

Partition, women, and social policy, 1921 – 39.

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Declaration

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Summary

This thesis analyses how the partition of Ireland affected state social intervention into women's lives in the Irish Free State and Northern Ireland. It begins its study with the opening of Stormont, the northern parliament, in 1921 and concludes in 1939 when welfare provision changed drastically with preparations for war. Using legislation as the basis of the investigation, this thesis explores selected welfare provisions directed towards women in each state and the process through which each state attempted to implement resulting schemes.

This thesis argues that a paternalistic conservatism was at the core of social policy concerning women north and south of the new border. Consequently, there were many similarities rather than differences in Free State and Northern Irish legislation, particularly due to the influence of British social policy. These similarities were in part a consequence of a post-partition civil service network between Britain and the two new states. In Northern Ireland, social policy was largely determined by the step-by-step policy, as well as debates about Northern Irish morality. In the Free State this wider trend of conservatism presented itself in many forms, including adherence to Catholic social and moral teaching, as well as the adoption of legislation from other areas of the Anglo-speaking world. This leads to another main claim of the thesis: it challenges the traditionally-held idea that social policy in the Free State was rooted in Catholic social and moral teaching. In turn, this finding dispels ideas of Irish exceptionalism in social policy. While it is undeniable that the church and Catholic ideology played a large role in the formation of social policy in this period, this can be seen to be part of a wider conservatism that existed at this time. Such a study is essential to understand larger influences on Irish social policy relating to women. Further, this work addresses the gap in knowledge about women, devolution, and social policy in Northern Ireland in the 1920s and 1930s. The thesis' innovative approach of considering the partition of Ireland outside of the traditional lens of unionism, nationalism, and republicanism, offers unique insight into the effect of partition on the lives of women.

Topics to be examined in this thesis are: support for unmarried mothers and their children, state schemes for widows, divorce legislation, and the marriage bar. These policies were selected because each reflects gendered categorisations of

women and what responsibility the state felt towards these specific, often working-class, women. It will be seen that legislators and the wider public carried specific assumptions about the morality and the place of these women in society. This allows for an interrogation of these ideals, how they translated into law, and what similarities and differences existed in the new Irish states. The significance of state actions will be contextualised with reference to the work of civil society groups including the Belfast Women's Advisory Council, St Vincent de Paul Society, the Irish Mothers' Pensions Society and others.

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List of abbreviations

BWAC	Belfast Women's Advisory Council
CMO	Chief Medical Officer
CPRSI	Catholic Protection and Rescue Society of Ireland
CTS	Catholic Truth Society
CYMS	Catholic Young Men's Society of Ireland
DDA	Dublin Diocesan Archives
GAO	Government Actuary's Office
GFS	Girls' Friendly Society
IMPS	Irish Mothers' Pensions Society
INTO	Irish National Teachers' Organisation
IWWU	Irish Women Workers' Union
JCWSSW	Joint Committee of Women's Societies and Social Workers
LEA	Local Education Authorities
MU	Mothers' Union
NAI	National Archives Ireland
NILP	Northern Irish Labour Party
NSPCC	National Society for the Prevention of Cruelty to Children
POS	Protestant Orphan Society
PRONI	Public Record Office of Northern Ireland
RCB	Representative Church Body Library
REC	Regional Education Committee
RUC	Royal Ulster Constabulary
SVP	St. Vincent de Paul Society
TNA	The National Archives, Kew
TUC	Trade Union Congress
UCCCI	United Council of Christian Churches in Ireland
UCDA	University College Dublin Archives
UK	United Kingdom
UTU	Ulster Teachers' Union
UULA	Ulster Unionist Labour Association
UUP	Ulster Unionist Party

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Chapter one: Introduction.

‘Every Social Service established in the Northern Area, for which there is no parallel provision in the Free State but serves as an additional barrier to the unity of the nation.’¹

This thesis analyses how the partition of Ireland affected state social intervention into women’s lives in the Irish Free State and Northern Ireland. It begins its study with the opening of Stormont, the Northern Irish parliament, in 1921 and concludes in 1939 as welfare provision changed drastically with preparations for war. Using legislation as the basis of the investigation, this thesis explores selected welfare provisions directed towards women in each state and the process through which each state attempted to implement resulting schemes. The thesis examines selected ‘categories’ of women. This is not to suggest that these strict categories are representative of all women or that women cannot transcend these labels. Indeed, those selected are in no way exhaustive or exclusive of the experience of women or men. In fact policy that affected women’s welfare was not limited to legislation specifically about women. Wider policies relating to housing, poor relief, education, health insurance, children’s welfare, and so forth are all areas that had substantial importance in women’s lives.

The topics to be considered in this thesis scrutinise how women were categorised and what responsibility the state felt towards these women. They are: support for unmarried mothers and their children, state schemes for widows, divorce legislation, and the marriage bar. These policies were selected because each identifies a specific morally coded categorisation of a woman: a single mother who is unmarried or widowed, a divorced woman, a single working woman or a married working woman. It will be seen that in the discussions of these policies and these women, legislators and the wider public carried specific assumptions about the morality and the place of these women in society. This allows for an interrogation of gendered ideals, how they translated into law, and what similarities and differences existed in the new Irish states. Such a study is particularly needed to understand larger influences on Irish social policy relating to women. This moves away from ideas of Irish exceptionalism, particularly with reference to ideas of the

¹ J.P. Dunne, ‘Irish Mother’s Pensions Society, “Waiting the verdict”. Pensions or Pauperism. Necessitous widows and orphans in the Free State.’ (Dublin, 1930), p. 6.

hegemonic role of the Catholic Church in informing social policy. It will be seen that similar laws existed on both sides of the new border that reflected laws in Britain and the British dominions. Further, a study of Northern Ireland beyond the framework of unionist, republican, and nationalist politics is particularly necessary as there is a dearth of information and analysis in the social and administrative history of the state in this period.

This work will consider the influences and motivations behind drafting legislation in the above-noted areas. In particular, it will examine the large influence on Northern Irish social policy of the convention followed by Prime Minister James Craig's cabinet of introducing social legislation on a step-by-step basis with Westminster. As such, this thesis also takes heed in general terms of debates and developments in interwar mainland Britain through the consultation of the appropriate secondary literature. With respect to the Free State, this work examines the influence of English and Northern Irish legislation on Free State welfare law, as well as the influence of the dominance of the Catholic Church in Irish society; however, this thesis challenges previous narratives that have overemphasised the role of the Catholic Church in Irish social policy.

The significance of state actions will be contextualised with reference to the work of civil society including the Belfast Women's Advisory Council (BWAC), St Vincent de Paul Society (SVP), the Irish Mothers' Pensions Society (IMPS) and others. This analysis of civil society will not form a large portion of this thesis, as space is limited, but will act as a reference point for state actions. Through this innovative approach to the study of partition, this thesis considers the partition of Ireland outside of the traditional lens of unionism, nationalism, and republicanism, thus offering unique insight into the effect of partition on the wider population in non-political terms. Moreover, this study adds to the growing literature about women's welfare in this era by examining issues associated with women's sexuality and morality through the new lens of partition.

I. Context

The Northern Irish parliament was created with the Government of Ireland Act, 1920. This act was passed during the Irish war of independence, which concluded with the Anglo-Irish Treaty in 1921. Partition was formalised with the ratification

of this treaty in 1922. The northern parliament voted to opt out of the treaty and remained a part of the United Kingdom (UK), while the Free State was given dominion-like status. This is where our study starts as the two Irish legislatures were given control of social policy in their jurisdictions. Histories of the Free State have emphasised the role of the Catholic Church in state politics, particularly John Whyte's *Church & State in Modern Ireland, 1923-70* and Dermot Keogh's *Ireland and the Vatican: The Politics and Diplomacy of Church-State Relations, 1922-1960*.² While the prominent role of the Church in Irish politics is undeniable, and particularly prevalent in the Archbishop McQuaid era (1940-72), this thesis seeks to understand the wider picture of the formation of state social policy, thus challenging the exclusivity given to Catholic social and moral teaching in Free State social policy.³ The presence of the same laws in other jurisdictions demonstrates that religion is not the only answer to questions about policy formation and that conservatism is not a solely Catholic preserve.

After partition the Free State and Northern Ireland inherited British laws such as the national health insurance, divorce, and poor laws. The Free State revised the latter two policies in the early years of its existence, but the national health insurance scheme remained in tact. This scheme required coordination from London with Dublin and Belfast, separately. As such a network of civil servants existed after partition. Ronan Fanning discusses this in his history of the Department of Finance,⁴ and this thesis seeks to add to this understanding of the post-partition relationship between the two new Irish states and London.

II. Aims and objectives

The overarching aim of this thesis is to critically assess how state social intervention into women's lives in the Free State and Northern Ireland differed following partition. This will be achieved largely through the analysis of legislation,

² John Whyte, *Church & State in Modern Ireland, 1923 – 70* (Dublin, 1980); Dermot Keogh, *Ireland and the Vatican: the Politics of Diplomacy of Church-State Relations, 1922 – 1960* (Cork, 1995).

³ There is a close connection between Catholic moral teaching and Catholic social teaching, the latter seeing Catholic moral teaching's application to society. Since Catholic social teaching is the term used in the Irish historiography that this thesis addresses, I will use the term Catholic social teaching throughout this thesis.

⁴ Ronan Fanning, *The Irish Department of Finance, 1922-50* (Dublin, 1978), *passim*.

parliamentary debates and state papers, as well as by taking a comparative approach between the two new states, along with Britain and the dominions of Canada and Australia. The latter states were selected for comparison as they have similar religious, in this case Christian, conservative culture as well as a British legal foundation.

The main research objective to achieve the central aim of this project is to compare Northern Irish with Free State legislation to understand how partition affected the schemes put in place to better women's welfare. Other main objectives include: to analyse the main influences on social policy in this period, particularly reassessing the significance of the extent of the distinctive role of the Catholic Church in developing policy; to interrogate the agency of the new northern government in its policy-drafting process – did policy come from Britain or could Northern Ireland form its own policy? Specific gendered policies will be examined to analyse how different categories of women were legislated for and prioritised. Social policy will also be used as a prism to explore the post-partition relationship between Northern Ireland and the Free State and to challenge the historiography of women in the Irish and Northern Irish states in this period, such as interrogating the unionist/nationalist paradigm employed in political histories.

