a grand jury found "no bill" against McGrath for infanticide but a "true bill" against her for concealment of birth. She appeared before the Assizes Court on September 29 and pleaded not guilty to the charge of concealment of birth. The jury acquitted her, and she was released from jail.

Throughout the inquest and trial, the local press portrayed McGrath in a sympathetic light. The articles referred to her as "unfortunate" and "delicate". These words summarised the inquest jurors' attitude towards the woman. The questions posed by the jurors and their attempts to deny the power of the physician's comments indicate the jurors sympathised with the woman and attempted to protect her from further prosecution. While the inquest jury failed to halt further criminal proceedings, the grand jury members intervened to protect her from facing the more serious charge

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[50] Ibid.
[51] Ibid.

of infanticide in the criminal court. The Criminal Court jury's verdict finally succeeded in achieving what the inquest jurors had tried to do; they released her from all responsibility for her infant's death.

On rare occasions the phrasing of an inquest jury's verdict produced unforeseen and undesired results for the jurymen, particularly after the institution of local police forces. In 1883 a London inquest jury investigated the death of an unidentified male baby whose body was found buried under a barn. None of the witnesses at the inquest could suggest who the mother might have been. The doctor who performed the post-mortem examination indicated the full-term child had been born alive. While he noted the cord had been torn and not tied, he did not think the child had bled to death. He believed the child had been smothered or asphyxiated. In keeping with previous patterns of verdicts in cases where the identity of the infant's mother was unknown, the jury accepted and agreed with the examining physician's reason for the cause of death. The jurors cited "suffocation or smothering by some person or persons to us unknown" as the cause of death and added, "we hope that every effort will be made by the authorities to try to bring to justice the perpetrator or perpetrators of the deed." What the jurors did not expect was that Detective Frank Templar of the London police force would take them at their word.

Detective Templar began his investigation by interviewing the inquest witnesses. He began with Mr and Mrs. Gerry, the owners of the barn where the body had been discovered. The Gerrys initially denied knowing anyone who might have committed the crime. After an unnamed source advised the detective the Gerrys had recently employed a female servant, he questioned the couple again. They admitted they had employed Lilly Cook, a young woman who had temporarily left their home to recover from an illness. Mrs. Gerry told the detective she had noticed a change in Cook's shape and had questioned her about it but Cook had responded that she had "an abscess on her insides". Mrs. Gerry admitted she had not pursued the matter any further. The Gerrys gave the constable the address of Cook's aunt in Ilderton. Templar visited the woman who told him her niece had left her home earlier in the week to return to the Gerrys.

Templar returned to the Gerrys' home. Cook was not there but the detective searched her room. In it he discovered a box containing her personal belongings and found her corset and bloodstained undergarments inside. Templar noted the corset was laced in such a fashion that anyone could have seen that the tall, thin Cook was pregnant. When he showed these items to Mrs. Gerry, she responded by throwing back the blankets on Cook's bed and revealing bloodstained sheets. Mrs. Gerry called Cook a "dirty hussy" for having left her bed in such a state and complained that

she had been forced to wash the linens herself but had been unable to remove the stains. Yet Mrs. Gerry continued to claim that she had not suspected her servant of the crime or of even being pregnant until very recently.

On May 9, 1883 Templar tracked Cook to a farm near Rothsay where he arrested her. Cook admitted she had been afraid to return to the Gerrys' home as she had heard that there were men working in the barn. She also admitted to the constable that the child was hers and that it had been born alive. He formally charged Cook with concealment of birth. The records do not indicate why the detective did not charge Cook with murder. Perhaps he believed getting a conviction for the more serious charge would be difficult and that there was a better chance of proving her guilt on the lesser charge.

Cook pleaded "not guilty" at her trial. The surviving Criminal Court records do not include Cook's testimony, if she testified at all. The jury did hear her voluntary confession to Constable Templar through his testimony. Templar's statement details his questions at the time of Cook's arrest and her responses. The testimony reveals much about the dynamics at play: Cook's fear of her employers discovering her pregnancy and the repercussions which would follow; the shame involved in pre-marital pregnancy; and the possible sympathy felt by the constable based on the commonly held notion that childbirth could upset a woman's sense of right and wrong:

> I told her the doctor said it was born alive. She said "Oh yes, it cried. I was afraid Mr. and Mrs. Gerry would hear it & I covered it over & next when I went to look at it it was dead." I said you must have been in a frightful state to have got out of bed & to have buried the child where it was found. She said, "I don't know how I did do it but I did it to hide my shame. If there had been another party with me the child would have been alive now.[52]

Even with such damning evidence, the jury found Cook not guilty of concealment.[53]

Cook's case is the first example of police successfully locating the mother of an unidentified infant and bringing her to trial. When the inquest jurymen cited the cause of the infant's death as murder they did not expect to ever know the mother's identity. When her identity became known jurors in the Criminal Courts reacted to her in the same manner inquest jurors would most likely have dealt with her. Despite her admission that she had murdered the child, the jurors refused to hold her criminally responsible for the death of her infant. Cook affirmed the social norms and expectations of Victorian womanhood in her character and demeanour. She worked in the domestic realm and was well regarded by her employers. She admitted feeling shame for her sexual transgression. Most importantly, she claimed that the trauma of childbirth and the desire to hide her shame caused her to commit an action that she could not normally have envisioned. Cook fit the role of a Victorian woman

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[52] "Lilly Cook," *Criminal Court Records*.

worthy of protecting from the Criminal Court system. The "not guilty" verdict demonstrated the jurors believed the notoriety of the trial and the resulting loss of her reputation were sufficient punishment for her crime.

The increasing willingness of the police to actively investigate infanticide cases was also apparent at the inquest into the death of Bridget Gallagher's illegitimate child and Gallagher's subsequent trial for murder. The case also illustrates what happened when inquest jurors failed in their attempt to prevent further criminal prosecution of women suspected of having committed infanticide.[54] On October 4, 1885, Eva Barber, a servant at the Queen's Hotel in London, found an infant's body in a privy pit close to the hotel. The police were immediately called and, based on information obtained from witnesses, Gallagher was arrested and charged with concealment of birth and murder before the Coroner's Inquest started.[55]

The inquest was held two days later at the Police Court. Ducan Henderson, a stage driver, testified he had driven Gallagher from Lucan to London a week earlier. He recognised her as a servant from a hotel in a nearby town. He told the jurors she had appeared to be in good health and had not

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[53] Constance Backhouse, "Desperate Women and Compassionate Courts," 469.

[54] The *Coroner's Inquest* records for this case are missing. As a local newspaper reported on the inquest and trial in detail, the details found in the newspaper reports provide the bulk of information on the case. Unless otherwise cited, all quotes are taken from "The Infanticide Case," *London Advertiser* (London, Ontario) 7 October 1885.

[55] *General Register of the Gaol at London.*

given him any reason for her trip. William Bernard, owner of the Queen's Hotel, and members of his staff testified Gallagher had checked into the hotel during the previous week and had stayed one night. Harriet Bernard, the owner's wife, told the jurymen she had suspected Gallagher was pregnant and had questioned the woman about her condition. Mrs. Bernard testified Gallagher had denied being pregnant. Isabella Thompson, the cook at the hotel, expanded on the Bernards' testimony. She told the jurors she had spoken to Gallagher the next morning when the woman was on her way out. Thompson stated Gallagher had told her she intended to return to the hotel but the young woman did not come back. Thompson testified she later checked Gallagher's room and had found blood on the floor and windowsill. It was then, she said, she remembered seeing Gallagher going out towards the privy early in the morning carrying something with her.

