The Furies of Hobart: Women and the Tasmanian Criminal Law in the Early Twentieth Century*

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In May 1922 Ernest Frank Pennicott, aged 21, was charged with "assault with intent to ravish" Muriel Lena Judd, a single woman aged 30.[1] When the case reached the Tasmanian Supreme Court, the court was cleared while Judd gave her evidence except for two women who stayed to see that justice was done. The counsel for Pennicott, A E Richardson, likened the two women to the women called "The Furies", who during the French Revolution travelled from the Faubourgs "to see that a sufficient number of heads fell daily". Pennicott's head was not at risk but "his liberty was, and in a milder form the attempt was being made to jeopardise the course of trials with calls for convictions, as in those earlier days a call was made for blood". Pennicott, as it turned out, was found not guilty.

The women had their defenders. The Hobart *Mercury* thought it rebarbative to compare "two highly respected gentlewomen, whose genuinely public spirit is recognised by all", to the "insane viragos" of the French Revolution and that "too much" licence was granted to advocates.[2] But these attacks were not new and not surprising. They were part of a wider opposition to the entry of women into politics and public life. In this paper, I want to focus on the pivotal role of middle-class women in agitating for the reform of the criminal law, especially as it affected working-class women and

* The author thanks Sandra Berns and Michael Roe for comments on an earlier version of this paper.

1 *The World*, 10 May 1922.

2 *The Mercury*, 12 May 1922.

children, in demanding greater female involvement in the criminal justice system, whether as lawyers or Justices of the Peace or on juries, and in demanding the opportunity to enter Parliament and to ensure legislation reflected the interests of women and children. Their agitation was prompted by regular press reports of sexual crimes perpetrated on women and children and the inequality of treatment that women and children received in courts.[3] They became disillusioned and furious with the empty promises, prevarications or opposition of male politicians and at times voiced their concern in very strong language. The Women's Health Association initiated the crusade for law reform. Its members then formed a coalition of women's groups called the Women's Association for the Reform of the Criminal Law. As in New South Wales, the women reformers "argued that women and children had special problems that only women could represent in the public sphere and which only women were capable of solving".[4] They tried first "to persuade the patriarchal establishment that women were the equals of men"; later their differences from men became "the bases of their demands for citizen rights". By sheer perseverance, by relentlessly using the press to sway public opinion, and by constant public and private lobbying of the Nationalist Government (1917-1923) and then the Labor Government in 1924, they secured piecemeal reform between 1917 and 1924, which collectively amounted to an impressive achievement. The women's campaign can be analysed in three phases. Phase 1 from 1917 to 1920 was dominated by the Women's Health Association; phase 2 from 1921 to 1923 was dominated by the Women's Association for the Reform of the Criminal Law; and phase 3 when the *Criminal Code Act* 1924 introduced a major revision of the criminal law.

1917 to 1920: Women's Health Association

After 1900 women began more vigorously to assert themselves in Tasmanian public life for various reasons. They became, firstly, more organised. In the late nineteenth century women from the upper classes had formed numerous

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[3] For work on other States see J. A. Allen, "Sex and Secrets: Crimes Involving Australian Women Since 1880", Oxford UP, 1990 and D Tyler, "The Case of Irene Tuckerman: Understanding Sexual Violence and the Protection of Women and Girls, Victoria 1890-1925" (1986) 15 *History Education Rev* 52-67.

[4] J Allen, "Breaking Into the Public Sphere: the Struggle for Women's Citizenship in NSW 1890-1920", in *Pursuit of Justice: Australian Women and the Law 1788-1979*, J Mackinolty and H Radi (eds), Hale and Iremonger, 1979, p 109.

voluntary, philanthropic bodies to protect the health and welfare of children.[5] In 1899 the National Council of Women was formed and became the dominant women's body. Ten northern associations and twenty-three southern associations affiliated with it. The National Council of Women co-ordinated the activities of women's associations that increasingly became dominated by the middle class and lessened the antagonisms that some thought existed.

The National Council of Women fought hard for female suffrage, which was achieved in 1903.[6] Female enfranchisement is the second reason why women became more assertive. *The Mercury* noted how much power the vote gave women. In some electorates women formed more than half of the voters.[7] That the vote alone did not correct "the social injustices and exploitations of women and children" forced women to demand from 1918 entry into Parliament, where they could help shape legal reform.[8] Finally the greater public prominence of women was attributed to the social consequences of World War I. In 1917 the *Mercury* asserted that all kinds of work previously considered "not only the specialty, but the absolute right, of men" were "taken up by women with entire satisfaction".[9] Women will not be "easily shaken out of these new lines of work". Without firm evidence, however, it remains pure assertion that the war benefited many Tasmanian women.

It is possible, as Lady Helen Nicholls implied in 1921, that the shared experience of war helped to break down the cultural barriers that prevented men and women from discussing sensitive issues such as sexual crime.[10] The leader of this discussion was the Women's Health Association (WHA), formed around 1901, and in particular three remarkable members Alicia O'Shea Petersen, Frances Edwards, and Edith Waterworth. Alicia O'Shea Petersen was born in the Broadmarsh district of Tasmania.[11] She was Vice-President of the Women's Health Association, helped form the Child Welfare

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5 V Pearce, "A Few Vigaros on a Stump: the Womanhood Suffrage Campaign in Tasmania 1880-1920" (1985) 32 *Tas. Historical Research Ass Papers and Proceedings* 151-5, 158.

6 A Oldfield, *Women Suffrage in Australia: Gift or Struggle?*, Cambridge University Press, 1922.

7 *The Mercury*, 21 March, 1917.

8 Allen, above, n 4 at 107-9.

9 *The Mercury*, 10 November, 1917; M Lake, *A Divided Society: Tasmania During World War I*, Melbourne University Press, 1975, p 123.

10 *The Mercury*, 18 June 1921.

11 *The Mercury*, 23 January, 1923.

Association and the Bush Nursing Association, and was a member of numerous other bodies, including the National Council of Women. She enthusiastically supported social purity crusades. She was reportedly "ever courageous in her advocacy of reforms, and was held in high esteem by all classes". The other two women were more prominent in criminal law reform. Frances Edwards was born into a political family. She was the youngest daughter of John Donnellan Balfe, an Irish-born journalist, who held a seat in the House of Assembly from 1857 to 1880.[12] Edwards inherited her father's lively tongue and desire to fight injustices. Like O'Shea Petersen, she was heavily involved in numerous women's bodies seeking legislation to protect children. During World War I she distinguished herself as President of the Tasmanian branch of the French Red Cross. Both her father and her husband were journalists and Edwards quickly learnt how important the press was in arousing public opinion to strengthen the criminal law against sex offenders.[13] As early as 1913 Edwards had written to the *Daily Post* complaining of "undue leniency" when a man who assaulted a thirteen year old girl received a six-month gaol term. She knew that people could not be made "good by Act of Parliament, but they could make it very hard for them to be bad with impunity". But laws attacked the symptoms. More fundamental was the "loose sense of morality" created by "a slackening of parental control" and "a lack of religious training". Edwards called for parents to instil into their children the ten commandments, "the foundation of the moral code".