In addition to achieving these research objectives, major research questions include: did demographics or socio-political circumstances of one state mean a certain issue was more prominent than in the other state? What legislation was proposed that did not pass in the legislature? To what extent did lobbying by social advocacy groups influence the legislation of each government? How did partition impact these social advocacy groups? Did they get more or less of a voice in social issues as the years passed? What role did the civil service play in women's welfare reform? To what extent was the British civil service involved in Northern Irish welfare? Finally, with regard to the influence of the Catholic Church on legislation, this thesis challenges the traditional argument that the Catholic Church was the sole source of conservative and patriarchal Free State policy, for, how could policies in Northern Ireland that were drafted at the same time and without comparable weight being accorded to the views of the Catholic Church - as distinct from those of all major religions – resemble so closely Free State legislation that historians have typically identified as dictated by the Catholic Church? What role did Protestant conservatism and shared Christian principles play in policy formation?

III. Main claims

A paternalistic conservatism was at the core of social policy concerning women north and south of the new border. In the Free State this presented itself in many forms, including adherence to Catholic social teaching, as well as the adoption of legislation in operation in other areas of the Anglo-speaking world. British legislation looms large in the drafting process in the new states. This was supported by links between the new states and the British civil service. In Northern Ireland this was strongly upheld by the step-by-step policy. Consequently, there were more similarities than differences in legislation from Dublin and Belfast. The British model was used in both jurisdictions, so policies ultimately looked the same. However, because of its step-by-step approach the northern government instituted more progressive reforms earlier, as such it can be seen that partition and devolved government had a critical impact on the introduction of social policy and the role of the state in women's lives. However, this thesis argues that the step-by-step process was complicated by the official attitude of Northern Irish legislators who believed Northern Irish morality was superior to English morality. This builds from Leanne McCormick's finding: 'While Northern Ireland had a majority Protestant government intent on retaining links with Britain and appeared to have little in common with its Catholic southern counterpart, on issues pertaining to sexuality and, in particular female sexuality, they displayed more similarities than differences. Both governments saw their state as being morally superior to the British mainland'.⁵ This thesis tests McCormick's finding to the step-by-step process and finds that the idea of a superior morality created legislative obstacles and prolonged the process of passing laws relating to moral questions.

The Free State introduced similar legislation to the UK eventually. This leads to another main claim of the thesis: it challenges the traditionally-held idea of social policy in the Free State being rooted in Catholic social teaching, and dispels ideas of Irish exceptionalism in social policy. While it is undeniable that the church and Catholic ideology played a large role in the formation of social policy in this period, this can be seen to be part of a wider religious and political conservatism that

⁵ Leanne McCormick, *Regulating Sexuality: women in twentieth-century Northern Ireland* (Manchester, 2009), p. 207.

existed at this time. The comparison with Northern Irish legislation proves this point. Further, a close examination of the marriage bar and divorce, two policies often employed as examples of Catholic social teaching, reveal similar patterns of policy and thought north and south of the border. The extension of the time period under review would perhaps demonstrate that the longevity of these conservative policies was maintained by Catholic Church's control over welfare institutions and a wider influence on government to refrain from reform. However, that is outside the scope of this thesis, as only the 1920s and 1930s will be examined.

IV. Methodology

Initially this thesis was imagined as an equal comparative examination between north and south. However, as my research developed, I saw the need to fill a void of research into social policy generation outside the prism of unionist/nationalist politics in the early years of the Northern Irish state. As such, this is not a neat, parallel comparison between north and south. The balance of this thesis falls toward analysis about Northern Ireland, but the Free State remains a strong source of comparison. Similarly, it was imagined that the work of voluntary bodies would be put under intense scrutiny; however, the focus shifted to policy and particularly questions of devolution, and as such, voluntary bodies took a secondary role as an input into social policy.

This thesis' approach to writing about women in relation to wider society circumvents the methodological problem noted by Linda Connolly of overemphasising the prominence of women's groups or social issues in the period.⁶ Such studies that analyse the work of political women as representative of the wider experience of average women risk projecting the present on to the study of the past. The methodology of this thesis follows that of Connolly, Caitriona Clear, and Mary Daly's nuanced approach to the study of women's history which situates conservative policies within their historical context. Clear and Daly note how some works of women's history overemphasised the conservative policies of the period, such as the criminalisation of birth control, and in doing so, approach the period by

⁶ Linda Connolly, *The Irish Women's Movement: From Revolution to Devolution* (Hampshire, 2002), *passim*.

projecting issues of the present on to their analysis of the past.⁷ Through the contextualisation of the Northern Irish and Free State welfare policies, this thesis avoids this methodological problem. Further, comparison between north and south, along with Britain and global comparisons to the British dominions of Canada and Australia places policies within their wider context to understand the intellectual and political currents of the time. These international comparisons are mentioned throughout the thesis instead of being isolated to a separate literature review, as this allows for more effective comparative analysis. However, it is important to note that these dominions operated social policy on a provincial or local level. This lends itself to helpful analysis between Northern Ireland and England and Wales, but makes generalisations difficult. Further, it is beyond the scope of this thesis to engage in comparisons between Quebec and wider Canada with Northern Ireland and the Free State. This is an important area of analysis with specific local issues and questions, but is beyond the parameters of this work.

This project raises conceptual issues regarding the use of legislation as an historical source. It argues that while legislation is an important source, it cannot be considered as representative of the wider experience of Irish society. The law could be a delayed reaction to a problem and not a cure-all to the issue. Further, legislation often reveals more about the legislators and the state than it does about the experience of women at the time. Consequently, this thesis looks more at policymakers and policy, rather than focusing on the experiences of the women for whom these laws were made, for the research's main aim is to understand the effect of partition on the relationship between the state and women. This work will examine laws, commissions, and parliamentary debates to excavate contemporary ideas held by policymakers about women. By analysing these ideas about femininity, this thesis understands gender as a social construct and will trace how conceptions of femininity were sustained or challenged in the period under review.

This thesis also examines the nature of co-operation between the state and civil society in post-conflict zones. The study of welfare initiatives in each state brings to light how society attempted to get back to neutrality after conflict. Moreover, the

⁷ Caitriona Clear, *Women of the house: women's household work in Ireland: discourses, experiences, memories* (Dublin, 2008), pp 5-6; Ibid, 'Women in de Valera's Ireland, 1922-48: a reappraisal', in G. Doherty & D. Keogh (eds), *De Valera's Irelands* (Cork, 2003), pp 104-5; Mary Daly, 'Wives, Mothers, and Citizens: the Treatment of Women in the 1935 Nationality and Citizenship Act' in *Éire-Ireland* xxxviii no. 3/4 (Fall/Winter 2003), p. 244.

comparison between Northern Ireland and the Free State sheds light on the relationship between newly created states from a conflict area. The examination of this issue through the lens of welfare policy will provide a new frame of analysis in this area of study. This project also raises awareness of conceptual issues in researching women and ‘the poor’ as subjects of historical consideration. As discussed by Frederick Powell and Maryann Valiulis, women and the lower classes are not homogenous groups.⁸ Discussions in this work of different groups of women from diverse classes highlights this important concept that women and ‘the poor’ cannot be pigeon-holed as having one broad experience. By coupling this study of official actions by the Free State and Northern Irish governments with social organisations, a greater understanding of the real issues of the day will come to light.

V. Sources

Building on the methodology of Lindsey Earner-Byrne’s *Mother and Child: Maternity and Child Welfare in Ireland, 1920s-1960s* and Eileen Connolly’s 1998 doctoral thesis, also supervised by Eunan O’Halpin, *The State, Public Policy, and Gender 1957-77*,⁹ the base of this thesis rests on official state records (parliamentary debates, the office of the parliamentary draftsman, and departmental records) and is complemented by the work of the records of civil society groups and newspapers. Official state records in Ireland that were consulted include the government departments of the Taoiseach, Local Government and Public Health, Labour, and Finance. In Northern Ireland the records of the Ministry of Home Affairs, the Cabinet, Education, and Finance were examined. The Stormont cabinet conclusion meeting minutes digitised on *Archives Unbound* were also of crucial use to this research. Finally, papers from the Dominions Office, Home Office, Treasury and Pensions office in the British National Archives at Kew were also used. The records of commissions and inquiries also served as rich sources. Personal papers of

⁸ Frederick W. Powell, *The politics of Irish social policy, 1600–1990* (New York, 1992), p. ix; Maryann Valiulis, ‘Introduction: Gender, Power, and Patriarchy’, in Maryann Valiulis (ed) *Gender and Power in Irish History* (Dublin, 2009), p. 2.

⁹ Lindsey Earner-Byrne, *Mother and child: maternity and child welfare in Dublin, 1922-60* (Manchester, 2013); Eileen Connolly, ‘The State, Public Policy, and Gender: Ireland in Transition, 1957-1977’ (PhD thesis, Dublin City University Business School, 1998).

politicians, Cumann na nGaedheal, and Fianna Fáil in the UCD archives were indispensable, as well as the papers of Archbishop Byrne held by the Dublin Diocesan Archives. Byrne had a close relationship with the Cosgrave administration of 1922-32, and as such his papers are an excellent resource for this thesis.

Newspapers from *Irish News Archive*, mainly the *Belfast Newsletter*, *Cork Examiner*, *Irish Independent*, and *Ulster Herald*, were consulted, as well as papers from the *British Newspaper Archive*. The *Irish Times* online database and microfilm of *Belfast Evening Telegraph* and *Northern Whig* were indispensable. Hardcopy of the *Church of Ireland Gazette* at the National Library of Ireland was particularly enjoyable to browse through and provided essential material for this thesis. Finally, unless noted otherwise, biographical information for TDs and senators comes from the members directory on the Houses of the Oireachtas website.¹⁰ David Boothroyd's 'Biographies of the Members of the Northern Ireland House of Commons' provided biographical information for Northern Irish members.¹¹ The electronic versions of the *Dictionary of Irish Biography* and the *Oxford Dictionary of National Biography* also served as essential resources and are cited throughout the text.