Dr. Hutchinson performed the post-mortem examination. He indicated the female child was born at full term and the body displayed no external marks of violence. There was however, a "contused wound under the scalp high upon the forehead and the skull was not fractured." His statement indicates he answered a number of questions from the jurors. He stated, "the wound had been inflicted before the child died. A good deal of hemorrhage had taken place under the scalp where the wound was which could not have occurred had the child been dead when the wound was inflicted." He indicated the wound was the cause of death and added, "the

wound must have been caused by a heavy blow or a fall." The final statement from the doctor concerned how long the child had lived and when it died. "The child has been dead about two weeks, more or less, and had lived for about half an hour."

Gallagher was present at the inquest but she declined to make a statement. After a short deliberation the inquest jury returned with its verdict, "the child came to its death by a wound inflicted on its head, but whether wilfully done or by whom [we] do not know." The reporter who covered the inquest proceedings for a local newspaper ended his report with the prophetic statement, "The woman will be brought before the Police Magistrate this morning on the charge of murder, although the verdict of the coroner's jury amounts to an acquittal."

The magistrate at the Police Court ruled Gallagher's murder case would be heard at the next session of the Assizes Court. Gallagher remained in the London jail until her court hearing in January. On January 11, 1886 Gallagher was found not guilty of murder but guilty of concealment of birth.[56] On January 18, 1886 Gallagher was released from jail.[57] She had been in custody 107 days, 101 of which were spent awaiting trial.

Gallagher's quick discharge indicates the court believed Gallagher had served adequate time in jail for her crime. The release, along with the lack of public response to the

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[56] *London Advertiser* (London) 12 January 1886.

court's decision, demonstrates a general acceptance of the court's leniency by the wider community. Neither Gallagher personally, nor the crime she was convicted of, warranted further punishment.

Gallagher's case serves as another example of a woman who fulfilled many of the conventional expectations of Victorian womanhood and then benefited from the benevolence of the juries and courts. Gallagher was a twenty-year-old unmarried woman who worked in domestic service. She was temperate and claimed affiliation with the Church of England. She was not overly educated. Her single greatest flaw was her loss of sexual purity. Some members of society may have seen the fact that she concealed her pregnancy as an admission of shame and regret. When the jury members saw Gallagher, they saw a woman who, except for her one fall from grace, fulfilled many of the images of Victorian womanhood. For such a woman the public humiliation of an inquest and trial were sufficient punishments for her crime.

In 1892 Alice McKay did not attempt to conceal her pregnancy. Instead, she portrayed herself as a married woman by calling herself Mrs. Charles McGraw. Her child's death attracted the attention of the coroner because McKay and her mother were careless in disposing of the infant's body and because, during her pregnancy, McKay had made no effort to hide the fact that she and her mother intended to kill the child.

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[57] *General Register of the Gaol at London.*

On January 13, 1892, McKay gave birth to a daughter at her home in Strathroy. A few days later young John Milliken Jr. noticed a box at the side of the road. When he opened the box he discovered the body of a newborn infant. He immediately called his father who notified the police who, in turn, notified the coroner.

At the inquest, John Milliken Sr. testified he had seen two women in a cutter who were obviously looking for something. They stopped at his house and asked if he had found a small box. Although he did not identify the women, he stated the shorter of the two told him the box contained the body of Miss McKay's child and Mrs. McKay had left the box along the roadside. Milliken testified that when he told the women that the police had the box, the shorter woman asked him, "Will they hang her?"

Mrs. Emerson Hunter told the inquest jury that she had heard that McKay had given birth to an illegitimate child and that the child was dead. She testified that her younger sister, seventeen-year-old Harriet Wells, had been given the box that contained the child's body by Mrs. McKay. Together, Wells and McKay's mother left the box along the roadside. Hunter also told the jury her sister had overheard five year old Wallie McKay say the baby was alive and that "Grammy took it away in a room and when she brought it back it did not cry any more and it dident [*sic*] move." More importantly, Hunter told the jury:

> Alice McKay about two or three months ago told me that her mother would fix

> the baby when it came if there was no one around. She said also that Wallie would not have been alive today but there was a person present called Kate McFee so she did not do away with it.

Annie Collins, a neighbour of the McKay family, offered testimony that directly conflicted with that of Hunter. Collins stated she had arrived at the McKay home shortly after the baby's birth and had watched the child turn black as Mrs. McKay washed it. She testified McKay had taken all possible care with the newborn.

The detailed post-mortem report indicated the infant was full term, healthy, and, although the lungs had never been fully inflated, the child had breathed. The report concluded the child had been born alive and had died soon after "either from neglect on the part of the attendants; or that some party or parties prevented it from breathing." In either case the post-mortem identified the death as criminal.

The coroner's jury apparently disregarded the medical evidence and Hunter's hearsay testimony. They ruled the infant was McKay's child and that it had died shortly after birth but "how or by what means the said child came to her death no evidence doth appear to the said Jurors."[58]

There are a number of reasons why the jurymen may have come to this verdict. They may have been truly unable to determine the cause of death. The post-mortem report did not provide them with a conclusive cause of death and the

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[58] "McKay, female baby, February 4, 1892," *Coroner's Inquests*.

witnesses gave conflicting testimonies. Other forces may have influenced the jurors' choice of verdict as well. Strathroy was a small community at this time, with a population of just over three thousand people.[59] Chances are good the jurymen knew the women at the inquest or had heard something about them. The jurors' preconceived notions of these women, their circumstances, and their characters would have influenced their reaction to the women at the inquest. This may explain why the jurors chose to ignore Hunter's testimony and tried to protect the other women from further criminal investigation. By citing a verdict that did not lay blame on anyone, the jurymen may have been trying to shield the women from the publicity and embarrassment of further dealings in the public arena.

The police, however, had different ideas. On February 1, 1892, officers arrested Mrs. McKay and Harriet Wells, charged them with concealment of birth, and took them to the jail in London. They did not arrest or charge Alice McKay. The court records do not indicate if the women were tried in criminal court before a judge alone or by judge and jury. The results of the concealment trials for both women were the same; they were acquitted after being in jail for five days.[60] Once again the court system continued the pattern of verdicts established by the inquest juries; the public humiliation of the inquest process was sufficient punishment for the actions of the women.

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[59] *Census of Canada, 1891.*

The verdicts in these cases clearly demonstrate the evolving attitudes towards unwed mothers and their illegitimate offspring. Jurymen used their own judgement when weighing moral transgressions in their communities and refused to be overwhelmed by the opinions and intervention of the medical profession or the police. By the end of the century jurymen at all judicial levels refused to punish women suspected or accused of killing their illegitimate babies. The refusal of the jurors to hold these women responsible for the deaths of their children demonstrates two interwoven attitudes of the era: the apparently low value placed of infant life, particularly illegitimate infant life; and the belief of the jurymen that public exposure was itself a punishment. During an era that celebrated modesty and delicacy as being important to women who cherished their "good" reputations, the widespread notoriety and public humiliation of a Coroner's Inquest was sufficient punishment for the death of an illegitimate child.

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[60] General Register of the *Gaol at London*.