Of the three leading protagonists, Edith Waterworth was perhaps the most formidable.[14] Born in Lancashire, Waterworth moved with her family to Brisbane where she was educated and then taught for fourteen years. After moving to Hobart with her optometrist husband in 1909, Waterworth committed herself to welfare work. She wrote a column first for the labour *Daily Post* and then for the *Mercury* under the pseudonym of "Hypatia" which encouraged women "to take an active interest in political and current questions and to reflect on women's role"; at times, *Mercury* editorials bore

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12 L Robson, *John Donnellan Balfe (1816-1880)*, 3 A.D.B. 79-80 (1969); *The Mercury*, 28 August, 1939.

13 *Daily Telegraph*, 11 October, 1921; *The Mercury* 27 October, 1923; A Alexander, "The Public Role of Women in Tasmania", 1803-1914 (1991) unpublished Ph. D. dissertation, University of Tasmania, p 197.

14 J Waters, "Edith Alice Waterworth (1873-1957)" (1990) 12 A.D.B. 392-3; Alexander, above, n 13 pp 322-3.

a strong resemblance to her idiom.[15] She also wrote many excoriating letters to the press, which won her the nickname of "Mrs. Hot Waterworth". She wanted "absolute equality" at least of opportunity for men and women and the removal of legal "injustices" affecting women.[16] She believed that "the inequalities of law were due not to intentions, but to the natural sex bias of a Parliament of men".[17] On juries or in Parliament "a well-balanced opinion cannot be arrived at unless the woman's, as well as the man's, point of view is expressed and considered". She often expressed herself in messianic terms.[18] Nature had laid upon the shoulders of women "a heavy burden - that of guarding and protecting the race". Those "born into the high estate of womanhood" must "gravely accept its responsibilities as well as its privileges". She called for the help of women of "generous courage and determination to right the wrongs" of children, of women who "can forget themselves in a cause", who do not stop "to count too closely the cost in worldly things before they take it up". She firmly believed in "the potentialities" of women, who, once "a few weaknesses resulting from a narrow life are sloughed off", will raise "a solid and impregnable front to the powers of evil".

In addition to strengthening the law against "sex perverts", Waterworth wanted to "deal with the causes which produce these persons".[19] One cause was "the double code of morality". Boys were not taught to exercise "self-control" and "personal purity" by their parents. Waterworth, who became a member of the Board of Censors of Moving Pictures in 1920, believed that books, plays, and pictures shows perpetually exalted, "the body and the sex instinct" to "the exclusion of almost all" other themes and created "an unwholesome condition in adolescents".[20] Laws, wrote Waterworth, needed to be reinforced by preventive work by parents, churches, and social and educational bodies. In sum, her reformist tendencies were directed at creating "a more wholesome condition in public morality".[21]

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15 In history Hypatia was a pagan Professor of Philosophy at Alexandria, where in 415 she was cut to death by a Christian mob because of her unhealthy influence on a local bishop, see (1970) 11 *Encyclopaedia Brittanica* 992.

16 *The Mercury*, 6 November, 1923; Select Comm. On Matrimonial Causes Bill 1919 (No. 26), (1919) *Journals and Printed Papers of Parliament*, No. 47, at 13 [hereinafter Select Comm.].

17 *The Mercury*, 21 May 1918, letter by Waterworth.

18 *The Mercury*, 28 March, 1921.

19 *The Mercury*, 24 October, 1917 and 8 June 1918, letters by Waterworth.

20 The Mercury, above n 20; *Tas. Government Gazette*, 679 (1920).

21 Select Comm., above, n 16, at 15.

Women began their campaign in October 1917 after Justice Norman Kirkwood Ewing publicly criticised the inadequacy of the law relating to criminal offences against young girls.[22] On 31 October, the WHA presented the Attorney-General, W. B. Propsting, with eight demands.[23] The first demand was "for longer sentences in all cases of indecent and criminal assault" and that men convicted of "criminal assault on little girls" undergo "an operation which will rob them of any desire to repeat the offence, and thus render them harmless". Waterworth noted that such assaults could never be removed from "a girl's mind, and she would afterwards view the relations between the sexes from an abnormal point of view". Male sex offenders did not have "a normal mind, because no normal, wholesome man, would do it". Sex maniacs suffered from "hereditary taints", which only an operation would remove.

Secondly, the WHA wanted to prevent publicity in such cases because it was "largely the fear of the consequent scandal which keeps relatives from prosecuting".[24] The victim's name should not be published, and the courts should be "cleared of anyone there out of idle curiosity". Thirdly, they wanted provision for "an appeal to the High Court when, in the opinion of the presiding judge or the girl's relatives", the accused man had been "unjustifiably acquitted", or had been given "too light a sentence" by a jury.

Fourthly, where a girl prosecuted a man for the maintenance of her illegitimate child, and "other men swear they have had improper relations with her", these men should "be made to share in the maintenance of the child".[25] The fifth demand was that girls and women who falsely charged men with "indecent or criminal assault" should be liable for sentencing. This demand, said O'Shea Petersen, showed that the WHA was "absolutely fair" and did not want to punish innocent men. The women acknowledged that some females "would solicit and allege that a man had molested them" and such women should be punished.

The sixth demand was for juries to be comprised of "equal numbers" of men and women in cases involving a girl or a woman.[26] The penultimate demand was for police to enquire into cases (apparently on the rise) where

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22 *The Mercury*, 16 October, 1917.

23 *The Mercury*, 1 November, 1917.

24 *The Mercury*, above, n 23.

25 *The Mercury*, above, n 23.

26 *The Mercury*, above, n 23.

the registrar believed "a girl mother" was under the age of consent. The final demand was that the police be given better"protection and support" and that assaults on police be "more heavily punished". This was probably an attempt to curry favour with the Commissioner of Police and achieve the appointment of female police.[27]

Propsting's response was encouraging in parts.[28] He approved of an appeal to a higher court and intended to set up a Court of Criminal Appeal as existed in New South Wales and Queensland. He agreed that publicity should be prevented "in certain cases" and that women should comprise "at least part" of the jury panel in some cases. Propsting was less enthusiastic about the other demands. He pointed out that a girl who falsely charged a man was liable for malicious prosecution by the accused and he thought it would be "a tremendously large order" to do more. Requiring other men to pay maintenance and asking police to follow up cases where the mother of a child was below the age of consent needed "the fullest and most careful consideration" and he implied that they would not be enacted. He preferred to let magistrates decide whether assaults on police deserved heavier penalties.