An inherent issue of examining social policy in this period is that the voice of women, particularly necessitous women, is largely absent as men made-up the majority of legislators north and south of the border. In order to retrieve the female voice in these issues I analysed the records of female civil society groups, particularly the BWAC, letters from women writers to editors of newspapers, records of civil society groups who worked with necessitous women, particularly the SVP and the IMPS, and letters from women to government departments and ministries.

VI. Major themes and contribution to knowledge

This thesis contributes to knowledge in a variety of areas, particularly women's history, all-Ireland histories, social policy, sexuality, motherhood, the role of religious authorities in social policy, the predominance of men in the framing of

¹⁰ Dáil Éireann members' directory, *Houses of the Oireachtas* (<http://www.oireachtas.ie/members-hist/default.asp?housetype=0>); Ibid., Seanad Éireann members' directory (<http://www.oireachtas.ie/members-hist/default.asp?housetype=1>).

¹¹ David Boothroyd(ed.). 'Biographies of the Members of the Northern Ireland House of Commons'. (<http://www.election.demon.co.uk/stormont/biographies.html>).

policy affecting females, and, most crucially, the administrative and social history of Northern Ireland. The following section will outline the main themes connecting this thesis and will address how this thesis adds to knowledge in these areas.

The traditional historiography of women's social welfare in the early post-partition years analyses Northern Ireland and the Free State in isolation from one another. This thesis challenges this approach of many twentieth-century Irish historians and argues that this field of study can be enhanced by an all-island, cross-border analysis of the effect partition had on women's social and medical welfare. Previous cross-border histories have focused largely on the nationalist and unionist politics of the period, such as David Fitzpatrick's social and political history *Two Irelands*, Michael Kennedy's history of cross border relations, and Dennis Kennedy's examination of all-Ireland press relations.¹² This study expands these areas of knowledge by analysing Northern Ireland and the Free State in this period through the neglected lens of gender and class. This innovative analysis of the different approaches to social policy taken by Northern Ireland and the Free State re-situates each new state in their larger context, which in turn highlights the diverse ways in which each government defined social policy after partition. This research therefore contributes to the historiography of women's history as well as the scholarship of the aftermath of Irish partition.

Further, this approach builds upon the studies of Irish social policy by Sophia Carey, Mel Cousins, Finola Kennedy, and Frederick Powell, as well as the studies of early Irish and Northern Irish governments by Eunan O'Halpin, Paul Bew, Peter Gibbon, Henry Patterson, Patrick Buckland, and Graham Walker.¹³ These previous studies in policy and politics have not taken an explicitly comparative approach between north and south and have not looked specifically at gendered policy.

¹² See David Fitzpatrick, *The Two Irelands, 1912-39* (Oxford, 1998); Michael Kennedy, *Division and Consensus: the Politics of Cross-Border Relations in Ireland, 1925-69* (Dublin, 2000); and Dennis Kennedy, *The Widening Gulf* (Belfast, 1988).

¹³ See Paul Bew, Peter Gibbon and Henry Patterson, *Northern Ireland 1921-2001: political forces and social classes* (London, 2002); Patrick Buckland, *The Factory of Grievances: Devolved Government in Northern Ireland, 1921-39* (Dublin, 1979); Sophia Carey, *Social security in Ireland, 1939-52* (Dublin, 2007); Mel Cousins, *The Birth of Social Welfare in Ireland, 1922-52* (Dublin, 2003); Finola Kennedy, *Cottage to crèche: family change in Ireland* (Dublin, 2001); Eunan O'Halpin, *The decline of the Union: British government in Ireland 1892-1920* (Dublin, 1987); Powell, *The politics of Irish social policy*; Graham Walker, *A history of the Ulster Unionist Party. Protest, pragmatism, and pessimism* (Manchester, 2004); *Ibid.*, *The politics of frustration: Harry Midgely and the failure of Labour in Northern Ireland* (Manchester, 1985).

Moreover, by exploring the history of women through social legislation, this thesis expands on current trends in Irish women's history which focus on the experience of women beyond the political contexts of unionism, nationalism, the suffragette movement, such as, but not limited to, Sarah-Anne Buckley's work on the National Society for the Prevention of Cruelty to Children (NSPCC), Lindsey Earner-Byrne's analysis of welfare provision to women and their families, Seán Lucey's work on the poor laws in the Free State, Leanne McCormick's work on women and sexuality in Northern Ireland, Jennifer Redmond's studies of female migration, and Diane Urquhart's work on divorce.¹⁴ These works inform the knowledge, arguments, and analysis of this thesis. They are groundbreaking in their focus, arguments, and research, and push the historiographical boundary beyond traditionalist approaches to the history of the two Irelands. These texts concentrate on the experience of the women who received government aid, while this project adds to this scholarship by focusing largely on the policy itself, such as the motivations and influences on policy, and the drafting and passing of legislation.

A major theme which links the above works with this thesis is the exploration of welfare provision and motherhood. By examining this gendered approach to welfare policy for women, this work fits with the wider direction of women's history to consider gender alongside women's history. Valiulis and Earner-Byrne argue that women were at the heart of Free State welfare policy. Valiulis observes that motherhood was given 'political status' and women 'performed their service to the state' through motherhood.¹⁵ Carey notes how this differentiates Ireland from other European countries such as Germany: '[In Germany] women have traditionally had little or no independent access to benefits if they did not engage in paid work. In Ireland, on the other hand, women are considerably more likely to have a personal

¹⁴ Selected texts include: Sarah-Anne Buckley, *The Cruelty Man: Child Welfare, the NSPCC and the State in Ireland, 1889-1956* (Manchester, 2013); Earner-Byrne, *Mother and child*; Donnacha Seán Lucey, *The end of the Irish poor law? Welfare and healthcare reform in revolutionary and independent Ireland* (Manchester, 2015); McCormick, *Regulating sexuality*; Jennifer Redmond, 'In the family way and away from the family: examining the evidence in Irish unmarried mothers in Britain, 1920s-40s'. pp 163-85 in Elaine Farrell (ed.), *'She said she was in the family way': Pregnancy and infancy in modern Ireland* (London, 2012); Diane Urquhart, 'Irish divorce and domestic violence, 1857-1922' in *Women's History Review*, xxii, no. 5 (2013), pp 820-37.

¹⁵ Maryann Valiulis, 'Virtuous Mothers and Dutiful Wives: The Politics of Sexuality in the Irish Free State' pp 100-14 in Maryann G. Valiulis (ed), *Gender and Power in Irish History* (Dublin, 2009), p. 102.

entitlement to benefit, and thus, in effect, greater autonomy.’¹⁶ Earner-Byrne’s extensive work on gendered welfare policy in Ireland argues that an idealised perception of the entire family was central to the welfare policy of the Free State. In this argument, Earner-Byrne’s discussion of the mother is pertinent to my work, for she illuminates the state’s prioritising the family over the welfare of women.¹⁷ This study builds upon Earner-Byrne’s area of analysis and looks to compare it with its Northern Irish counterpart. Further, it adds to this area of knowledge by examining how mothers were categorised and valued over one another, such as the widow versus the unmarried mother versus the working married mother. Many of the issues discussed in this thesis relate to working-class women and families. In particular, the first four chapters which deal with affiliation orders and widows’ pensions which were policies largely for working-class women. These policies replace provision provided by Board of Guardians or county homes. This thesis adds to Lucey’s work on welfare provision by examining efforts the state took to move away from poor law institutions.¹⁸ The final two chapters about divorce and the marriage bar, respectively, discuss policies which relate to middle-class or upper-class women: divorce was mainly accessible by the elites, and the marriage bar affected female teachers, a middle-class profession.

Prevailing concepts of morality, which evolved during the long nineteenth century, also served to delineate different groups of women, in ways that could reflect or transcend class divides. Traditional ideas of morality could also underpin the concept of the undeserving and deserving poor which also survived into the twentieth century. Crossman examines ideas of the deserving poor in the Irish context. Widows and deserted wives were respectable women who faced hardship because of forces beyond their control, whereas unmarried mothers lacked respectability and faced hardship by their own doing. Crossman notes this attitude linked poverty and morality welfare providers and Poor Law reforms in the nineteenth-century Ireland: ‘at a time when many Poor Law guardians and philanthropists were coming to see poverty as the result of a combination of economic, environmental and moral factors, the Poor Law Commissioners

¹⁶ Carey, *Social security in Ireland*, p. 64.

¹⁷ Lindsey Earner-Byrne, ‘Reinforcing the family: the role of gender, morality and sexuality in Irish welfare policy, 1922-1944’ *The History of the Family* xiii (2008), p. 366.

¹⁸ Lucey, *The end of the Irish poor law? Welfare and healthcare reform in revolutionary and independent Ireland*.

maintained a strict adherence to the idea of destitution primarily as a moral problem, a personal failing'.¹⁹ Such ideals about welfare and gender carried through in the two Irish states in the post-partition years. This thesis interrogates how these ideas of deserving and undeserving poor permeated discussions and ideals about welfare provision for necessitous women.

This thesis adds to scholarship about women in the Free State by taking a different approach than examining the policy relating to women exclusively through the analytical lens of the role of the Catholic Church. In particular, this work expands the analytical lens beyond questions of the influence of Catholic social teaching. In the period under review, this can be considered as the teaching of Catholic ideology and traditional values in every day life. These values are particularly clear in the papal encyclicals *Rerum Novarum* (1891) and *Quadregesimo Anno* (1931). Beaumont discusses Catholic social teaching in more detail, and she points to the former encyclical's declaration 'woman is by her nature fitted for home work and it is this which is best adapted to preserve her modesty and promote the good upbringing of the children and the well being of the family'. She further highlights the 1931 encyclical's emphasis that: 'mothers will above all devote their work to the home and the things connected with it'.²⁰ This thesis will examine how these ideals informed political and policy debates in the 1920s and 1930s, and argues that there are other influences at work other than Catholic social teaching. This adds to the work by Sophia Carey in her book *Social security in Ireland: 1939 – 52* in which she examines the influence of several factors on social policy, including the legacy of inherited British law, wider international trends, in addition to the role of Catholic social teaching and the Church.²¹

Crucially, my thesis argues that, while the Catholic Church and Catholic social teaching had an enormous role and influence in Irish political and private life in this period, it is necessary to consider other conservative forces. Indeed, as Maria Luddy writes: 'both the State and the Church emphatically presented women's place as being in the home, and the ideal role of the Irish woman was as mother. The idealisation of motherhood was a significant feature of rhetoric of politicians in the

¹⁹ Virginia Crossman, 'Viewing women, family, and sexuality through the prism of the Irish Poor Laws' in *Women's History Review*, xv no. 4 (4 Sept. 2006), p. 543.