Chapter 4: Understanding the Jurors' Verdicts

When Coroner's Inquest jurymen reached their verdicts on the cause of death, each jury member drew on two distinct sets of knowledge. The first set was the evidence he heard and saw at the inquest. Each juror considered the physical condition of the infant's body and the extent of any visible injuries. The juror reviewed the statements of witnesses and the post-mortem report. Each juror then unconsciously balanced this information against his second set of knowledge, his person belief system: what he considered valid, true, and moral. Based on this second knowledge set the juryman then discounted statements and opinions from the inquest he deemed improbable or simply wrong. Therefore the juries' verdicts reflect not only the evidence presented at the inquest but, more importantly, they demonstrate the opinions, beliefs, and morals of the jurors as they related to the deceased infants and the women connected with their suspicious deaths. The wider environment in which the jury members lived shaped these beliefs, morals and opinions. Thus, to understand how the jurors reached their verdicts one must examine the intellectual, scientific, and social frameworks of the times. The cultural context of English Canadian society between 1850 and 1900 directly influenced and shaped the jurors' responses to infant deaths and the women suspected of contributing to or causing these deaths.

The period between 1850 and 1900 saw Canadian society change rapidly. Modern science and new technologies presented ideas and ways of doing things that called previously held beliefs into question. While emerging professional and intellectual elites embraced these ideas readily, the diffusion of these ideas into the consciousness of the general population may have lagged somewhat. New theories of life and evolution challenged traditional thinking and religious views. Canadians struggled to balance and assimilate these new ideas with their long-standing morals and beliefs.

One of the key issues in the rapidly changing society was the role and place of women. Sermons, newspaper articles, and popular books abounded with clearly defined images of ideal Victorian womanhood.[1] These discourses defended traditional notions of womanhood at a time when some women were beginning to challenge longstanding gender conventions with demands for education and autonomy.[2] The poet laureate, Alfred, Lord Tennyson described the ideal woman as "a lover, a virgin, an angel, a young and beautiful woman, a being who scarce touches the earth with the tips of her wings."[3] Victorian Canadians' publicly expressed expectations of women were less poetic but equally

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[1] Alison Prentice et al, *Canadian Women: A History* (Toronto: Harcourt Brace Janovich, 1988), 143.

[2] Mariana Valverde, *The Age of Light, Soap, and Water: Moral Reform in English Canada, 1885-1925* (Toronto: McClelland & Stewart Inc., 1991), 29-33.

[3] As quoted in Carole Seymour-Jones, *Beatrice Webb: Woman of Conflict* (London: Allison & Busby, 1992), 15.

demanding. Most Canadians of the era believed a "true" Victorian woman was emotional, dependent, gentle, and spiritual. In her designated realm of the home, the ideal Victorian woman was also protective, loyal, efficient, and capable. Motherhood epitomized the essence of virtuous womanhood in late nineteenth-century Canada. Victorian Canadians identified purity as a central character trait of virtuous womanhood. For unmarried women this purity had both moral and sexual aspects and was the determining factor in how the wider community viewed them.

The Canadian Victorian ideology of female roles and behaviours was rooted in both philosophical and medical contexts. In the latter half of the nineteenth century politicians, social reformers, and journalists helped to disseminate the theoretical works of British philosopher Herbert Spencer. Spencer theorized that in modern civilization men and women evolved at different rates and in different directions. The more advanced the society, he argued, the greater the differences were between the sexes, and these differences served evolutionary purposes. Spencer believed the individual evolutions of women halted earlier than those of men to channel the women's energies into their more complicated reproductive systems.[4] This difference furthered the well-being of the race in Spencer's view. Social Darwinists, as his followers came to be known, warned

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[4] Jane Lewis, "Introduction: Reconstructing Women's Experience of Home and Family," in *Labour and Love: Women's*

that women who rejected their reproductive role became physically, mentally, and emotionally fragile.

Spencerian theories gained even greater circulation in Canadian society as they received widespread acceptance within the medical community. The medical establishment in Europe and North America refined the ideas regarding the differences between the sexes and argued biology determined all differences between men and women and linked these differences to evolutionary progress. This thinking extended to personality as well as physical traits. Medical theory characterized men as calm, logical, and intellectual, whereas it judged women as irrational, foolish, and prone to hysteria. Men's brains controlled their actions and attitudes, but women's smaller brains worked in direct opposition to their uteruses. Doctors quickly pointed out that women did not choose these feminine frailties consciously. Their very biology determined their weaknesses.[5]

The belief in uterine control of female behaviour led doctors to perceive women as mentally less stable than men. This belief pervaded many of the inquests into suspicious infant deaths. Doctors labeled hysteria as a disease of

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Experience of Home and Family, 1850-1940, ed. Jane Lewis (Oxford: Basil Blackwell Ltd., 1986), 2.

[5] For a more detailed discussion of the medical community's perceptions of the biological reasons for the differences between men and women during this era see Wendy Mitchinson, *The Nature of Their Bodies: Women and Their Doctors in Victorian Canada* (Toronto: University of Toronto Press, 1991), 14-76.

womanhood and linked the source of hysteria to the uterus.[6] According to the medical profession, women shifted easily from hysteria to outright insanity. "With women it is but a step from extreme nervous susceptibility to downright hysteria, and from that to overt insanity,"[7] stated Dr. Isaac Ray at an American medical conference in 1867. Doctors believed two elements had to be present before insanity could take hold: predisposition and a trigger. Medical experts included pregnancy, lactation, and menstruation as predispositions for insanity. Triggers included pregnancy, parturition, fever, and overwork.[8] Dr. Ray expanded on the idea of differing sexual evolutions as being responsible for women's unstable mental conditions and connected this instability to criminality:

> In the sexual evolution, in pregnancy, in the parturient period, in lactation, strange thoughts, extraordinary feelings, unseasonable appetites, criminal impulses, may haunt a mind at other times innocent and pure.[9]

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[6] Ibid., 278-290. Mitchinson argues that most physicians of this period accepted the notion that dysfunction or disease of the female sexual organs caused hysterical behaviour. In effect, hysteria was a disease of women. When males displayed similar symptoms the doctors labelled the men as deviants. Angus McLaren expands the argument that nineteenth-century medical and legal communities labelled men who displayed "feminine" behaviours as deviants in his book, *The Trials of Masculinity: Policing Sexual Boundaries 1870-1920* (Chicago: University of Chicago Press, 1997), 137-157.

[7] Dr. Isaac Ray, as quoted in Ann Jones, *Women Who Kill: A vivid history of America's female murderers for Colonial times to the present. . . .* (New York: Fawcett Columbine , 1981), 160.

[8] Ibid., 160. Jones points out that these predispositions are all conditions of womanhood and therefore could not be experienced by men.

[9] Ibid.

Ideas such as these predisposed Victorian Canadians to perceive women who had just given birth as potentially unstable. While inquest jurors were never doctors, and hence were not likely to read medical texts or attend medical conferences, the ideas put forth by the medical profession did find their way into the broader public arena. Newspapers frequently reported on recent scientific discoveries and new medical theories.[10] In addition, the press carried reports of issues discussed at medical conferences. For example, when a London, Ontario, hospital held a medical conference in 1895, one of the presenters discussed Dr. Cesare Lombroso's classifications of female criminals. A local newspaper printed a detailed report of the discussion in language the reading public could easily understand.[11] More importantly, a number of doctors wrote advice books specifically geared to the general public. These books were widely read by Victorian Canadians.[12] Dr.

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[10] For some examples of these reports see "Scientists in Session" and "Wheat Experiments" *London Advertiser* (London, Ontario) 19 August, 1897.