Propsting gently chided the women for exaggerating the prevalence of sexual offences and for conveying the impression that Tasmania was "worse than any other place in the world". Offences by men against women had been gradually decreasing between 1911 and 1915 and existing sentences were not too lax. Those convicted of offences against girls under thirteen were liable for a life sentence, against girls thirteen to fourteen, seven years, and against girls fourteen to sixteen, two years. As for operating on offenders, Tasmania should not "immediately embark on new and experimental legislation, so far as the British Empire was concerned". The operation had become law in parts of the United States to prevent "the procreation of degenerates", but not for "normal men" convicted of sexual offences.[29]

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27 Policewomen were soon appointed: see Annual Report of the Commissioner of Police 1917-18, (1918-19) *Journals and Printed Papers of Parliament*, No. 47, at p 8.

28 *The Mercury*, 1 November, 1917.

29 *The Mercury*; Propsting's comments on "normal" men should be seen in the light of C. A. MacKinnon's argument that "sexual aggression by men against women is normalised" and her citation of a study which revealed that "one-third of American men say they would rape a woman if assured they would not get caught", see "Reflections on Sex and Equality under Law" (1991) 100 *Yale L. J. 1302*.

Propsting's view was supported by AJ Taylor, librarian and armchair criminologist, who opposed the operation because, like the death penalty, it could not be "rectified" if a mistake was later discovered.[30] Charges of sexual crime were often made by girls suffering from "hysteria", who afterwards confessed to lying. Another correspondent called "Justice" denied that the operation was "irreversible" and claimed that a man's "virility" could be restored.[31] "Watchful" expressed "a profound dissatisfaction" with Propsting's stress on the "difficulties" raised by the women.[32] He did not consider "whether a proposal was "wise, just, or equitable "but whether it had proved workable elsewhere. His statistics largely depended on the willingness of "the victims and their relatives to go through the terrible ordeal of appearance in court". In supporting the women's cause, the *Mercury* also thought Propsting's statistics were of dubious value.[33] They depended "not on the amount of crime actually committed, but on the activities of police or others in bringing such crime to light". Lax police administration or communities where immoral activities were of little concern always produced "purer or better" statistics. *The Mercury* thought that "a much healthier state of public opinion on matters of sexual immorality" was needed in Tasmania. This in turn would result in tougher laws and the more stringent administration of those laws. *The Mercury* pointed out that in the electorates of Denison and Bass, representing Hobart and Launceston respectively, women electors outnumbered male electors "very considerably" and their views could not be ignored.

As public support for these proposals seemed divided, Propsting hoped his promises would placate the WHA. In 1918, the inadequacies of the criminal justice system were further highlighted when Justice Ewing heard three cases of sexual immorality.[34] One alleged rapist at Kellevie was found not guilty; a case of criminal assault on a girl under sixteen at Oatlands was discharged nolle prosequi; and a charge of perjury arising out of an illegitimacy case was abandoned by the Crown. The denunciations came quick and strong. On behalf of the WHA, Alicia O'Shea Petersen thought the case causing "the most indignation" was the rape at Oatlands, which showed "a monstrous want of justice".[35] When the victim gave evidence, her clothes were "held up in

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30 *The Mercury*, 9 Nov. 1917, letter by Taylor.

31 *The Mercury*, 3 November, 1917, letter by 'Justice'.

32 *The Mercury*, 10 November, 1917, letter by 'Watchful'.

33 *The Mercury*, 1 November, 1917.

34 *The Mercury*, 16 May 1918.

35 *The Mercury*, 22 May 1918.

court, and she was questioned by a keen judge - the questions being of a most delicate character - before the jury and all present in court". The girl was placed in this male bastion without a woman "near her to give her courage"; it was no wonder that she would say "almost anything". A doctor was not called to examine the girl until twelve days after "the alleged offence" and he was not called to give evidence. O'Shea Petersen demanded that women sit on juries "in such shameful cases", that such cases be heard before a full court, and that appeal be allowed to a higher court. Frances Edwards hoped the women of Hobart "would not rest till the laws were amended to provide for the better protection of girls".[36] They had to contend with the policy of "filling the Crown Law Department with political dead-beats and political pensioners" lacking the wherewithal to defend cases properly. The laws were "full of loopholes", which was how "the lawyers earned their living". She advocated for courts to be free of "the embarrassment and torture" evident in such cases. Typically, Edith Waterworth was the most strident critic. She wanted to amend the law "so that it would be possible to get convictions".[37] They must abolish the defence which held that where it appeared to the court that the accused had "reasonable belief" that the female was over sixteen "no offence shall have been committed". When she read this defence in the report of the Oatlands case "she felt like taking an axe and killing every man on sight". The source of women's woes was their lack of representation in Parliament and the courts, where men "thought and deliberated as men". In the Kellevie case "unpleasant questions" were asked of the woman's character but Ewing prevented the Crown Prosecutor from asking "searching questions" about the accused's character. Women, she suggested, should pick out "the weak spots" in cases, they should fight "in cold blood", and should "make themselves as unpleasant as they possibly could" until they were represented in Parliament.

When a deputation from the WHA met with Propsting, he again offered some concessions.[38] He agreed to ask Parliament to remove the defence that the accused believed the girl to be sixteen if he was over twenty. He was inclined to extend the period within which an action could be laid for these offences from three months to nine months but not twelve months as the deputation wanted. Other demands included trying cases in closed courts and giving women equal representation on juries. Waterworth conceded that

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[36] *The Mercury*, above n 35.

[37] *The Mercury*, above, n 35.

[38] *The Mercury*, 1 June 1918.

women did not have "a judicial mind" but neither did "most men who served on juries". Propsting implied that most Tasmanian women did not support female representation on juries because of the sordid nature of sexual cases. He pointed out that women holding their views would not be able to sit on a jury because "they would be challenged every time by the accused's counsel". While he was personally opposed to women sitting on juries, he would present their request to Cabinet. He thought husbands and fathers on juries were "as ready to do what was right by a woman as the mothers were" but it was "reasonable" not to allow men under thirty to sit on juries in sexual cases. Finally, Propsting announced that he would soon introduce a bill to deal with neglected children and the Children's Police Court, which would provide for the appointment of a woman as a special magistrate.