²⁰ Caitriona Beaumont, 'Women, citizenship, and Catholicism in the Irish Free State, 1922 – 1948' in *Women's History Review* xi no. 4 (1997), p. 564.

²¹ Carey, *Social security in Ireland*, p. 65.

new Irish state; the female body and the maternal body, particularly in its unmarried condition, became a central focus of concern to the State and the Catholic Church.²² Carole Holohan also raises the vital point about how the informal popularity of Catholic social teaching was critical to the Irish political climate: ‘While the Catholic hierarchy had little direct influence on the development of social security policy, Catholic ideas affected cultural attitudes to poverty and “was part of the air breathed by legislators”’.²³ This thesis builds upon these important studies and investigates how the Free State’s emphasis on women, maternity, and the state was also expressed in Northern Ireland, with some reference to England and Wales and the British dominions - states outside of the influence of the Catholic Church. For instance, McCormick notes how Catholic social teaching about abortion was still prominent amongst northern Catholics, but the reach of the Church was not as strong as it was in the south: ‘While Catholics in Northern Ireland would obviously have been aware of the Church’s teaching on the issue, there was not the same level of influence on the state or the medical profession as there was in southern counties, and the issue did not generate the same level of concern’.²⁴

Therefore, this thesis asks, how do the ideals and policies of the Free State and Northern Ireland fit into wider global trends in this period? By answering this question, this thesis argues that these efforts by Church and state can be understood to be a part of wider Christian and political conservatism in the period. It is not an Irish phenomenon and Catholic social teaching is not the only reason for these ideals. This argument will be proven through a comparative approach of legislation and attitudes north and south of the new border, as well as to Britain and the British dominions. By asking the question, how can laws that are seen as typical of Irish Catholic social teaching be prevalent in the UK, Ireland, and the dominions, it will be seen that women north and south of the border were treated as second-class citizens and perceived by the legislators through a lens of conservative paternalism.

²² Maria Luddy, ‘Foreword’ in Jennifer Redmond, Sonja Tiernan, Sandra McAvoy, and Mary McAuliffe (eds), *Sexual politics in modern Ireland* (Sallins, Co. Kildare, 2015), p. xvi.

²³ Carole Holohan, ‘Conceptualizing and responding to poverty in the Republic of Ireland in the 1960s: a case study of Dublin’. *Social History* vol. 41 no. 1 (2016), p. 36.

²⁴ Leanne McCormick, “‘No sense of wrongdoing’: abortion in Belfast, 1917-67’ in *Journal of Social History* xlix no. 1 (2015), p. 130.

This challenges previous works about women in this period that limits their analysis only to the role of the Catholic Church. Of course Catholicism played a major role in ideals of the time in the Free State, but the popularity of these ideals outside of the state, in Northern Ireland, Britain, and the dominions, areas that were not as closely linked to Catholic social teaching, demonstrates a wider conservatism at work and dispels ideas of Irish exceptionalism. In this vein, the work of James Smith and his theory of the culture of containment is tested in the context of Northern Irish social policy and in comparisons between Northern Ireland and the Free State. Smith argues that laws, policies, and institutions, as well as the suppression of government reports, particularly the Carrigan Committee into juvenile delinquency, all worked to sustain a culture that contained immorality and purported ideals of Irish morality.²⁵ Smith's work generated much controversy and debate in Irish historiography. For instance, Moira Maguire asserts: 'Smith acknowledges that his work is primarily a piece of literary criticism . . . But he does purport to provide a historical context for his textual analysis and herein lies the danger. Smith's work is seriously under-sourced as a work of history, and he draws broad conclusions and makes sweeping generalisations with scant evidence.'²⁶ This thesis adds to debates about Smith's theory by testing its argument to Northern Irish approaches to women, morality, and the state. Further, it will be applied outside of the Free State to see if the Free State was exceptional in its culture of containment, and it will be argued that in many cases it was not exceptional in its social policy.

This builds upon Clear's thesis in *Women of the house: women's household work in Ireland: discourses, experiences, memories* which challenges the idea of a consensus in the church and state about the oppression of Irishwomen. In particular she criticises previously-held theses that the ideology of the political and religious elites placed women in the home. Using alternative sources to legislation, such as census records, registrar reports, and newspapers, Clear argues that the threats to women's employment rights and citizenship in the 1920s and 1930s were 'piecemeal and inconsistent', and women had access to paid work and were not

²⁵ James M. Smith, 'The Politics of Sexual Knowledge: the Origins of Ireland's Containment Culture and the Carrigan Report (1931)' in *Journal of the History of Sexuality* xiii no. 2 (April, 2004), pp 208-33.

²⁶ Moira Maguire, *Precarious childhood in post-independence Ireland* (Manchester, 2009), pp 10 -11.

compelled to accept a life of domesticity.²⁷ Clear elaborates on this line of argument in stating that her work did not deny that attacks occurred on citizenship, jobs, and feminism, but it was important to note that ‘there was a citizenship to be attacked, there were jobs from which it was considered necessary to exclude women, and there was a feminism to be against’.²⁸ This importance of contextualising Ireland with larger international trends is evident in Clear’s nuanced revision of the argument that the state was oppressive and that women had little agency. Her argument is particularly convincing due to her comparison of Ireland with Germany, Spain, and Poland in the 1930s, which highlighted that the latter three countries had far more conservative policies regarding women, and, unlike the other three, Germany was not a predominantly Catholic polity. This puts the position of Irishwomen in its larger, international context and demonstrates that different types of questions need to be asked to understand the place of Irish women and Irish policy in the 1920s and 1930s.

One of the main contributions to knowledge that this thesis delivers is the addition to the historiography of Northern Ireland in this period. As discussed above, this project was initially intended to be a balanced comparison between the two new states, however, over the course of research it became clear that the dearth of information about women and social policy in Northern Ireland was necessary to resolve. As such, this thesis is weighted towards Northern Irish analysis and consequently, the largest contribution to knowledge is filling this gap in the historiography of women in Northern Ireland in this period. This builds upon the work of McCormick, Urquhart, and Walker about society and politics in Northern Ireland.²⁹

An important policy to be familiar with for this thesis is the step-by-step policy. This was the approach of Prime Minister Craig and his cabinet of writing Northern Irish legislation on a parallel basis to England and Wales. This thesis will track the development and issues of this policy and will argue that it played a crucial role in women’s lives after partition. Craig’s cabinet followed this policy for the duration of its administration (1921- 1940), but the Unionist Party was not uniform in its

²⁷ Clear, *Women of the house*, p. 6.

²⁸ Clear, ‘Women in de Valera’s Ireland, 1922–48: a reappraisal’, p. 105.

²⁹ McCormick, *Regulating sexuality*; Diane Urquhart, *Women in Ulster politics 1890-1945* (Dublin, 2000); Walker, *A history of the Ulster Unionist Party*; Ibid., *The politics of frustration*.

support of the cabinet's policy. Paul Bew *et al.* discuss two competing factions in Craig's cabinet over following the step-by-step policy. One faction, the 'populists', included Prime Minister Craig, the Minister of Home Affairs Sir Richard Dawson Bates and the Minister of Labour John Andrews, who were in favour of the step-by-step policy. The 'anti-populists', including Finance Minister Hugh Pollock and the Head of Civil Service Wilfrid Spender, were against it.³⁰ Walker provides further discussion of how the 'anti-populist' faction saw the step-by-step policy as an embarrassment because it required the Northern Irish government to ask the British Treasury for money, and was indicative of a lack of independence. Conversely, Walker argues, the 'populist' faction believed that Northern Ireland should differ only minimally from English social legislation.³¹ Ultimately the cabinet adhered to the policy of parity, but not without its challenges from the House of Commons.

Histories of the Northern Irish government in the 1920s and 1930s reveal that Craig's motivations behind the step-by-step policy were multi-faceted. For instance, Walker argues that the policy of parity worked in the Unionist Party's favour in terms of party politics: 'it took the ground from beneath a party like the NILP [the Northern Irish Labour Party] and made credible the Unionist pleas for Protestant working-class support. It could also be used by Craigavon to refute – however dubiously – allegations of discrimination against the minority social welfare benefits were administered impartially between Protestants and Catholics'.³² Barton discusses the importance of step-by-step for retaining working-class votes: 'some unionists were concerned that if equal standards were not maintained, sections of the workforce would become so disaffected that they would vote socialist, or perhaps even emigrate'.³³ Fitzpatrick attributes the step-by-step policy to the Unionist Party's desire to emphasise its loyalty to the rest of the UK: 'Craig's ministry generally imitated English legislation after a brief delay, in order to emphasize the province's full participation in the United Kingdom'.³⁴ While this previous scholarship discusses the motivations behind the step-by-step policy, it does not detail the development of the policy other than to describe the early

³⁰ Bew, Gibbon and Patterson, *Northern Ireland 1921-2001*, pp 48, 51.

³¹ Walker, *A history of the Ulster Unionist Party*, p. 64.

³² Ibid, p. 77.

³³ Brian Barton, 'Northern Ireland, 1925-39', in F.J. Byrne, W.E. Vaughan et al (eds), *A New History of Ireland*, vol VII: Ireland, 1921-84 (Oxford, 2003), p. 206.

³⁴ Fitzpatrick, *The Two Irelands*, p.146.

tensions in Craig's cabinet about adopting it. This thesis will track the development of step-by-step policy and study how this policy affected welfare reform relating to women.

This thesis will address a complicating factor that has yet to be discussed in the histories that deal with the step-by-step policy; that is, how the Northern Irish government married its traditional, conservative social outlook with the slightly more progressive social policies of England and Wales. As discussed above, in light of McCormick's argument, how did the Northern Irish politicians reconcile this superior-moral outlook with following English social policy? This thesis argues that the Northern Irish state's belief in its superior morality can be seen as a cause of complications which arose in the debating of this legislation in Stormont, as the motivation to improve the welfare of women while protecting the morality of the Northern Irish people conflicted with the policy of following English social legislation on a step-by-step basis.