[11] "The Female Criminal," *London Advertiser* (London, Ontario) 17 December 1895. Additionally, as the London Asylum was an important site for research in this area and the related field of "sexual surgery" for female psychiatric disorders, it is reasonable to assume the local press carried periodic reports on the work done at the Asylum. For more information on Dr. Richard Bucke and his work at the London Asylum see Mitchinson, *The Nature of Their Bodies*, 312-355.

[12] Michael Bliss, "'Pure Books on Avoided Subjects': Pre-Freudian Sexual Ideas in Canada," in *Studies in Canadian Social History*, ed. Michiel Horn and Ronald Sabourin (Toronto: McClelland and Stewart Limited, 1974), 326-327. James C. Mohr, *Abortion in America: The Origins and*

George Napheys, a physician who claimed thousands of Canadians bought and read his book *The Physical Life of Woman: Advice to the Maiden, Wife and Mother,* supported the notion that giving birth could trigger a specific type of insanity. According to Napheys' book:

> [Puerperal mania] is a variety of insanity which attacks some women after childbirth, or at the period of weaning a child. The period of attack is uncertain, as it may manifest itself first in a very few days, or not for some months after the confinement.[13]

Medical opinions such as these helped create and justify the widely held belief that women could commit violent acts as a result of having given birth and that these actions were beyond the women's conscious control.

An inquest in 1894 in London confirmed these assumptions. At the inquest into the death of a Mrs. Jepson's seven month old son, Jepson's neighbour told the jurors that Jepson admitted to drowning her baby. "She came back and called to me. "Come here, Mrs. Stockwell," the neighbour testified. "I want to tell you something. I want you to come over to my house, for I put the baby in the cistern, yes I have sent it to heaven. I tried to send Marston, [Jepson's five year old son] but he wouldn't go'." Jepson's doctor testified he had treated her for "puerperal

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Evolution of National Policy, 1800-1900 (New York: Oxford University Press, 1978), 173 states Dr. Napheys' book, *The Physical Life of Woman: Advice to the Maiden, Wife and Mother* sold 150,000 copies in its first three years in North America.

mania" and confirmed the woman had become delusional. The jurors cited the cause of death as "by drowning in a cistern at the hands of its mother while labouring under a fit of insanity."[14] British law later enshrined these beliefs in the 1922 Infanticide Law that declared all women potentially insane in the first few months following childbirth.[15]

Medical theories of heredity also found their way into the public realm. During this era Lamarckian theories of the ability of children to inherit acquired traits from their parents[16] blended with the newer Darwinian ideas of the survival of the fittest. Most contemporary physicians believed parents passed both their physical and their personality traits onto their children. Dr. Napheys explained to his readers that red-haired parents produced children who not only inherited their parent's red hair, but also the fiery temper he believed all redheads displayed.[17] Victorian Canadians believed that mothers could also

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[13] George H. Napheys, *The Physical Life of Woman: Advice to the Maiden, Wife and Mother,* (Chicago: William M. Wood & Co., 1880), 302.

[14] J.J. Talman Regional Collection, D.B. Weldon Library, University of Western Ontario, London, Ontario. "Jepson, baby, June 12, 1894," *Coroner's Inquests, Middlesex County.* Other references to the Coroner's Inquest documents in this chapter will be referred to by the name, date, and the abbreviated notation of *Coroner's Inquests.* Unless otherwise cited, all quotes in the chapter are taken directly from the relevant inquest file.

[15] Ann R. Higginbotham, "'Sin of the Age': Infanticide and Illegitimacy in Victorian London," *Victorian Studies* 32, no. 3 (Spring 1989): 337.

[16] J.B. de Monet Lamarck was a French nineteenth-century biologist who theorised that structural changes acquired by the parent could be transmitted to the offspring.

[17] Napheys, *The Physical Life of Woman,* 104.

transfer temporary conditions to their children at the time of conception or through breast milk.[18] Therefore, drunken mothers produced stupid children and sad mothers had unhappy children. According to this line of thinking, immoral or fallen women gave birth to children who inherited their mother's moral weaknesses. The Coroner's Inquest records suggest that these ideas were generally accepted within Canadian society. In 1867 an inquest jury ruled a child born to a prostitute in the London jail died of "natural causes". They agreed with the jail physician who testified the infant died from "a deficiency of vital energy born of a mother of a very immoral character and owing to previous character of the mother is attributable the cause of death of the child."[19] Three years later, when the child Mary Hennesy delivered while she was in jail died, the inquest jury spent little time investigating the death. Without the benefit of a post-mortem examination or the testimony of witnesses, the jurors cited death by "natural causes."[20] In light of prevailing attitudes, the absence of moral heath created an expectation of physical weakness or deformity.

The dissemination of scientific theories did not translate into automatic acceptance of medical expertise. The reluctance of juries to value medical testimony in the

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[18] Ibid., 103 and Lionel Rose, The *Massacre of the Innocents: Infanticide in Britain 1800-1939*, (London: Routledge & Kegan Paul, 1986), 51.

[19] "Fuller, male baby, September 23, 1867," *Coroner's Inquests*.

[20] "Hennesy, female baby, April 2, 1870," *Coroner's Inquests*.

same light as those who provided it makes this tension apparent. In their attempts to justify their opinions, solidify their professional status, and influence inquest jurors, doctors produced increasingly detailed reports of post-mortem examinations. Doctors noted obvious signs of disease or abuse in their post-mortem reports during the middle years of the century. By the end of the century the reports were generally two or three pages long and included detailed information about the infant's weight, length, head and chest measurements, status of the internal organs, and comments on any unusual marks or bruises. The reports noted details of the state of the infant's lungs and the umbilical cord.[21] Victorian Canadians tended to accept and believe medical theories when these theories reflected and validated established beliefs. The inquest verdicts demonstrate that

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[21] The state of the infant's lungs was of particular interest to doctors. They wanted to prove whether or not a child had breathed before its death and the lungs appeared to hold the answer. The doctors used the seventeenth-century hydrostatic test in their attempts to determine if the child had breathed. This test frequently produced inaccurate results and doctors were aware of this. The test involved removing the lungs from the body cavity and floating them in water. The theory was that if the child had breathed the lungs would float. Conversely, if the lungs sank, the child had never breathed. Disease in the lungs, decomposition of the tissue, and attempts to resuscitate the infant could all lead to false test results.

The importance of the condition of the umbilical cord was a source of disagreement within the medical community. Some doctors believed if the cord was torn rather than cut and then left untied the child would bleed to death. Other doctors disagreed with this notion and stated so publicly.

For some references to the above discussions in the Coroner's Inquest files, see "Unidentified female baby, May 8, 1891,"; "Unidentified female baby, December 28, 1866,"; 'Unidentified female baby, April 18, 1881,"; and "Unidentified male baby, April 5, 1892," *Coroner's Inquests*.

they did not accept the theories solely on the authority of the medical profession. While nineteenth-century Canadians were interested in medical and scientific advances, they did not view medicine as an exact science. The medical community had not yet secured the level of professional credibility and authority it would attain in the twentieth century. For Coroner's Inquest jurymen, a doctor's determination of the cause of death of an infant was still an opinion, not an expert's authoritative determination of fact. The fact that the doctor had used a variety of scientific tests and measurements to determine the cause of death did not overwhelm or impress the jurors. Although doctors intended port-mortem reports to impress and inform the jurors so they could determine an infant's cause of death properly, the doctors used medical terms and phrases that may not have been easily understood by the jury members. By using complex medical terminology the doctors widened and exacerbated the rift between themselves and the members of the inquest juries. That the jurors do not seem to have questioned doctors for clarification of the post-mortem reports gives an indication of how reluctant jury members were to grapple with the barrage of medical jargon.