Propsting's promises failed to satisfy the women. Waterworth, for example, described the proposal to remove the reasonable belief defence as to the girl's age for men over twenty as "setting out to do the right thing in an altogether wrong way" and was "a fine sample of good old-fashioned men's legislation".[39] While the amendment would cut down the number of cases invoking the defence, many youths under twenty were equally as "vicious" and "dangerous" as older men. The women did not expect much from Propsting but he surprised them by introducing three bills. One was the *Children's Charter Bill 1918*, which was passed but no woman was immediately appointed as a special magistrate.[40] The second was a *Criminal Code Bill*, drafted by Ewing, which contained increased punishments for offences against women, and provision for sterilisation of sexual offenders.[41] This bill was contentious and did not progress further than the first reading, but the *Offences Against the Person Bill 1918* was passed. It removed the defence that the accused reasonably believed the girl to be sixteen and abolished the defence that the consent of a girl under sixteen was given.[42] Similarly consent was not a defence if a man aged twenty-one or older gained unlawful carnal knowledge of a girl aged between sixteen and seventeen. It was a defence, however, if it was proven that the female "at the time of the alleged offence" was "a common prostitute or an associate of common prostitutes". An amendment during debate on the bill in the Legislative Council extended from three months to twelve months the

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39 *The Mercury*, 8 June 1918.

40 *The Children's Act*, 1918, 9 Geo. 5, No. 15.

41 *The World*, 22, 23, 25, 26 Nov. 1918; 78 *Journals and Printed Papers of Parliament*, (7 Nov. 1918), at p. 75.

42 *The Offences Against the Person Act* 1918, 9 Geo. 5, No. 37.

period within which an action could be laid for these offences.[43] There was hardly any debate on these provisions; the press report simply implied that public opinion was outraged by recent sex offences and wanted the law strengthened. The women had thus wrung significant reforms out of Propsting but they wanted more of a say over what legislation was presented to Parliament and in 1919 stepped up their demand for seeking "full civic rights".[44] Waterworth argued that some parliamentary work was "essentially women's" and could be "more quickly and efficiently done with their assistance". Women had not used their vote properly because they had become absorbed into the political parties of men, and had helped to elect them to Parliament, expecting them to see with women's eyes, and do women's work with enthusiasm, but they had been disappointed, and they realised that there were fundamental differences in the sexes which would always prevent men from understanding the women's point of view.[45]

Women "looked instinctively to the future, and built for the future, because it belonged to the children". Waterworth refuted the contention that a woman's "first duty was at home". By staying at home a mother saw the prices of her children's food and clothing soar out of reach, so that she could not safeguard their health; she saw outside evils left untouched, which steadily lowered the moral tone of the world into which her children must step; and she saw that if her home and children were to be properly protected she must take an active part in public affairs.[46]

Although education, public health and moral and social problems were "specially women's subjects", women could vote "quite as intelligently as men on any matter which came before Parliament". But a woman must be appointed a Minister to control "the domestic affairs of each State".[47] She would keep "the mother view of children's needs" before the House and "perhaps a little more attention would then be given to the housing, feeding, and clothing of the State's children". Premier Walter Lee resorted to outdated arguments. He would not categorically say that Parliament was "no place for a woman, or that it could not be improved by their inclusion" but he was not "too keen on seeing women represented" there.[48] He believed

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43 *The Mercury*, 25 Oct. 1918.

44 *The Mercury*, 30 July 1919.

45 *The Mercury*, above, n 44.

46 *The Mercury*, above, n 44.

47 *The Mercury*, 9 February, 1920 letter by Waterworth.

48 *The Mercury*, 30 July 1919.

women's "proper sphere" was in the home, where mothers should educate their daughters in "domestic affairs". By the end of 1920 we find some success in tightening the law against sexual offenders when male outrage matched female outrage but women had not yet progressed far in gaining entry into public affairs.

1921 - 1923: The Women's Association for the Reform of the Criminal Law.

In early 1921, two cases revived interest in the inadequacies of the criminal law. In the first case a charge of "indecent and obscene exposure" of the person was brought by a young woman against Alderman Arthur Charles Davis.[49] Davis was given the benefit of the doubt and the case was dismissed. In the other case, Merton Young (a male) alias Byfield was found guilty of "unlawfully and indecently assaulting" a boy of twelve.[50] Young had been sentenced to two years imprisonment for a similar offence in 1918 and in 1921 was sentenced to four years. These cases prompted a meeting of women representing various philanthropic bodies.[51] The meeting resolved that anyone convicted of criminal offences against young boys or girls should be "treated as of unsound mind, and detained under an indeterminate sentence". More importantly, the meeting praised "the courage" of the young woman who charged Davis with indecent exposure and expressed regret that she endured "the ordeal" without the support of other women. Waterworth was astonished that "the unsupported evidence of a boy of 12 had been sufficient to convict", while the evidence of "a responsible young woman" was dismissed.

On 5 April, the various women's associations decided to from the Women's Association for the Reform of the Criminal Law, "especially in relation to sexual and other offences against children".[52] The associations included the Women's Christian Temperance Union, Bush Nursing Association, Child Welfare Association, Women's Health Association, District Nursing Association, Women's Council for Church Work, Girl's Friendly Society, the Council of Churches, the Australian Women's Empire Trade Defence Association, the Free Kindergarten Association, the Mother's Union, and the National Council of Women. The Women's Association for the Reform of

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49 *The Mercury*, 23 February, 1921.

50 *The Mercury*, 24 February, 1921.

51 *The Mercury*, 2 March, 1921.

52 *The Mercury*, 6 April 1921; *The World*, 6 April 1921.

the Criminal Law (WARCL) became "the largest body of organised women in Tasmania", with delegates from "all women's societies" and numerous individual members not belonging to any association.[53] Frances Edwards was President and Edith Waterworth Honorary Secretary; along with ten others they formed an executive committee.