VII. Limitations

While there are many areas that this thesis investigates, there are many it does not. Analysis of the approach of the states to the institutionalisation of women is beyond the limits of this thesis. Magdalen laundries, mother and baby homes, and similar institutions will not be examined as a whole other set of questions, literature, and analysis is necessary and beyond the scope of this thesis. Work by Frances Finnegan, Seán Lucey, Moira Maguire, and Eoin O'Sullivan and Ian O'Donnell have been crucial the historical understanding of the institutionalisation of women and illegitimate children.³⁵

Similarly, devoted analysis to the everyday lives of women is beyond the scope of this project. This thesis focuses on politicians' ideas about women and the categorisation of these women, and as such, analysis of how these women, and how urban and rural women more generally, experienced the resultant policies under analysis was beyond the confines of this thesis. Further, this thesis is aware of the

³⁵ See Frances Finnegan, *Do penance or perish: magdalen asylums in Ireland* (Oxford, 2004); Lucey, *The end of the Irish Poor Law?*, pp 82 – 118; Maguire, *Precarious childhood*; Eoin O'Sullivan and Ian O'Donnell (eds), *Coercive confinement in Ireland: patients, prisoners and penitents* (Manchester, 2009).

criticism that taking this approach to women and welfare policy can be seen as rendering women ‘passive recipients in the story of the development of the welfare state’.³⁶ However, by interrogating the ideals about women in this period, the responses of the public and women’s groups to these policies, and by examining specific examples of women affected by these policies, this thesis avoids this methodological oversight.

Theoretical analysis such as that of feminist and Marxist theories is not engaged with in this study; instead the analysis was dictated by the archival material found throughout the research process. However, debates about gendered ideals are engaged with throughout the thesis – not least because the legislatures and higher bureaucracies were overwhelmingly male in composition - but it is beyond the scope of this thesis to devote significant space and analysis to theoretical issues about gender constructs. This approach fits with wider trends, discussed above, in Irish women’s history that bridge women’s history and gender history. That is, ‘woman’ is understood not be a static, neutral term. In the period under review ‘woman’ had gendered associations and expectations, particularly regarding motherhood and sexuality.

Unfortunately it was also beyond the scope of space and analysis to include Scotland into the discussion of Northern Irish social policy. My analysis is between Belfast and London because of the constitutional relationship between the two. However, the strong cultural and religious ties between Scotland and Northern Ireland make a strong case for the inclusion of Scotland into this analysis. Walker has written about the importance of studying Scotland and Northern Ireland together when considering questions about devolution.³⁷ Wright’s and Hughes’s recent publications explore the work of women’s societies on social and political questions in Edinburgh and Glasgow.³⁸ Unfortunately due to space and time

³⁶ Suzanne Morton, ‘Women on their own: single mothers in working-class Halifax in the 1920s’ in *Acadiensis* xxi no.2 (Spring 1992), p. 91.

³⁷ Graham Walker, ‘Scotland and Northern Ireland: constitutional questions, connections and possibilities’ in *Government and opposition*, xxxiii no. 1 (Winter 1998) pp 21 – 37; Ibid, ‘Scotland, Northern Ireland, and Devolution, 1945-1979’ in *Journal of British Studies* xlix no. 1 (Jan 2010) pp 117- 42.

³⁸ Valerie Wright, ‘Education for active citizenship: women’s organisations in interwar Scotland’ in *History of Education* xxxviii no. 3 (May 2009) pp 419 – 36; Esther Breitenbach Valerie Wright, ‘Women as Active Citizens: Glasgow and Edinburgh c. 1918-39’ in *Women’s History Review* xxiii no. 3 (2014) pp 401-20; Annmarie Hughes, *Gender and political identities in Scotland, 1919-39* (Edinburgh, 2010).

constraints, it was not within the scope of this analysis to include Scotland. Similarly, mainland Europe will not be discussed as that opens up too wide a set of issues.

Another limitation of this thesis is the lack of interrogation into the experience of the Catholic communities in Northern Ireland. By taking a top-down approach to the study of social policy, the experience of how this minority community received welfare provision was not within the scope of the project. Elliott discusses the Catholic minority in *The Catholics of Ulster: a history*. She discusses discrimination in housing, employment, and employment within the public services. A study that discusses how this community received welfare is incredibly important and necessary. Anti-Catholic sentiment was strong in the Northern Irish government, Elliott notes, particularly in the Ministry of Home Affairs: ‘Most famously, Home Affairs Minister Dawson Bates refused to have Catholics in his ministry and in 1934, upon learning “with a great deal of surprise” that a Catholic telephonist had been appointed in Stormont, he refused to use for the phone for important business and the telephonist was transferred.’³⁹ However, Elliott also notes that the head of the civil service, Sir Wilfrid Spender, was ‘on the record as protesting at the anti-Catholicism of the politicians and he particularly disliked Bates’.⁴⁰ With this sentiment so strong in the ministry responsible for many social services, and with resistance from the head of the civil service, an interrogation of the extent of discrimination in the work coming out of this ministry is indispensable to historical understanding of social policy and the experience of the Catholic minority in Northern Ireland.

VIII. Important persons and definitions

In Northern Ireland the cabinet remained the same in the period under review. The Ulster Unionist Party (UUP) led the government, with Sir James Craig, made Viscount Craigavon in 1927, as prime minister. For ease of reference I will refer to him as ‘Craig’ instead of ‘Craigavon’ throughout the thesis. The Minister of Home Affairs was Sir Dawson Bates, John M. Andrews was the Minister of Labour, Hugh Pollock was Minister of Finance, and Lord Londonderry was the Minister of

³⁹ Marianne Elliott, *The Catholics of Ulster: a history* (London, 2000), p. 389.

⁴⁰ Ibid.

Education until 1926, succeeded by Viscount Charlemont until 1937 and James Hanna Robb until 1943. The Free State was led by President W.T. Cosgrave's Cumann na nGaedheal from 1922 - 32. The Minister for Home Affairs, later Justice, until 1927 was Kevin O'Higgins, succeeded after his death by James Fitzgerald-Kenny; the Minister for Finance was Ernest Blythe, a Northern Irish Protestant; and the Minister for Local Government and Public Health was Seamus Blake and later Richard Mulcahy. With the change in government in 1932, Fianna Fáil took power under Éamon de Valera, and James Geoghegan was the Minister for Justice until 1933, replaced by P.J. Ruttledge; Seán T. O'Kelly was the Minister for Local Government and Public Health; and Seán MacEntee was the Minister for Finance.

It will be seen that various medical doctors and legal professionals took particular interest in the social policy that will be examined. In Northern Ireland a frequent participant in calls for reform was Dr Hugh Smith Morrison. A coroner from Coleraine, Morrison was elected MP for Queen's University in 1925 and served until his death in 1929. He frequently commented on issues of social policy, including women and children's health and illegitimacy. Morrison also served as chairman for the South Londonderry Unionist Association and the County Londonderry Branch of the Irish Unionist Alliance.⁴¹ He published a book *Modern Ulster: its industries, customs, and politics* in 1920, which Walker discusses in more detail.⁴² Another Northern Irish politician who appears often in this text is Senator James Graham Leslie. He practised law briefly before turning to the civil service to work in the contract department in the Foreign Office. Harbinson describes him as: 'generally recognised as the most erudite and diligent of the Senators: draftsmanship was his special province, and he, more than any other brought meaning to the Chamber's role as a revising body'.⁴³

The BWAC also played a large role in calls for reform. In particular Dora Mellone, the council's secretary, was a frequent name to appear in papers and in delegations. Mellone was an Irish suffragist and long time campaigner for women's

⁴¹ *British Medical Journal*, 8 June 1929.

⁴² See Graham Walker, 'The Ulster Covenant and the pulse of Protestant Ulster' in *National Identities* xviii no. 3 (2016), pp 313-25. Morrison's book serves as a pillar of Walker's analysis of early twentieth century Ulster unionism.

⁴³ John F. Harbinson, *The Ulster Unionist Party, 1882 – 1973: its development and organisation* (Belfast, 1973), p. 205.

employment rights.⁴⁴ The BWAC lobbied the government on issues relating to women's and children's rights, and act as a crucial female voice in this study. While this voice is an elite, educated voice, and the matters discussed sometimes related to working-class women, they are a critical voice to this study.

A note on terminology: following the *Irish Historical Studies* guidelines, this thesis uses 'Derry' to refer to the city, and 'Londonderry' to refer to the county and parliamentary constituency.⁴⁵ Similarly, 'Northern Ireland' is used to describe the political unit created after 1922. As Akenson writes: 'No judgement is implied in these pages on whether or not the government of Northern Ireland has a moral right to exist. The empirical fact that it has existed and continues to exist is all that matters for the purposes of this book'.⁴⁶

IX. Thesis outline

Chapter one examines the 1925 affiliation orders legislation in Northern Ireland. This law allowed unmarried mothers to sue the fathers of their child for maintenance. The affiliation orders legislation in Northern Ireland is a perfect starting point for this study as it introduces issues that feature throughout the thesis, including a paternalistic understanding of women, various categorisations of motherhood based upon class, and how issues of devolution had wide-reaching effects, particularly that ideas of a superior Northern Irish morality was at odds with Stormont following Westminster's social policy. This act cannot be seen as an effective bill for improving women's welfare, however, it is significant because it sheds light on how social policy was written for women in each new state. This chapter will interrogate questions of how much direction the Stormont government had in writing legislation, and it also adds to the literature in the area by relocating the study of unmarried mothers away from sexuality and religion, and into wider understandings of motherhood and class.

Chapter two examines the 1930 Free State affiliation orders legislation. It examines the efforts taken by civil society to provide for unmarried mothers before the introduction of the law. It also compares the articulated ideals about unmarried

⁴⁴ Senia Pašeta, 'New Issues and Old: Women and Politics in Ireland, 1914-18' in *Women's History Review* (2016), pp 5-8.

⁴⁵ For further information see 'Irish Historical Studies rules for contributors', p. 14.