The evidence of the Coroner's Inquests reveals the inability of doctors to convince jurymen of their expertise in determining the causes of suspicious infant deaths. For reasons of their own jury members either accepted the medical evidence as valid and cited the cause of death

according to the physician's opinion, or they disregarded the medical opinion and cited another reason for the death. Whether or not they accepted the doctor's opinion depended much more on the circumstances of the case than on the weight of a given doctor's opinion. In each of the thirty-four instances in this study when an inquest jury investigated the death of an unidentified infant, the jury's verdict directly reflected the examining physician's opinion of the cause of death. Whether the doctor cited murder, accident, or natural causes in these cases, the jury verdicts always exactly followed the stated medical opinion of the cause of death. Yet, in thirteen of the twenty-three instances when juries investigated the death of an illegitimate infant whose mother's identity was known, jury members disregarded the physicians' opinions of culpable death and cited other reasons for the death.[22] The jurors did nothing illegal when they disregarded medical opinions. The laws and procedures relating to Coroner's Inquests placed the onus for determining the cause of death in the hands of the inquest jurors and they guarded this prerogative stubbornly.[23] While post-mortem examinations

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[22] Of the ten remaining cases, three involved women who died while giving birth to their illegitimate children, two investigated the deaths of children who were born while their mothers were in jail and four were stillbirths. At the inquest into the death of Mary Springstead's child, the jurors cited Springstead as responsible for the death. She had already publicly confessed to drowning her infant. "The Infanticide Case," *London Free Press*, 4 May 1870.

[23] William Fuller Alves Boys, *A Practical Treatise on the Office and Duties of Coroners in Ontario*, 2d ed.(Toronto: Hart & Rawlinson, 1878), 131.

were a routine part of the inquest procedure, the jurors alone determined how much credence they applied to the examination findings.

If the status of medical expertise left the jurors ample room to exercise discretion, Canadian law was a little more definitive. The law imposed two stipulations on inquest juries before they could cite infanticide as a cause of death. The first requirement was that the jurors had to believe the child had been born alive because, as the *Treatise* noted, "the law humanely presumes that every new-born infant is born dead."[24] The second stipulation was that the child had to have been fully delivered from its mother's body before its death. In other words, before an inquest jury could cite an infant's death as murder, someone had to prove the child had lived after being fully separated from its mother. This legal doctrine created immediate problems at inquests that involved women who had delivered their babies in secret. By definition in these cases there were no witnesses to testify whether or not the infants had lived after separation.[25] Unless there was food in the infant's stomach, doctors could not prove conclusively that the baby had been fully delivered from its mother prior to its

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[24] Ibid., 52. In Criminal Court cases the onus for proving the child was born alive rested with the prosecution.

[25] Ibid., 53. The fact that a woman concealed her birth was not supposed to be of concern to the inquest jurors. According to the law, concealment had no connection to the cause of death.

death.[26] Although doctors rarely hesitated to give their opinions of the cause of an infant death, the medical profession's inability to provide incontrovertible evidence of the separate existence of infants allowed Coroner's Inquest jurors room for discretion in their verdicts.

Similarly, other legal doctrines authorized the juries to place their own interpretation on the medical evidence. Canadian homicide laws required that for an infant death to be classified as infanticide intent had to be present. Medical evidence could not establish intent. In many cases the infants' deaths appeared to result from causes that could have been either intentional or accidental. Boys' *Treatise* outlined a number of situations where a mother could not be held legally responsible for the death of her newborn, but also described similar situations that would be considered murder. The differences between what was considered evidence of murder and what constituted accidental or natural death were slight and open to subjective interpretation. In these situations inquest jurors used their discretion to decide whether or not the death was intentional. Their verdicts reveal how they used this discretion. They interpreted the law narrowly when they did not know the identity of the infant's mother, but they were more generous in their interpretations when they wanted to avoid citing a mother as being responsible for her infant's death.

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[26] Ibid., 50.

When Ann Jane Place[27] refused to get up from the chamber pot after the birth of her child, the Coroner's Inquest jury ignored the doctor's suggestion that her refusal had led to the infant's death. The jurors could justify not citing the young woman for causing her infant's death because the *Treatise* indicated that "[t]he pains of labour may be mistaken for other sensations, and the child in consequence be born under circumstances which would inevitably cause its loss without any blame to the mother."[28] Similarly, when doctors testified that the Reid and Gallagher infants[29] died from wounds on their heads, the jurors turned to the information contained in the Coroner's handbook:

> Severe injuries are sometimes unintentionally inflicted on infants suddenly born, while the mother is standing, sitting, or on her knees. . . Fractures of the skull, with extravasation, sometimes occur from natural causes during parturition, and may lead to a suspicion of criminal violence. These fractures and extravasations are generally of very slight extent, while those caused by criminal violence are commonly much more severe.[30]

Yet, when an unidentified infant's body displayed the similar injuries the inquest jurors cited infanticide as the

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[27] "Place, male baby, May 26, 1855," *Coroner's Inquests.*
[28] Boys, *Treatise,* 2d ed., 54.
[29] "Reid, male baby, October 23, 1853," *Coroner's Inquests* and "Infanticide Case: Insufficient Evidence to Satisfy the Jury How Bridget Gallagher's Child Came to Its Death," *London Advertiser* (London, Ontario) 7 October 1885.
[30] Boys, *Treatise,* 2d ed., 55.

cause of death.[31] The jurors determined the degree of severity for themselves and by their verdict could release the women from all responsibility for their infant's deaths.

Maria Calcut's[32] failure to tie her infant's umbilical cord after she delivered it in the woods on the way to her cousin's home could also be justified according to information provided by the *Treatise*:

> The omission of a self-delivered woman to tie the umbilical cord, in consequence of which her child dies, is not murder, as her distress and pain may cause this neglect, or she may not be aware of the necessity for applying a ligature to the cord, or she may become insensible after the delivery. But *wilfully* neglecting to perform this office for the child, if satisfactorily proved, would be murder.[33]

The jurors embraced this explanation on Calcut's behalf and ignored the fact that she had failed to return for her infant after she left it in the woods while she searched for help. In three cases that involved unidentified infants however, the inquest jurors were much less willing to accept the notion that the mothers may have been in too much distress and pain to tie the umbilical cords. The verdicts in these cases were the same; the unknown mothers were guilty of willful neglect and murder.[34]

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[31] "Unidentified male baby, May 9, 1873," *Coroner's Inquests*.

[32] "Calcut, female baby, June 4, 1862," *Coroner's Inquests*.

[33] Boys, *Treatise*, 2 ed., 53.

[34] "Unidentified female baby, April 23, 1881,"; "Unidentified male baby, November 13, 1884,"; and "Unidentified male baby, April 5, 1892," *Coroner's Inquests*.