The first task of the executive committee was to frame their demands in a petition to Parliament.[54] Waterworth wanted the petition to be worded in such a way that all the women of Hobart "would be ready to sign without any reservation whatever". It would reflect "their instinct and emotions" and would "express their own opinion on sexual offenders", not the opinion of men. Edwards hoped that 14,000 signatures would be obtained. The petition, in calling for a reform of the criminal law to provide greater protection for women and children, wanted men convicted of sexual offences against women "by force" or against children of either sex regarded as "abnormal and dangerous to society" and "detained under an indeterminate sentence".[55] In an explanatory leaflet accompanying the petition, the women argued that "human health, life, and happiness" were as "sacred as property": sexual crimes should be "more seriously viewed by the law" and tried before a judge. The law should recognise that sexual crimes were "directed against the most sacred function of women, that of giving life". Society had to be saved from men who suffered "from physical or mental disease, which will almost certainly progress until they commit some terrible crime". The WARCL decided to print 500 copies of the petition and 2000 leaflets. The women received support from influential quarters. The Chief Justice Sir Herbert Nicholls, who lectured on "Criminology" to a meeting of the WARCL in July 1921, thought the women were "doing work that should result in a useful end, particularly as their lines were accurate and moderate".[56] He advised that creating "good, warm-hearted public opinion" was a greater achievement than getting legislation passed.

The petition chimed in with the government's plans. In August 1921, a deputation from the WARCL was told by Attorney-General Propsting that new legislation would soon empower a judge, after taking into account the antecedents, character, associates, mental state, nature of the crime, and "any special circumstances of the case", to direct that, once the term of

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53 *Daily Telegraph*, 11 October, 1921.

54 *The Mercury*, above, n 52.

55 *The Mercury*, 20 May, 8 June 1921.

56 *The World*, 5 July 1921.

imprisonment had been served, the criminal could be "detained during the Governor's pleasure in the reformation prison".[57] Propsting did not rule out operating on "definitely mentally deficient or sexually defective" criminals. With the support of Nicholls, Propsting, and the press giving a fillip to the WARCL, Edwards travelled to Launceston to win over women there.[58] She urged all women to support the *Indeterminate Sentence Bill*: few "sexual maniacs" will be detained but "an incalculable amount of good will result". The WARCL managed to secure the signatures of 5,808 women electors, an impressive effort but well short of the expected 14,000 signatures.[59] With little public opposition, the *Indeterminate Sentences Bill* was passed in late 1921.[60] In 1921 the WARCL also fulminated against "unnatural offences" committed against young boys.[61] Waterworth thought a man who committed an unnatural offence was "an unnatural man" and should not be "at large". The *Offences Against the Person Act* 1921 increased the penalty for "gross indecency" by one male on another from two to seven years imprisonment.[62]

Throughout 1921 women also stepped up their campaign for the right to stand for Parliament.[63] Their wishes were realised when the *Constitution (Women) Bill 1921* passed through both Houses with minor objection in January 1922.[64] *The Mercury* approved but hoped that women would not enter Parliament with "fixed antagonisms and prejudices".[65] Women had often expressed their disillusionment with the party system. In early 1922 they formed the Women's Non-Party Political League.[66] Waterworth was involved and contested the 1922 election for Denison.[67] She refused to be bound by pledges and vowed to follow her conscience. She campaigned for rights for deserted wives and children and greater female representation in

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57 *The Mercury*, 27 August, 1921.

58 *Daily Telegraph*, above, n 53.

59 84 *Journals and Printed Papers of Parliament*, 24 November, 1921 at p 158.

60 *The Indeterminate Sentences Act* 1921, 23 Geo. 5, No. 44.

61 Archives Offices of Tasmania, Attorney-General's Dept. 1/7/50/15, Waterworth to Propsting, 26 Oct. 1921; *The Mercury*, 3 Dec. 1921, letter by Edwards.

62 *The Offences Against the Person Act 1921*, 12 Geo. 5, No. 66.

63 *The Mercury*, 6 May 1921; *Daily Telegraph*, 11 October, 1921.

64 *The Mercury*, 16 December, 1921, 20 January, 1922.

65 *The Mercury*, 27 January, 1922.

66 *The World*, 31 March, 1 April 1922; 2 L Robson, *A History of Tasmania: Colony and State from 1856 to the 1980S*, Oxford U P, 1991, 374.

67 *The Mercury*, 5 May 1922; Waters, above, n 14 at 392.

courts. Waterworth secured 6.5 per cent of the votes, a small portion in an electorate where women comprised more than half the voters. O'Shea Petersen also stood and received less than one percent of votes. In 1922 women also campaigned for representation on public bodies, including the Hospital Board, the Library Board, and the University Council.[68] The Chief Secretary J C McPhee agreed to consider female nominees to such boards when positions became available. The Mayor similarly had no objection to female aldermen.[69]

It was in the courts that women felt their injustices most keenly, and with good reason. In March 1922 at Oatlands Police Court, a young man was charged with committing an indecent assault on a thirty year old woman.[70] Magistrate Gilmore agreed to a request from the accused 's counsel, A G Ogilvie, Labor member of the House of Assembly, that the court be cleared before the case was heard. Edwards and Waterworth, who had travelled to Oatlands at the request of "responsible" residents, were asked to leave. The alleged victim asked that they be allowed to stay because she came from Victoria and had "no women relatives or friends". Edwards was made more indignant by Ogilvie's gibe that they attended out of "idle curiosity". It was not "fair or just" to expect a woman "to stand for hours under cross-examination, before a bench of three men, surrounded by men officials" without a "woman friend" present. Gilmore and Ogilvie tried to make the women feel "ashamed" by implying that "no decent woman could remain in court during that hearing".[71] Edwards described herself and Waterworth as women of "mature age, who had done a great deal of public work" and who willingly submitted to "the unpleasantness" of the case. Waterworth was "boiling over" because of the "stupidity" of the men.

A WARCL deputation complained of their treatment and asked Propsting to appoint women as justices of the peace.[72] Edwards wanted a female official working in a government department appointed a justice for "the whole island" who "could then attend such cases anywhere". Propsting pointed out that the court had discretion "to say if anyone should have access or what persons might remain". But the "ends of justice" were furthered by the

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68 *The Mercury*, 22 August, 1922; for the achievement of women in the 1920s see Robson, supra note 66 at 374-6.

69 *The Mercury*, 26 October, 1922.

70 *The World*, 28, 30 March, 1922.

71 *The Mercury*, 30 March, 1922; *The Mercury*, 30 March, 1922.

72 *The Mercury*, above n 71.

Children's Charter, which enabled a "female friend" to remain in court if the female witness wanted "moral support" and he thought this right could be extended. Propsting hoped soon to appoint a woman a special magistrate under the Children's Charter. Edwards was approached but owing to a severe injury, which affected her mobility, declined.[73] The WARCL always stressed the importance of appointing "the right woman" as the first justices.[74] They were "most anxious" that the first female justices "should not fail. We know that our sex will stand or fall by the result". The WARCL suggested that women might gain "experience" by sitting on the Bench with a magistrate, a proposal Propsting supported.