⁴⁶ D.H. Akenson, *Education and enmity: the control of schooling in Northern Ireland, 1920-50* (Newtown Abbot, Devon, 1973), p. 11.

mothers expressed by Free State legislators with those across the border. This comparative approach reveals that many of the same patterns north and south of the border challenge the conclusion that Free State policy was a result of Catholic social teaching. The main difference between the northern and southern legislation is the inclusion of an *in camera* clause, or a closed court clause, in the Free State legislation. The motivations behind this difference will be examined. This chapter also meets a thesis objective of understanding Free State legislation in wider context, challenging the exclusivity of the argument that Catholic social teaching was at the heart of all conservative policy in the Free State.

Chapter three looks at widows' pensions in Northern Ireland in 1925. This examines a different categorisation of motherhood based upon class and need. The widows' pensions scheme is also an important law to study in terms of devolved government. Issues about the terms of the legislation were part of wider discussions at the time about Northern Ireland's role in the UK, as the pensions scheme was seen as a step to secure future financial security from London. The Free State pensions scheme is the focus of chapter four. Passed in 1935, this scheme was more closely tailored to suit the Free State than the Northern Irish scheme was to its jurisdiction. In particular this scheme acknowledges the urban/rural divide. As such, the urban/rural divide will be interrogated in more detail here. Dublin-London relations will also be examined as well as the role of civil society from 1922-35 in providing for widows.

Chapters five and six move away from the like-for-like comparisons of the preceding four chapters. They take two policies that have been identified in the historiography of the Free State as reflective of Catholic social teaching, and examine their counterparts in Northern Ireland. This comparison reveals that the policies were not a solely a Free State phenomenon and were not derived exclusively from Catholic social teaching but were part of a wider conservatism at work globally. Further, it adds to the growing literature about women in Northern Ireland after partition. The first to be examined is divorce. The northern government inherited divorce legislation from England and Wales before partition, but was deeply uncomfortable about the subject when given the power to legislate. Reforms in England gave women and the working class more access to divorce, but the Northern Irish government did not change the law until 1939. This is an example of a departure from the step-by-step policy in favour of Northern Irish morality.

Moreover, this policy demonstrates a deep aversion to divorce reform, thus challenging the idea that the Free State was unique in its approach to divorce. It can be seen that reticence existed north of the border to legislate about divorce because of conservative thought. North aligns more with south in this case.

Finally, chapter six looks at the marriage bar in Northern Ireland. This demonstrates again that policy can be attributed to wider conservative patterns, not solely to a Catholic Church-state consensus. It examines how restrictions upon the continued employment of married women were presented as a welfare policy for the single 'unfortunate' women, a protective measure for her against 'greedy' married women teachers. The policy was justified with the ideal that women should be homemakers. Moreover, it examines the role of teachers' unions in Northern Ireland and looks at the administration of the bar by the civil service. The ministry took the approach of England and Wales and left the decision to local councils. However, it will be seen that the ministry played a less than neutral role in reinforcing the marriage bar. This policy demonstrates that the marriage bar in the Free State was part of a wider pattern of conservatism within the UK and abroad which limited the role of women in the public sphere at this time.

Chapter two: Paternalistic states and unmarried mothers: the Illegitimate Children (Affiliation Orders) Act in Northern Ireland.

‘This bill will remove a blot upon our social legislation and bring it into line with that of Great Britain’.¹

I. Introduction

In 1924 the Northern Irish government passed the Illegitimate Children (Affiliation Orders) Act. This enabled unmarried mothers to compel the fathers of their ‘illegitimate’ children to pay maintenance for the child. This act was modelled after the English Bastardy Acts of 1845, 1872, and 1923, the latter being the most pressing influence. The Free State passed its own affiliation orders legislation in 1930.² While the affiliation orders laws in each state resembled one another in their final form, considerable differences occurred in the parliamentary discussions about this legislation. An analysis of the differences and similarities in the drafting and debating process in each state reveal wider debates in each new state’s social policy after partition and allows for an interrogation of Northern Irish and Free State policies about women, ideals of motherhood and femininity, criminality, protection of the community, as well as the relationship between Belfast, Dublin, and London.

The first half of this chapter will analyse the position of unmarried mothers north of the new border, with the second half of the chapter turning its focus to the writing and debating of affiliation orders legislation in Northern Ireland. This chapter will start by introducing the acts in each of the new states, then moving on to providing context for the law, specifically the position of unmarried mothers socially and legally. Analysis will then move to a close discussion of the drafting process of the legislation in Northern Ireland.

The affiliation orders acts legislated for the unmarried mother to take the father of her child to court up to six months after the birth of the child to pay for the support of the child up to the age of sixteen. It is important to note that this law provided for the child - the maintenance was not for the mother. It was presented in a similar vein as suing for punitive damages to a wronged woman and child. Such an approach was reflected in wider society. Buckley’s study of the NSPCC, an all-

¹ A.P. Magill to C.A.C.J. Hendricks, Ministry of Education, outlining talking points for Lord Londonderry about the bill. 17 May 1924. (Public Record Office of Northern Ireland [hereafter PRONI], Ministry of Home Affairs papers, HA/5/1366).

² See chapter three.

Ireland body, finds: ‘Illegitimacy and desertion were both part of the Society’s emphasis on single mothers – both would be taken care of through prosecuting “putative fathers”, and not through maintaining women and children at *public expense*; if the latter was necessary, the payments would not be dispensed easily’ [emphasis added].³ Buckley raises the crucial point that the affiliation orders act did not call for any use of public funds to support the mothers and their children.⁴ This is of great importance because the government did not have any financial stake in the amount of money the father gave the mother and child, and so forth. The mother paid her own legal fees and the father paid the entirety of the maintenance. Despite this, the positions taken by individual MPs and civil servants would not suggest this financial distance from the outcomes of the case. Instead these MPs and civil servants were against giving too much leeway and power to the mother in court and wanted to cap the amount of maintenance the father could pay.

In the final draft of the legislation, the father could be compelled to pay up to twenty shillings a week for the child, or could settle to pay a lump sum to the mother. In court proceedings, the mother’s testimony must be corroborated. The requirement for corroboration was also included in acts in the dominions, such as the Ontario, Canada, Act for the Protection of the Children of Unmarried Parents, 1921, thus demonstrating that this distrust of mothers was not an Irish phenomenon.⁵ The Irish law did not require the father’s testimony to be corroborated, nor did it require the father to participate in the child’s life any further than monetary support.

The terms of the Northern Irish and Free State acts were nearly identical, save the clauses in the Free State act which called for a form of *in camera* proceedings.⁶ Regarding these private proceedings, the Free State act stipulated: ‘all persons other than the parties, their counsel or solicitors, the mother or other female relative or friend of the applicant, the officers of the Court, the witnesses in the case and any bona fide representatives of a newspaper or news agency’ were expelled

³ Buckley, *The cruelty man*, p. 77.

⁴ Chapters four and five will discuss how public funds were more readily available for widows as the ‘deserving poor’.

⁵ Lori Chambers, *Misconceptions: unmarried motherhood and the Ontario Children of Unmarried Parents Act, 1921-69* (Toronto, 2007), pp 30-1.

⁶ *In camera* cases are heard only before a judge. The press and public are excluded from proceedings unless otherwise ordered.

from the court.⁷ The press could only publish certain details such as the names of the parties, the judge and lawyers, a brief outline of the case, the decision, and any particular debates over interpretations of the law.⁸

The writing process of the affiliation orders act in Northern Ireland, viewed within the wider context of social policy from 1921-39, can be seen as the ironing out of certain policies in Stormont regarding the writing of social legislation, particularly the policy of following English legislation on a step-by-step basis. Many of the complications arising out of the affiliation orders legislation debates were rooted in an undeveloped step-by-step policy in the early years of Craig's government. This policy of parity was at odds with the Northern Irish legislators' ideas of a superior morality to England. Therefore, adapting these English laws to suit Northern Irish morality proved difficult for Stormont. The affiliation orders act provides a case study of how these complications in the step-by-step policy affected the role of the state in women's lives after the partition of Ireland. For the purposes of this analysis the affiliation orders acts in Northern Ireland and the Free State are of particular interest not in terms of their effectiveness, but in terms of the debates surrounding the drafting of the acts and what implications these had for Northern Irish social policy relating to women. It can be seen that Northern Irish policy was a complicated balance of maintaining parity with the rest of the UK while trying to incorporate the more conservative social mores of the new state. The affiliation orders legislation can be seen as particularly complex in this balancing act, as it was one of the earliest acts that incorporated the balance between the step-by-step policy and a collective ideal of Northern Irish morality.

II. Unmarried mothers in Irish society

Historical studies of women in this period provide an in-depth discussion of the experience of unmarried mothers in the Free State, while this field of study in Northern Ireland is growing, led by groundbreaking work such as McCormick's

⁷ Irish Free State, *Illegitimate Children (Affiliation Orders) Act*, 1930.

⁸ Ibid. The debates regarding the *in camera* clause and the decision for Northern Ireland to discard the clause while the Free State added it will be discussed below.

Regulating Sexuality.⁹ Since this is a study of the legislation about unmarried mothers, this section will provide an overview of the experience of these women. Unmarried mothers in Northern Ireland and the Free State at this time, and well into the latter half of the twentieth century, faced alienation, shame, and in some cases, punishment and incarceration in a state institution or a magdalen laundry. Breathnach and O’Halpin note the harsh conditions some mothers faced raising their children: ‘acute poverty, mortality among infants due to starvation and disease, and the near impossibility of raising a child as a single mother in so conservative a society as Ireland’.¹⁰ Maguire’s work details the experiences of illegitimate children in and out of institutional care.¹¹ These studies of illegitimate children are crucial to the understanding of the experience of unmarried mothers. However, it is beyond the scope of this study to examine attitudes towards and the experiences of the children of unmarried mothers as well. To provide context for this discussion of unmarried motherhood, table 2.1 provides a comparison of the rate of illegitimate births in 1922 in each new state.