When Mary McGrath's[35] infant was found with a muslin strip tied around its neck, the inquest jurors still avoided specifically citing the woman as responsible for her child's death because the umbilical cord was also around the child's neck. The instructions in the *Treatise* stated, " A child may die from the cord becoming twisted round its neck *in utero*, before parturition. This cause of death sometimes gives rise to an idea that the child was strangled."[36] The jury focused on the possibility, in light of the evidence, that the child might have died from being strangled by the umbilical cord. They chose to ignore the implications of intent the muslin strip around the infant's neck represented. Yet when an unidentified infant's body was found with the umbilical cord around its neck, the inquest jurors verdict was that "this child was murdered by some person or persons unknown."[37]

The Coroner's Inquest jurors at the inquest into the death of Elizabeth Norton's child[38] used the instructions in the *Treatise* to protect her from criminal prosecution even though her child's neck was obviously broken. "Mere appearances of violence on the child's body are not

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[35] "Mary McGraw's Case," *London Advertiser* (London, Ontario) 19 August 1897. When the case first appeared in the newspaper on 2 August 1897, the woman's name was listed as Mary McGrath. In two later reports her name was listed as McGraw. For continuity and clarity, all references to this case are under the first name reported in the press.

[36] Boys, *Treatise*, 2d ed., 54.

[37] "Unidentified male baby, January 24, 1887," *Coroner's Inquests*.

[38] "Norton, male baby, November 26, 1884," *Coroner's Inquests*.

sufficient of themselves. The evidence must go further, and show intentional murder."[39] Even though the examining physician graphically detailed three ways he believed the injuries could have occurred, all of which had to have been deliberate, the jurors deemed intent had not been proven.

The *Treatise* instructions provided rationales for disregarding the examining physicians' testimonies. The *Treatise* was a means to an end for the jurors, however, and not an end in itself. In cases where the jurors knew who the mother of the deceased infant was, they could find in the *Treatise* a way of exonerating the woman. In each of the cases where the mother appeared sorrowful and repentant the Coroner's Inquest jurors took the view that the woman could not be held responsible for the deaths of her infant. Repeatedly, the jurors interposed their own opinions between medical testimony and a suspected woman to stop further investigation and prosecution. This was in stark contrast to those cases where the mothers of unidentified infants had successfully concealed their crimes and avoided any public humiliation. Thus, it would appear that the jurors believed the women who had endured the humiliation of the inquest process had been punished sufficiently.

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[39] Boys, *Treatise*, 2d ed., 55.

While we will never know what was said among the jurors as they deliberated, we can trace the attitudes and beliefs of these men towards unwed mothers and their illegitimate children through their verdicts. Firstly, as Backhouse, Belhmer, and Higginbotham have indicated,[40] the inquest verdicts demonstrate the low social status of illegitimate infants. Illegitimate children represented potential burdens on the community, both financially and genetically. Their deaths threatened the community less than their existence did. Secondly, and more importantly, the verdicts suggest that the middle class jurymen internalized and accepted Victorian notions of worthy womanhood and that these ideas mediated their understanding of the women's behaviour. When a suspected woman appeared ignorant, ashamed, embarrassed, weak, and tearful, she assumed the characteristics the jurymen expected from a "good" Victorian woman. These traits transformed her from a perpetrator to a victim.[41] When the woman also lived and worked in the domestic sphere her image as worthy woman was further

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[40] Constance Backhouse, *Petticoats and Prejudice: Women and the Law in Nineteenth-Century Canada* (Toronto: Women's Press, 1991), 136 and "Desperate Women and Compassionate Courts: Infanticide in Nineteenth-Century Canada," *University of Toronto Law Journal* 34 (1984): 463-464; George K. Behlmer, "Deadly Motherhood and Medical Opinion in Mid-Victorian England," *Journal of the History of Medicine and Allied Sciences* 34 (1979): 422; and Higginbotham, *"'Sin of the Age',"*: 319-328.

[41] Carolyn Strange documents the same phenomenon in the murder trials of women accused of murdering men. See Strange, "Wounded Women and Dead Men: Chivalry and the Trials of Clara Ford and Carrie Davies," in *Gender Conflicts: New Essays in Women's History*, 2d ed., ed. Franca

enhanced in the eyes of the jurors. When giving birth to an illegitimate child appeared to be the woman's sole deviation from the standards of Victorian womanhood, the jurymen moved to protect her from further investigation and public embarrassment by citing a cause other than murder for her infant's death. The verdicts indicate the jury members did not believe the woman deserved any further punishment or embarrassment than the inquest proceedings had already caused her. That there were no protests from the general public regarding the verdicts of the juries indicates the values and ideas exemplified by the verdicts were widely held within the local community. The public shaming of a Coroner's Inquest was sufficient punishment for a worthy Victorian woman for the killing of her illegitimate offspring.

Iacovetta and Mariana Valverde (Toronto: University of Toronto Press, 1992), 176-179.

Chapter 5: Conclusion

When the jurors at the 1871 inquest into the death of Alice McManus's son changed their verdict on the cause of death from "ignorance on the part of the mother in neglecting to use proper means to save its life" to "unknown"[1] they demonstrated their belief that the public humiliation of the Coroner's Inquest process was sufficient punishment for her crime. The jurors knew that McManus had committed a crime against society. They were not necessarily convinced, however, that she was criminally responsible for the death of her infant. The crime that concerned the jury in many respects was her deviation from conventional expectations of womanly purity, not the demise of the infant. McManus publicly admitted she had engaged in premarital sexual intercourse. The just and necessary punishment for this deviation, in the minds of Victorian Canadians, was her public humiliation and the ensuing loss of her good reputation. The Coroner's Inquest was both the process that determined her guilt and the punishment for her social crime.

The Coroner's Inquest records give an indication of how frequently this scenario was played out in late nineteenth-century Ontario. While Criminal Court records detail the cases that progressed through the judicial system, the

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[1] J.J. Talman Regional Collection, D.B. Weldon Library, University of Western Ontario, London, Ontario. "McManus,

inquest records reveal that the majority of cases never reached that stage. When a woman who was suspected or accused of killing her illegitimate offspring appeared ashamed and distraught over the public exposure of her illicit sexual activities, the inquest jurymen cited forces other than murder as the causes of the infant's death. In most cases, the jurors' verdicts effectively halted all further criminal investigations into the death and that appears to have been their intention. Through the power of their verdicts, the jurymen interposed themselves in the judicial process to protect the suitably contrite woman from further public humiliation and criminal prosecution. In the eyes of the jurors, punishing a woman who was responsible for the death of an illegitimate infant was less important than protecting a sufficiently humiliated woman from further notoriety. Infanticide did not warrant a jail sentence.

Conversely, at inquests involving unidentified infants, jurymen brought down forcefully worded verdicts of culpable neglect and intentional murder. In these cases the value of lost infant lives was no greater than in cases where the jurors knew the identity of the mother. The difference was that these mothers had successfully hidden their illicit sexual activities, the ensuing pregnancies, and childbirths. Most importantly, these women had eluded the public humiliation of the inquest procedure. In the eyes of the jurymen, these were the women who had got away with a crime.

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male baby, May 4, 1871," *Coroner's Inquests, Middlesex*

The tenor of the verdicts was fraught with moral indignation. Inquest jurors railed against this undiscovered iniquity and their inability to punish these deviant women. The wording of their verdicts reflects their frustration.