In November 1922 Propsting introduced the *District Justices Bill*, which enabled the appointment of women justices to sit in cases involving women and girls.[75] The bill was opposed in the Assembly mainly by the Labor party, with Ogilvie being a prominent critic, and was not passed. Ogilvie's opposition to any kind of female involvement in courts probably stemmed from his professional interests as a criminal lawyer, skilled at swaying male justices and juries.[76] Edwards urged the government to recommit the bill.[77] Women had been made justices all over Australia and it was "a slight on the intelligence and standing" of Tasmanian women that they should be denied this opportunity. The *District Justices Bill* was recommitted in 1923 and, despite Ogilvie's continued opposition, was passed.[78] The *Examiner* knew of women who "undoubtedly would shape better upon the bench than some of the men one sees there" but thought few would seek to become justices.[79] The WARCL asked affiliated organisations to nominate two members willing to accept appointment.[80]

The WARCL also sought reform of the jury system. One reform was to abolish juries in "the trial of criminal sex charges".[81] Waterworth argued that the interests of women and children would be "safer" in the hands of a

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73 *The World*, 19 August, 1922; *The Mercury*, 6 March, 1924.

74 *The Mercury*, 15 August, 1922.

75 *The Mercury*, 8 November, 7 December, 1922.

76 M Roe, "A G Ogilvie and the Blend of Van Diemen's Land" (1986) 1 *Bulletin Centre Tas. Historical Studies* 41-42.

77 *The Mercury*, 19 December, 1922

78 *The Mercury*, 14 March, 1922; *The District Justices Act 1923*, 13 Geo. 5, No. 22.

79 *The Examiner*, 19 March, 1923.

80 *The Mercury*, 8 May 1923.

81 *The Mercury*, 15 August, 1922; *The World*, 19 August, 1922.

judge "who had legal training, experience, knowledge of human nature, ability to read faces ... knew the things that the inflections of voices told" and was "the best judge of the truthfulness of a witness". Juries were "wrongly swayed by the appeals and oratory of counsel" but judges decided cases "on the facts". Juries had been established when "bribery and corruption were rife" but times had changed and they should ask whether the jury system was necessary. If the jury was abolished, three judges should sit on criminal cases. *The World*, a labour daily, thought abolishing juries was "an extreme step which will not be permitted readily by the general public".[82] Few judges knew "the lives of the average people in the fullest sense as do the ordinary artisans and workers who generally constitute a jury". The bedrock of justice was that a man should be tried by "a jury of his peers", who should decide whether he had "offended against the general standard of morality of the community as the average man knows and understands it".

If juries could not be abolished, then Waterworth wanted women represented on juries hearing sexual cases and the qualifications of jurors raised.[83] Women jurors should be restricted to those with "educational advantages", who should be trained to "know what evidence to admit and what to reject". Women should not be appointed because of their "social or worldly position", but because they had "the best character", "the best brains", and "the best hearts". Waterworth proposed the appointment of "a special body" of women, numbering between thirty and fifty, from whom "jurors might be selected as required". *The World* thought empanelling special juries for sexual cases was "objectionable", while selecting thirty women from certain bodies was "simply unthinkable".[84] Lawyers would lose the opportunity to challenge potential jurors and "the secrecy as to a man's past" could not be "preserved" if the same persons tried sexual cases. The women who suggested the reform should not be on such juries. They were "ardent advocates" of the protection of women and could not consider the charge with "totally unbiased minds" and "calm consideration". While accepting that "degenerate creatures" should be punished, it should not be at the expense of "the safeguards that have been established in the interests of absolute justice". One correspondent called "Paterfamilias" believed public confidence in the courts "would soon be lost if hysteria pervaded them".[85] Women must learn "to think logically, not to act on instinct alone, to be calm, not to boil over

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82 *The World*, 16 August, 1922.

83 *The Mercury*, 19 August, 1922; *The Mercury*, 15, 19 August, 1922.

84 *The World*, 16 August, 1922.

85 *The Mercury*, 5, 28, April 1922, letters by 'Paterfamilias'.

so much that they can't sit down"; a snide criticism of Waterworth. The WARCL sought greater protection for women and girls "by lessening the burden of proof and increasing the punishment in assault cases, and allowing women to administer justice". In achieving their reforms, the women should not put conviction in sexual cases ahead of that "great principle of British justice that ninety-nine guilty men or women should be let off rather than one innocent person suffer".

The Mercury thought it was "mistaken psychology" to claim that, if women sat on juries, men tried for criminal offences would "inevitably" be convicted.[86] Women or girls who "falsely accused" men would be given "a short shrift, and be dealt with much more severely than at present" because most women abhorred false accusations. Women have "an instinct for sincerity and truth in their own sex, which borders on the uncanny". Female jurors would not be "open to blandishments which are so effective with men": they would not be "so easily roused to feelings of pity by a pretty, attractive personality". While women might be "easily swayed by the representations of men", on balance *The Mercury* supported female jurors. *The Mercury* labelled the "violent opposition" to women's participation in courts as "dictated by sex antagonism", not logic.

Waterworth responded.[87] The criticisms were "the orthodox aftermath of every effort on the part of women to improve existing conditions" and were characterised by "stupidity", "rancour", and "abuse". She denied that women wanted to shift the burden of proof or that the WARCL had "ever hinted" at such a change. Nor did women want "more convictions regardless of how they are obtained". Women simply wanted courts to be "conducted in such a way that no girl or woman will fear to bring her case into them". Much had already been achieved. For instance, "undesirable publicity" was rarely given in sexual cases. Recently Waterworth had been asked by residents of Campbell Town to attend an alleged assault case and received "a great reception at the hands of the police and the officials in the court". This established "a precedent" that allowed a woman to have "members of her own sex present while she is giving her evidence and being cross-examined". Waterworth denied losing her mind, only her temper, when she realised that "Tasmanian women in a Tasmanian court of justice could be subjected to such indignities by ill-balanced, ungenerous men".

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[86] *The Mercury*, 6 March and 24 August 1922. It is likely that these editorials were written by Waterworth see Archives Office of Tasmania NS4/1.

[87] *The Mercury*, 4 May 1922, letter by Waterworth; *The World*, 23 May 1922.

Propsting accepted some jury reforms. He thought adopting "majority verdicts" of nine was worth considering in criminal cases but in capital cases the verdict must be "unanimous".[88] He agreed that women should be represented on juries and thought raising the qualifications of jurors was a "very sound" reform. Under the *Jury Act 1899* a male of twenty-one, paying a rent of £20 a year or possessing real or personal estate not less than £500 or who received a wage of £100, was eligible for jury service. Propsting thought this "very low" and should be raised. *The World* condemned the proposal.[89] The public did not want "class prejudices" introduced into the administration of justice, especially where it involved "the life and liberty of the people". Opinion divided over whether women should sit on juries and both political parties were reluctant to support this demand of the WARCL.