2.1 Illegitimate births in Northern Ireland and the Irish Free State, 1922.¹²

Northern Ireland	Males	Females	Total
(a) Total Births	15 098	14 1433	29 531
(b) Illegitimate	608	647	1255
Percentage of (b) to (a)	4.0	4.5	4.2

Irish Free State	Males	Females	Total
(a) Total births	30 345	28 504	58 849
(b) Illegitimate	814	706	1520
Percentage of (b) to (a)	2.7	2.5	2.6

⁹ See Earner-Byrne, *Mother and Child*; Earner-Byrne, ‘Reinforcing the family: the role of gender, morality, and sexuality in Irish welfare policy, 1922-1944’, pp 360-9; Maria Luddy, ‘Moral rescue and unmarried mothers in Ireland in the 1920s’ in *Women’s Studies: an interdisciplinary journal*, xxx no. 6 (2001), pp 797-817; Luddy, ‘Unmarried mothers in Ireland, 1880 – 1973’; Buckley, *The Cruelty Man*; Cliona Rattigan, ‘*What else could I do?*’: single mothers and infanticide, Ireland, 1900-50 (Dublin, 2012); Graham, ‘Unmarried mothers: the legislative context in Ireland’.

¹⁰ Ciara Breathnach and Eunan O’Halpin, ‘Scripting blame: Irish coroners’ courts and unnamed infant dead, 1916-32’ in *Social History*, xxxix no.2 (2014), p. 226.

¹¹ Maguire, *Precarious childhood*, pp 48 – 112.

¹² Data from a minute sheet prepared by L.A. Bullwinkle, Ministry of Finance, Office of Registrar General and Statistician, ‘Illegitimate Births per 100 of Total Births’, 19 Mar. 1924 (PRONI, Ministry of Home Affairs papers, HA/5/1366).

The approach by the Northern Irish government and civil society groups to aiding unmarried mothers was selective and contradictory. The mothers were feared, shamed, and criminalised, while also helped by lay groups and some politicians. First time unwed mothers were perceived in a more sympathetic manner than the unwed mother with more than one child. This attitude dates back to nineteenth-century poor law reforms and philanthropic groups that called for the restoring of respectability for the first-time unmarried mother. Luddy discusses how nineteenth century workhouses kept women with one illegitimate child separate from women with multiple illegitimate children. On the organisation of women on moral terms, she finds: 'This obsession with moral classification, and it was a constant theme within the workhouses, was to continue well into the twentieth century and created a public language of contagion and immorality by which all unmarried mothers were tainted'.¹³ Indeed, McCormick discusses how women with more than one illegitimate child were often refused entry to rescue homes in Northern Ireland, and were thought of as 'feeble-minded' and sexually depraved.¹⁴ The same can be seen across the border in the Protestant Magdalen Asylum on Leeson Street in Dublin which advertised itself as an institution that only provided for first time unmarried mothers. In a *Church of Ireland Gazette* article which appears to be written by someone associated with the Asylum looking for funds, the author notes: 'The word "Magdalen" has never correctly described this Institution, as only those who have gone astray for the first time are admitted.'¹⁵

The different treatment of mothers raises an important methodological point discussed in the introductory section to this thesis, that is, Valiulis' emphasis on interrogating the different experiences of individuals in groups that sometimes get blanket terms, such as 'women', 'the poor', and 'mothers'.¹⁶ Therefore, it is crucial to understand the multitude of experiences of unmarried mothers. Pat Thane raises this issue regarding unmarried mothers in England: 'Not all unmarried mothers have been poor, or alone, though these are the ones we know most about. Nor have private attitudes to them been uniform throughout society, throughout certain social classes or through time, or necessarily the same as those expressed in public,

¹³ Luddy, 'Unmarried mothers in Ireland, 1880 – 1973', p. 111.

¹⁴ McCormick, *Regulating sexuality*, p. 51.

¹⁵ *Church of Ireland Gazette*, 24 Oct. 1924.

¹⁶ Valiulis, 'Introduction: gender, power, and patriarchy', p. 2.

official discourse'.¹⁷ The unique experiences of unmarried mothers and their children are endless. While this study will focus largely on the opinions and ideas expressed by officials, it is crucial to be aware that these opinions reflect more upon those articulating them rather than the subject who is being discussed.

An important factor in the experience of unmarried mothers and the opinions expressed about them is the urban/rural divide.¹⁸ Buckley's findings on the urban/rural divide provide an enlightening context to this analysis of unmarried mothers. She notes how agrarian economies had few single mothers because of lower illegitimacy and desertion rates. The society and the structure of these economies meant that the children of single mothers could be incorporated into larger households, with more of a community approach to raising the child than the isolated urban life of a single mother.¹⁹ An acknowledgement of the different experiences of unmarried mothers in the city and mothers in rural areas informed part of the affiliation orders debates in both states. As will be seen, unmarried mothers in rural areas were seen as more naïve and vulnerable, while women in urban centres were seen as more prone to immorality.

There was little societal expectation of unmarried fathers to care for their child and often mothers would be separated from their children. The above-mentioned article about the Magdalen Asylum on Leeson Street highlights this when describing how the Asylum works. The article explains that after the mother gives birth, the child would be boarded out in a country home 'under the careful supervision of the Nursery Rescue and Protestant Children's Aid Society, members of which Committee visit them regularly, and keep in constant touch with both mother and child', but no contact between mother and child is mentioned. However, the mother was required to pay as much as she could towards the maintenance of the child.²⁰

In addition to the limited societal acceptance of these women, little legal protection was offered to unmarried mothers and their children. English affiliation orders legislation had been in operation since the 1845 Bastardy Act, and was amended in 1872 and 1923, but the terms of this legislation did not extend to

¹⁷ Pat Thane, 'Unmarried motherhood in twentieth-century England' in *Women's History Review*, xx no. 1 (2011), p. 12.

¹⁸ The urban/rural divide will be scrutinised throughout the following two chapters.

¹⁹ Buckley, *The cruelty man*, pp 88-9.

²⁰ *Church of Ireland Gazette*, 24 Oct. 1924.

Ireland (or Northern Ireland in the 1923 Act). Before partition Irish MPs in Westminster lobbied for the extension of the Bastardy Acts to Ireland, however. In 1920, Sir Robert Lynn, UUP MP for West Belfast, and Capt. Herbert Dixon, UUP MP for Belfast East, spoke in favour of extending the act to Ireland. Dixon argued for the law to be extended to Ireland, saying: 'The law in Ireland is really a disgrace to civilisation. Bills in 1870 and 1872 did something for the children of England. The children of Scotland are pretty well looked after. In Ireland in this matter we are still in the middle-ages'.²¹ The bill did not pass through Westminster, however, so it was not extended to Ireland. When the 1923 bill was introduced in Westminster Northern Ireland was not included in the terms of the legislation.

Therefore, before 1924 in Northern Ireland, and the Free State in 1930, unmarried mothers had no recourse of action to compel the father to pay to support the illegitimate child and the responsibility for the child was seen almost exclusively as lying with the mother. Only the Board of Guardians could sue the father of an illegitimate child for maintenance if the mother and her child were at the workhouse. A report from a Belfast solicitor who took affiliation order cases on behalf of the Belfast workhouse detailed the difficulties in instituting such proceedings. The report, which spans from 1918-22, details twenty-one cases, only eleven of which were successful. Successful cases could read as simply as the July 1921 case: 'An information was completed and I communicated with the putative father requiring payment of the amount due for relief. I received no reply and proceedings were instituted and a Decree was granted for the amount due and costs Defendant paid the amount of the Decree',²² or as complicated as the three-year long ordeal:

An information completed in July 1918, and I communicated with the Putative father requiring payment of the amount due. I received no reply and proceedings were instituted and a Decree granted 30/4/19. This Decree was executed on the 30/9/1919 and returned 'No Goods'. The decree was renewed in January 1921 and was again executed and returned 'No Goods'. Proceedings under the Debtors Act were then instituted in November 1921 and Defendant paid the full amount due for relief and costs.²³

²¹ *Parliamentary debates (Hansard) House of Commons*, vol. 128, col. 2432 (7 May 1920); see *Ibid.*, cols 2416-7 for Lynn's comments.

²² Report: Relief by Way of Loan Cases. 29 October 1923. Hugh Harper, 84 Donegall Street, Belfast. Solicitor. (PRONI, Ministry of Home Affairs papers, HA/5/1366).

²³ *Ibid.*

Unsuccessful cases were due to a variety of complications, such as:

This girl refused to complete Information in March 1920. On 4th April 1922 she called with me and then expressed her willingness to assist the Guardians and accordingly an Information was completed and I communicated with the putative father requiring payment of the amount due for relief. I received no reply and proceedings were instituted. These proceedings were not continued owing to want of sufficient proofs.²⁴

The complexity of chasing fathers in different districts acted as a deterrent to proceedings: ‘An information was completed and I communicated with the putative father requiring payment of the amount due . . . the Solicitor [from] Armagh replied denying paternity. As proceedings would have to be brought in Armagh I was instructed by the Guardians to take no further steps in the matter’.²⁵ In some cases the whereabouts of the putative father were unknown, so the proceedings could not take place. Of the unmarried mothers in Belfast throughout these years, the success of these cases of eleven mothers demonstrates the limited legal protection of unmarried mothers at this time.

The only other judicial action that could be taken on behalf of an unmarried mother was for her father or her employer to sue the father of the child under a seduction action and claim damages for loss of employment. The Free State discussion of the state of the law provides a succinct explanation of the limited power and agency of the unmarried mother. It can be applied to the Northern Irish law as well. Regarding this recourse of action, Kevin O’Higgins, Free State Minister for Home Affairs (a position later renamed to the Minister for Justice) wrote in 1923: ‘The present law which provides no remedy in the case of a girl seduced by an employer, unless some mythical service to her parents is alleged, appears to be unsatisfactory. If you agree a provision to this effect might be included in the Bill’.²⁶ The Minister for Justice in 1929, James Fitzgerald-Kenney, explained this further in 1930:

If she is not residing with her parents or if she is not in the service of an employer no action lies. At the same time, unless she was living with her parents at the time of the seduction and at the time of the birth of the child, equally no action lies, and if in addition she is in employment only nominal damage can be recovered from the father at the suit of the employer. The

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ministry of Home Affairs to the Attorney General, 21 Dec. 1923 (NAI, Department of Justice papers, JUS 90/9/19).