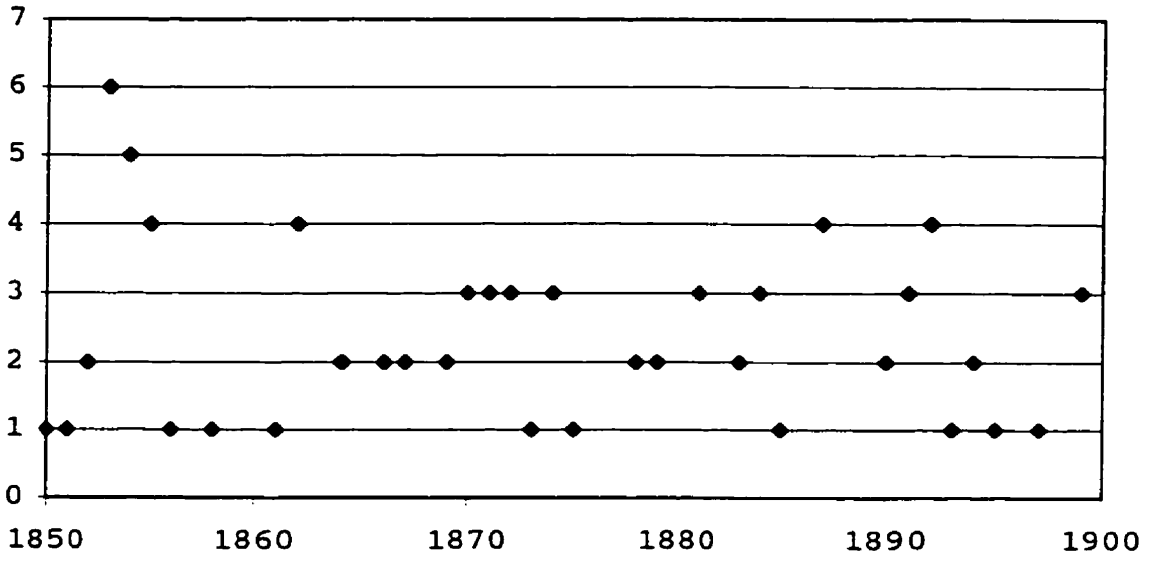
Late nineteenth-century inquest verdicts disclose that jurors faced increasing challenges to their role as articulators of community values. Coroner's Inquest records document growing tensions between inquest jurors and professionals who seemed determined to undermine the authority and autonomy of the juries. Doctors and police forces struggled during this era to demonstrate to the wider community that they possessed special skills and knowledge that no other group shared. According to these emerging professions, the special skills of their members equipped them with particular and superior expertise to determine who was criminally responsible for illegitimate infant deaths. Doctors tried to convince jurors that they were the ones best suited to determine the cause of death. The police worked to remove any doubt of who was criminally responsible for the deaths. These struggles for power and public recognition by the doctors and police placed them in direct opposition to the inquest jurors. For their part, the jurors displayed equal determination to hold onto their special ability to rule on the cause and culpability of death at the inquests.

County.

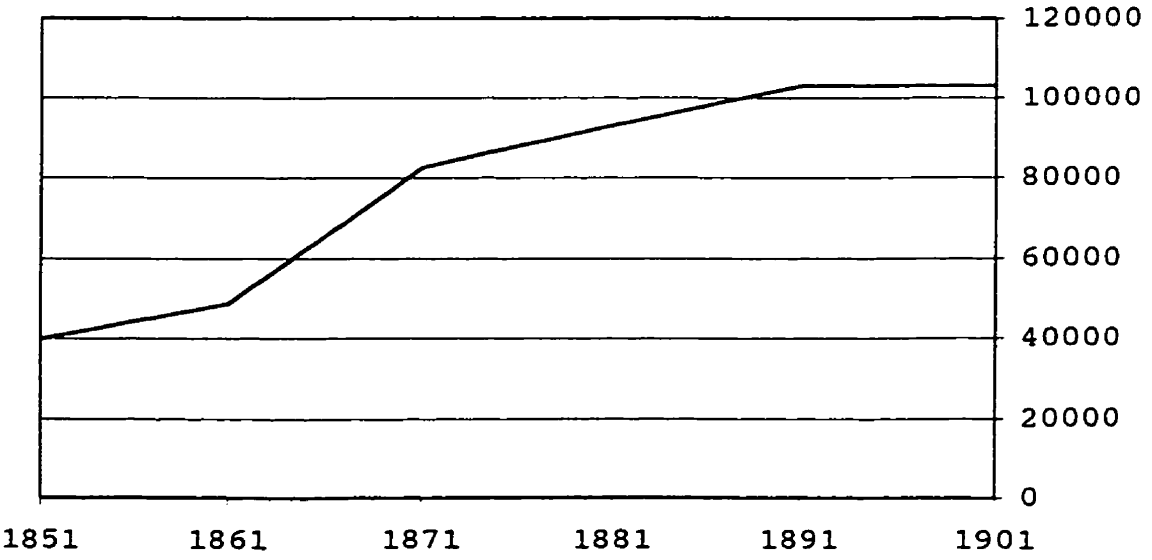
As their verdicts demonstrate, by refusing to share this responsibility the Coroner's Inquest jurors jealously guarded their own autonomy. They used the power of their verdicts to articulate the social and sexual norms of the wider community. For late nineteenth-century Victorian Canadians infanticide was the final phase of a concealed pregnancy and was only one of several consequences of illicit sexual activity. The crime of illicit sexual activity superseded a woman's responsibility in the death of her illegitimate offspring. The jurors' verdicts suggest the sufficient and just punishment for that crime was the public humiliation and notoriety of the Coroner's Inquest.

Appendix 1: Comparison of the Number of Coroner's Inquests into Suspicious Infant Deaths with the Population Growth of Middlesex County, 1850-1900

Investigations into Suspicious Infant Deaths

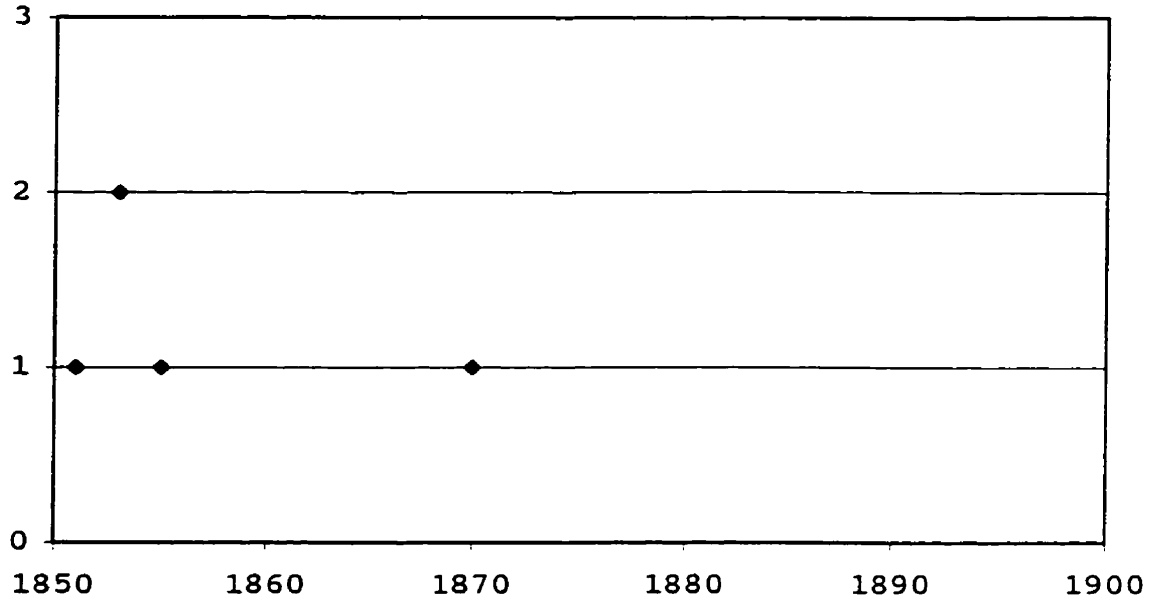


Population of Middlesex County 1851-1901



Appendix 2: Differences in Culpable Death Verdicts in Coroner's Inquests, Middlesex County, 1850-1900