The WARCL also wanted representatives of "accredited organisations" to be allowed "to remain in closed Courts, even when the complainant did not specifically request their presence".[90] *The Mercury* supported this proposal because women would gain "first-hand experiences" of the law's flaws and weaknesses", it would inform their demands for reform, and it would ensure "a better balance of interests being obtained".[91] The Assembly, with Ogilvie again prominent, struck out sub-clause 2 of clause 2 of the *Admission to Courts Bill 1922*, which allowed two female members of accredited societies to assist women or girls give evidence in sexual cases.[92] The bill was ultimately dropped.

Another aspect of the criminal justice system condemned by the WARCL was the inadequate legal representation of female victims of sexual assault, especially in lower courts. Often the victim and the police were "very seriously handicapped" by the defendant employing "a trained legal mind", who was allowed to "most tryingly cross-question the girl and pull her evidence about confusedly".[93] Waterworth described the strategy of the defendant's counsel. Initially he tried "to throw doubt about it being the right man". If that failed, then he tried "to throw doubt on the girl's veracity or her good character, or that she did not cry out for help" without considering that she was "too frightened to call out, or was prevented doing

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88 *The World*, 15 August, 1922; *The Mercury*, 15 August, 1922.

89 *The World*, 15 August, 1922.

90 *The Mercury*, 15 August, 1922

91 *The Mercury*, 24 August, 1922.

92 *The Mercury*, 23 August, 7 December, 1922.

93 *The Mercury*, 23 May 1922; *The World*, 23 May 1922.

so in her distress". Waterworth suggested that the Crown should appoint legal officers to conduct sexual assault cases in police courts. It was desirable to have "some women solicitors".[94] But there was a problem. Although the *Legal Practitioners Act 1904* admitted women to legal practice, women seemed uninterested in studying law. From 1893 to 1914 only one woman studied law at the University of Tasmania and it was not until 1931 that the first woman gained a law degree and not until 1935 that the first woman was admitted to practice law.[95]

The last major demand of the WARCL was for the creation of a Court of Criminal Appeal. Propsting introduced a *Court of Criminal Appeal Bill* in 1921. But the Legislative Council deleted the clause giving the Crown the right of appeal because, seethed Edwards, the British attitude towards an offender was "a sporting attitude"; "if he won let him off, and not be tried again".[96] For Edwards, the sporting attitude had no place because it ignored the victim and "the moral effect on the community". The Crown would only use its right of appeal in "the most glaring circumstances" and its existence would be "a very serious check on juries in giving verdicts against the weight of evidence". Those who opposed the bill were "the 'cute' lawyers, who bluff juries into giving verdicts against the weight of evidence and in many cases against the summing up of the judge".[97]

The *Criminal Appeals Bill* was passed by the Legislative Council and in March 1923 reached the committee stage in the Assembly. It gave the Crown the right of appeal against the verdict of a jury on a question of fact. *The World* saw it as a retrograde step.[98] The Crown could "pursue an accused person until, by sheer weight of cash, it forces its victim to gaol". Although *The World* thought women and children deserved protection from some kinds of offenders, it did not justify the Crown placing accused persons at such "a serious disadvantage". *The World* objected to "tinkering" with the criminal law and thought the bill should be thrown out and dealt with by the committee recently appointed to revise the criminal law. *The World* had a point. The WARCL had already obtained many criminal law reforms but

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94 *The Mercury*, 15 August, 1922.

95 Alexander, above, n 13 at 53, 308-9; *Walch's Tasmanian Almanac* (Hobart 1936), 128; D Kok, J O'Brien and R Teale, "In the Office and at the Bar: Women in the Legal Profession" in Mackinolty and Radi, above, n 4 at 183.

96 *The Mercury*, 3 December, 1921, letter by Edwards.

97 *The Mercury*, 4 November, 1922.

98 *The World*, 5 March, 1922.

women expected much from the criminal law revision committee and accepted *The World*'s proposal. The bill was allowed to lapse.

1924: Revising the criminal law

Apart from Supreme Court Judges, one of the few men to support the WARCL was Alexander Marshall, a prominent Nationalist politician representing Bass in the House of Assembly. From 1920 he regularly asked his own Nationalist Government to proceed with a *Criminal Code Bill.*[99] During the 1922 election campaign he shrewdly sought the large female vote in Bass by pledging to champion criminal law reform to provide greater protection for women and children.[100] He described the criminal law as "puny and spineless" and advocated a parliamentary committee to consider how it should be reformed. True to his words, Marshall succeeded in obtaining the appointment of a Joint Committee of both Houses to revise the criminal law.[101] Tasmanian women, he said, were not "safe from the brute beasts of society" and should be given "an opportunity" to confer with members of Parliament on how the law should be strengthened. Marshall chaired the committee, which included another WARCL sympathiser Robert Eccles Snowden and four lawyers: Attorney-General Propsting, Frank Bathurst Edwards (no relation to Frances), Tasman Shields, and Albert George Ogilvie, who had already opposed a number of WARCL reforms.[102]

The Committee collected evidence from Justice Ewing, the Solicitor-General L. E. Chambers, Hobart Police Magistrate E. W. Turner, Assistant Parliamentary Draftsman J R Rule, prominent lawyers and a number of women's associations from throughout Tasmania.[103] Edwards represented the WARCL, which recommended that several clauses of Ewing's criminal code regarding offences against women and children be embodied in the proposed Criminal Code.[104] The WARCL wanted judges given "discretionary powers" of punishment in sexual cases involving children and that parents "be obliged to accept greater responsibility for the care of their

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99 82 *Journals and Printed Papers of Parliament*, 19 August 1920, at 24; and 84 *Journals and Printed Papers of Parliament*, 2 August, 1921 at 18; and 25 October, 1921, at 95.

100 *The Mercury*, 19 May 1922.

101 *The Mercury*, 16 November, 1922.

102 The two other members were James Belton and Ernest William Freeland.

103 Joint Parliamentary Comm. On Criminal Law Reform, *Journals and Printed Papers of Parliament*, No. 72, (1923-24).

104 *The Mercury*, 8 May 1923.

offspring".[105] Parents should be punished for neglecting their children. Severe punishments should be visited on men who transmitted venereal diseases to children.[106] Judges, not magistrates, should decide cases of cruelty to children. The National Council of Women advocated flogging for offenders who used "physical cruelty" against humans and animals.[107]

After considering the voluminous evidence, the Joint Committee reported to Parliament on 20 February 1924.[108] The committee "unanimously" agreed that the criminal law should be codified and amended. On 28 February, the new Labor Attorney-General A G Ogilvie moved the second reading of the *Criminal Code Bill.* Two reasons explain why Ogilvie proceeded with the bill. He was now seeking the electoral support of women and possibly wanted to consummate the devoted work of Ewing, under whom he had served his articles.[109] The bill contained a number of provisions sought by the WARCL.[110] All sentences, except in capital cases, were left to the discretion of the trial judge, who could impose a maximum sentence of twenty-one years. The sentence would depend on the "merits" of a particular case and was subject to appeal and review by the Court of Criminal Appeal, which the code established under *section 400.* Punishments for crimes against women and children were made "more stringent". *Sections 132* and *428* were new to Tasmania and were designed "to stimulate in some measure the sense of responsibility in parents and others having the care of young people". Under *section 132* a person who, "having custody, charge, or care of a girl" under eighteen, "causes or encourages the seduction, prostitution, or unlawful carnal knowledge by any person, of such girl" committed a crime. The onus was on the parent or guardian not "knowingly" to allow a girl in their "custody, charge, or care", "to consort with, or to enter or continue in the employment of, a prostitute or person of known immoral character". If this occurred *section 428* empowered the judge to divest the parent or guardian of "all authority" over the girl. The judge could appoint a new guardian to be responsible for her until she turned twenty-one.

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105 *The World*, 24 October, 1923; *The Mercury*, 27 October, 1923.

106 *The World*, 15 February, 1924; *The Mercury*, 15 February, 1924.

107 Archives Office of Tasmania, Attorney General's Dept. 1/24/55/7, M H Bisdee to Attorney-General, 3 January, 1924.

108 *Joint Parliamentary* ... above, n 103. I have been unable to trace the minutes of evidence to this report.

109 Roe, above, n 76.

110 *The Mercury*, 29 February, 1924; *The Criminal Code Act* 1924, 14 Geo. 5, No. 69.

Under *section 389 (b)* whipping was restricted to cases "directly involving personal violence of a serious nature" and was invoked at the discretion of the trial judge. *Section 124* raised the age of consent to eighteen. A dispute arose over *subsection 3* which allowed the consent of a girl to be a defence if the girl was over sixteen and the accused was under twenty-one. Walter Lee thought that this defence would defeat "the general object of the section" and should be excised.[111] The section was kept after Marshall pointed out that the female witnesses were "unanimous" that these "saving clauses" be inserted.[112] They wanted "to protect their sons as well as their daughters". The only other major dispute occurred in the Legislative Council where Propsting expressed dissatisfaction with giving wide discretion to judges as "uniformity and consistency" in sentencing would not be secured.[113] Nor was it "desirable to multiply" appeals. As two judges approved, Propsting accepted the change but warned that its practice would be "carefully watched" and would "not long remain the law".

Soon after the *Criminal Code Bill* was debated six women were appointed justices of the peace, four in Hobart, including Edwards, and two in Launceston.[114] The Woman's Non-Party Political League praised the Labor Government for proving itself "a friend to the cause of the emancipation of women".[115] No woman had yet been willing to accept appointment as a special Magistrate in the Children's Court. Edwards praised Waterworth for pressing the Labor Government to appoint women as justices and not confining them to the Children's Court, which Ogilvie preferred. Women were still not eligible to sit on juries. This right was not won until 1939 when women aged between twenty-five and sixty who notified the Sheriff in writing became eligible for jury service.[116]

Final Comments

Jury service and female lawyers apart, women were remarkably successful in their law reform campaign. They were able to enter Parliament and some

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111 A sub-committee set up to certify the Criminal Code Bill was ready to submit to Parliament expressed reservations about this section see Archives Office of Tasmania, Parliamentary Draftsmen 4, Ewing, Clark and Rule to Marshall 27 Feb. 1924(?).

112 *The Mercury*, above, n 110.

113 *The Mercury*, 13 March, 1924.

114 *Walch's Tasmanian Almanac*, Hobart 1925, 90, 93.

115 *The Mercury*, 6 March, 1924.

116 *The Mercury*, 30 November, 1939; *The Jury Act* 3 Geo. 6, No., 28.

were appointed justices of the peace. Publicity of sexual cases was more discreet and courts were usually cleared of spectators, while female victims could request that female friends or relatives remain to provide moral support. Punishment for sexual offences was more stringent and the age of consent was raised to eighteen. The campaign of the WARCL reinforces two important propositions on the role of women in Australian history as advanced by Daniels.[117] The first proposition, is that "far from being passive victims of exploitation", women "actively fought back, in primitive, spontaneous ways, in ways that showed a sense of solidarity, and through organised political activity, complex and various in its strategies". The second "proposition is that 'privileged' middle-class women in their humanitarian concern for lower class women, expanded their own domain" and were "as much concerned with creating an ordered society and with moralising the working class as with equality of the sexes". The WARCL's campaign also supports Reiger's interpretation of the remaking and modernisation of the Australian family in the early twentieth century. The campaign can be seen as part of a national push "to extend the principles of rational, orderly conduct to sexual behaviour, particularly in the interests of the production of a healthy, efficient race".[118]

The WARCL, satisfied with its work, apparently disbanded sometime in 1924 but we can doubt whether their law reform campaign achieved fundamental change.[119] Working-class women and children were still raped and indecently assaulted, and men still ruled the courts and Parliament. It is difficult to disagree with Polan that because law is "one, but only one, locus of male supremacy, legal efforts to end women's subordinate status cannot effectively challenge or cripple patriarchy unless they are undertaken in the context of broader economic, social, and cultural changes".[120]

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[117] K Daniels, "Women's History", in *New History: Studying Australia Today*, G Osborne and WF Mandle (eds) George Allen and Unwin, 1982, pp 49-50.

[118] K Reiger, *The Disenchantment of the Home: Modernising the Australian Family, 1880-1940*, Oxford University Press, 1985, pp 190, 194.

[119] For doubts about law reform and democracy benefiting women see C Smart, *Feminism and the Power of Law*, Routledge, 1989, and S Mendus, "Losing the Faith: Feminism and Democracy", in *Democracy: The Unfinished Journey 508 BC to AD 1993*, 207-9 J Dunn (ed), Oxford University Press, 1992.

[120] D Polan, "Toward a Theory of Law and Patriarchy", in *The Politics of Law: a Progressive Critique*, 201-2, D Kairys (ed), Pantheon Books, 1982.