Mother's Identity Known



Mother's Identity Unknown

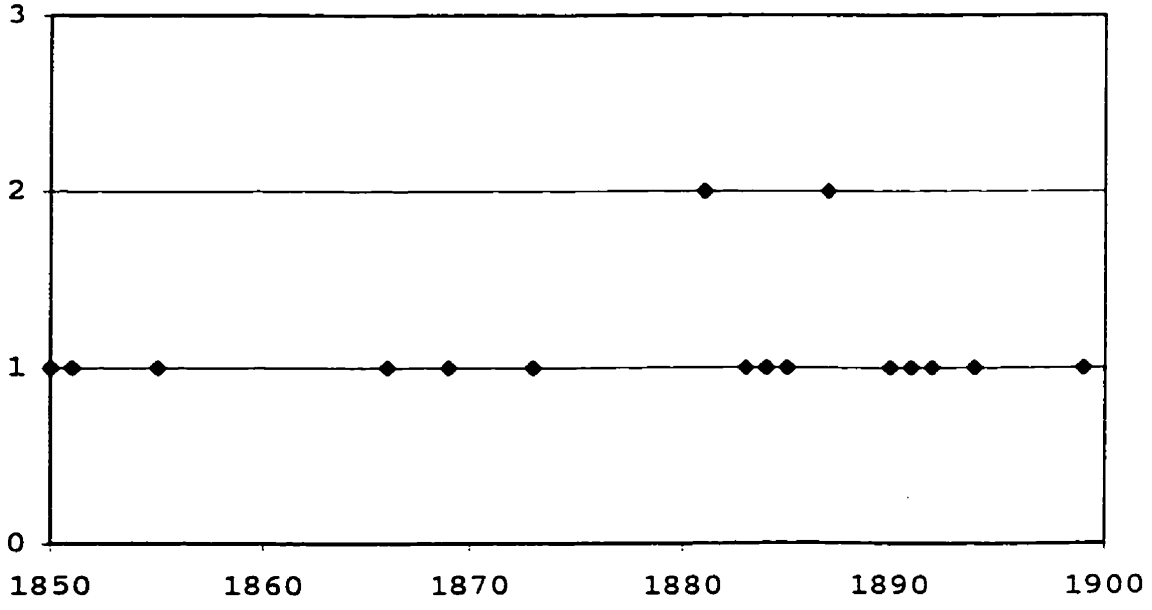


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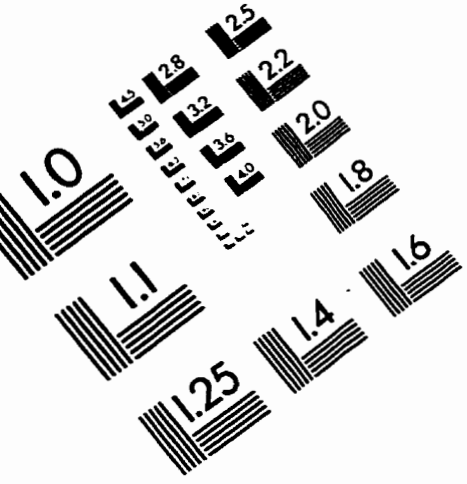
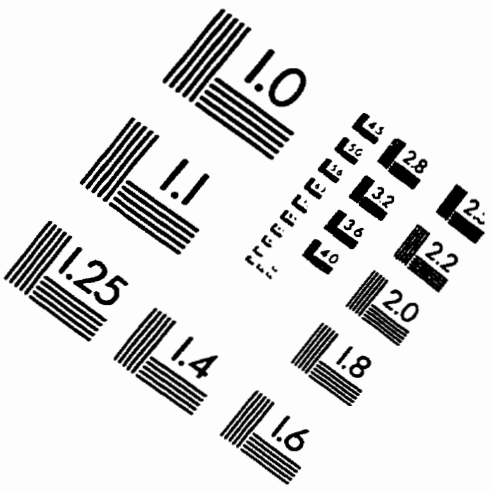
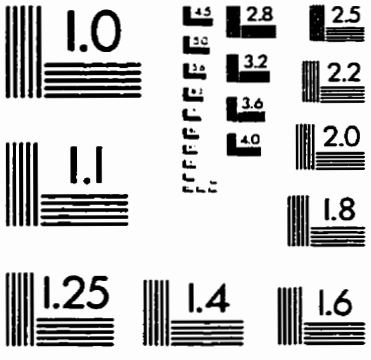
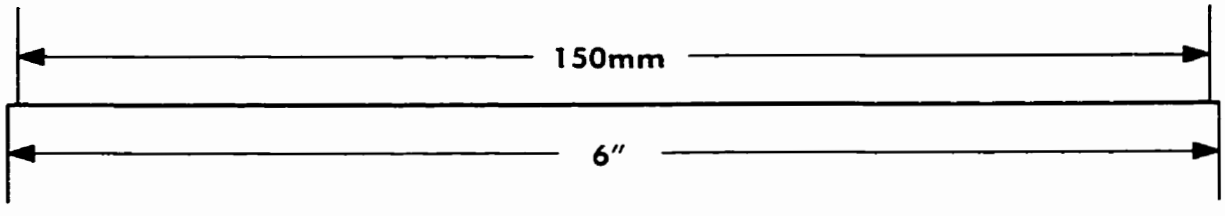
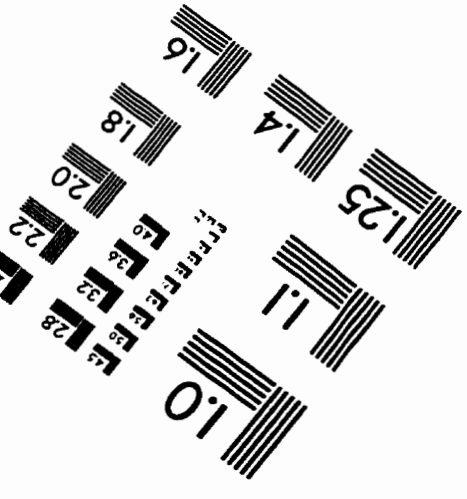
IMAGE EVALUATION
TEST TARGET (QA–3)

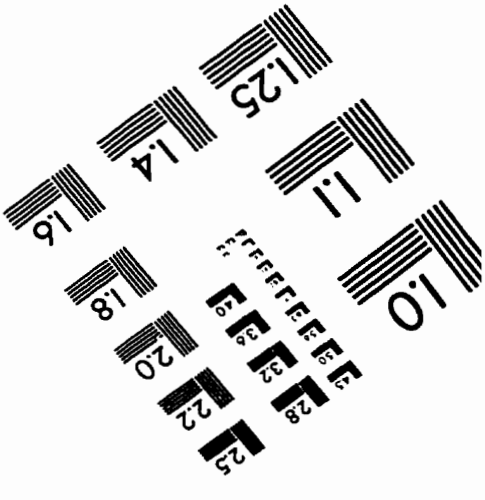












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