Seanad will see, therefore, that the action for seduction is not one of universal application.²⁷

Therefore, in only very specific situations could an action be taken. The two Irelands were not exceptional in the lack of affiliation orders legislation. In Ontario, Canada, affiliation orders were not introduced until 1921. In fact, English poor laws were not adopted in Upper Canada, later Ontario, which meant that affiliation orders could not be sought from a poor law authority, either.²⁸ In the Australian states affiliation orders existed but with varying terms per state. In Victoria the mother and father could be required to pay for the child's maintenance, whereas in New South Wales and Queensland the father could be exempt from payment if it was proven that the mother was a prostitute.²⁹

III. The Illegitimate Children (Affiliation Orders) Act in Northern Ireland

Historians have not studied the Northern Irish Illegitimate Children (Affiliations Order) Act, 1924, in great detail. Passing references have been made to this act by Cliona Rattigan in her study of infanticide cases in Ireland and Northern Ireland in the first half of the twentieth century.³⁰ More reference has been made to its Free State counterpart but only still in passing in the context of a wider historical study.³¹ This thesis adds to the scholarship in this area by discussing how the act was drafted and debated by each new government, and how the new state structures after partition had a direct bearing on the terms of the legislation. To do this, this section will first discuss how the drafting process of the act in Northern Ireland saw the debate over the step-by-step policy with England influence when the bill was introduced into parliament, and the terms of the legislation. It will then discuss how

²⁷ *Seanad Éireann (parliamentary debates)*, vol. xiii, no. 13, col. 690 (19 Mar. 1930).

²⁸ Chambers, *Misconceptions*, pp 16-7.

²⁹ L.M. Henderson, H.E. Williams, C.L. Hudson, E.E. Jones, and C.W.W. Webster, 'The legal status of illegitimates in the Commonwealth of Australia' in *Journal of comparative legislation and international law*, iii no. 1 (1921), pp 16-8.

³⁰ Rattigan, *Single mothers and infanticide*, *passim*.

³¹ Buckley refers to the Act briefly in her examination of the NSPCC in Ireland 1900-50 (see Buckley, *The cruelty man*, p. 78, 89); Earner-Byrne and Luddy have briefly discussed the Oireachtas debates about the bill (see Earner-Byrne, 'Reinforcing the family', pp 363-4; Earner-Byrne, *Mother and child*, pp 179, 190-2; Luddy, 'Moral rescue and unmarried mothers in Ireland', pp 809-13.)

Commons amended the bill to its own standards, but the intervention of the Senate changed the terms of the legislation and brought it closer to the 1923 English act. Throughout this discussion, the official attitude of the government toward unmarried mothers and the government's responsibility to these women will be examined.

With the opening of Stormont in 1921, calls for a Northern Irish affiliation orders act came almost immediately. A letter to the Ministry of Home Affairs from Belfast solicitor William Locke encapsulated this optimism. Locke heralded the opening of the new parliament as the beginning of a new era for social welfare in Northern Ireland, and urged the government to reform legislation relating to unmarried mothers: 'The people of the six counties expect great reforms from the Northern Parliament . . . Among the number none is more urgent than a measure dealing with illegitimacy'.³² However, the government postponed drafting the legislation until the amending law to the previous Bastardy Acts (1845, 1872) was passed in Westminster. MPs argued that this violated the step-by-step policy insisted upon by the UUP government. However, the government insisted that it was waiting for the Conservative government to pass its own Bastardy Act amendment so the Northern Irish legislation could be written along the same lines. These conflicting ideas about following the policy of parity caused tension throughout the debates and had significant bearing on the outcome of the act.

Dr Morrison and the early drafting of affiliation orders legislation

The developing stages of step-by-step policy can be seen from the early days of the drafting process of this bill. The first point of departure from the later developed policy of parity is seen with the efforts of Dr Hugh Smith Morrison, UUP MP for Queen's University Belfast, to introduce the bill as a private member's bill. Morrison often commented on matters relating to social policy and education.³³ His advocacy for the affiliation orders legislation was rooted in his experience as former coroner for Coleraine. In this position he saw the hardships faced by unmarried mothers, the high death rate of illegitimate children, and infanticide cases

³² William Locke to Sir Dawson Bates. 27 November 1921. (PRONI, Ministry of Home Affairs papers, HA/5/1366).

³³ *British Medical Journal*, 8 June 1929.

involving these children.³⁴ In fact, Morrison had raised this issue in the past. He successfully lobbied the Registrar-General to include illegitimate children in the classification of death of children. He describes the issues faced by these children: ‘You get them suffering from digestive disorders. They take rickets and get diarrhoea, and they grow up not healthy and vigorous children, but weak and deficient members of society’.³⁵ Throughout the debates Morrison referred back to the importance of maintenance for the child as a way to ensure better opportunities for stronger health.

In 1923 Morrison informed the government of his plans to draft of an affiliation orders bill for Northern Ireland, but the government wanted to wait for the Westminster act to pass. Here we see conflicting interpretations of step-by-step. Morrison argued that since the act already operated in England, Northern Ireland should follow suit and have a parallel policy of its own. In an early call to action to the government in 1923, Morrison appealed to the step-by-step policy to criticise the government’s inaction on introducing legislation regarding unmarried mothers: ‘The Prime Minister has always insisted that we should go breast to breast with English legislation, and that our people should have all the advantages that they would have possessed under the English law. It is two years since this Parliament was established . . . and [the Government] are sitting twiddling their thumbs and doing nothing’.³⁶ The government held firm that it needed to wait for the new bill so the Northern Irish policy would be parallel to the most current law in England. Therefore, by writing a bill ahead of English law, Morrison was breaking with party tradition to push for social reform. When it was brought to the attention of the government that Morrison was drafting a bill, it was supportive and did not attempt to intervene in Morrison’s drafting process, as expressed in a letter from Sir Richard Dawson Bates, the Minister of Home Affairs, to the Minister of Finance, Hugh

³⁴ See Morrison’s remarks in the House of Commons: ‘I have been working for thirty years in a profession which has brought me in contact with cases of this sort, and I know the whole of the details, the whole of the troubles, the whole of the sufferings, and the whole of the miseries which follow the absence of this law’, *Parliamentary debates of Northern Ireland (Hansard), House of Commons*, vol. iv, col. 298 (25 Mar. 1924), and: ‘The evils of this thing are very wide and very far-reaching. Nobody knows that better than I do. As my hon and learned Friend, the Member for Antrim (Mr. Hanna) can tell you, you have cases of infanticide and of concealment of birth . . . I came across this case in my capacity as a Coroner . . .’ Ibid., col. 302.

³⁵ Ibid., col. 303 (25 Mar. 1924).

³⁶ Ibid., iii, col. 38 (27 Feb. 1923).

Pollock: 'While this Ministry would be prepared to support the general principle indicated, formal approval cannot be expressed until the actual Bill has been submitted for consideration'.³⁷

By 1923, however, the government still had not introduced a bill. Morrison criticised this lack of urgency. His remarks were revealing of his motivations behind the legislation, and shed light on how unmarried mothers were depicted in Northern Ireland, for he presents the unmarried mother as a powerless victim to the threatening sexually active, immoral man:

[The Minister of Home Affairs' inaction] has pushed 2496 victims with their children either to their graves or to the brothels that exist in Belfast . . . He is in my opinion refusing to help the victim, while at the same time he is protecting the criminal and setting a premium upon crime . . . Countless lives would have been saved, the lives of young, fresh women, and the lives of helpless infants³⁸

Morrison's condemnation of the government's inaction on an affiliation orders bill was a strong criticism of the step-by-step policy, for he argued that by waiting to legislate after the passing of the Westminster act, the government was complicit in the poor welfare of unmarried mothers in its jurisdiction. Moreover, his condemnation of the Minister of Home Affairs presented the poverty amongst these mothers as a social problem rather than a moral problem. This is seen in his argument that socio-economic conditions, rather than any inclination toward immorality, pushed some necessitous women to the sex trade. Morrison's argument echoes that of William Locke's 1921 letter to Minister for Home Affairs Sir Dawson Bates. Locke too identified the lack of support and the socio-economic position of the unmarried mother as the root cause of her turning to prostitution: 'disowned by her friends, cast to the wind by the law, she is liable to become an easy prey for the procurers.'³⁹ Locke's letter and Morrison's speech suggest that the welfare of the unmarried mother was not only rooted in an ultimate concern for the fate of the illegitimate child, but in a distinct concern for the well being of the woman.

³⁷ Minute from Minister for Home Affairs, Sir Dawson Bates, to Minister for Finance, Hugh Pollock, 16 May 1922. (PRONI, Ministry of Home Affairs papers, HA/5/1366).

³⁸ *Hansard NI (Commons)*, iii, col. 732 (8 May 1923).

³⁹ William Locke to Sir Dawson Bates, 27 Nov. 1921 (PRONI, Ministry of Home Affairs papers, HA/5/1366).

While Morrison expressed his sympathetic view of the women, he did not give them any agency in determining the events in their lives. He elaborated on his depiction of the putative fathers as criminal and the mothers as vulnerable when he remarked: ‘the persons in rural Ulster today who are guilty of these actions and who seduce innocent, helpless, possibly emotional girls, are irresponsible boys and lads who have no sense of morality and no sense of justice’.⁴⁰ In a later session when the bill was introduced to the House of Commons, Morrison expressed his view that saw the affiliation orders bill as a means of punishment against the putative father. He said: ‘What I want, and what I think this House wants, is that we should get to the root of the matter, punish the guilty man, make him pay the penalty, and support his child’.⁴¹ McCormick’s work on rescue homes demonstrates the same approach taken by these homes: ‘The impression given from annual reports and entrance registers is that, in the majority of cases, the women who entered homes were viewed as the innocent parties. They had been taken advantage of by male aggressors and left to face the consequences alone or had been introduced to alcohol or drugs by ‘bad company’.⁴² Morrison was one of the strongest in the Stormont debates, so his views may not represent the rest of the House, but it is important to note that this strong emphasis on punishing the putative father was not expressed to the same degree in the Dáil or Seanad. Moreover, Morrison affords no independence to the unmarried mother and portrays the father as a criminal, thus revealing the paternalistic attitude some MPs in Stormont held about women, that is, the motivation to protect vulnerable women from untrustworthy men. Morrison’s classification of the mothers and fathers corresponds with Earner-Byrne’s findings of the debates in the Dáil regarding affiliation orders: ‘There was a superficial understanding of male and female sexuality expressed throughout the debates. The man and woman who conceived a child outside wedlock were rarely portrayed as having fallen in love. There was no impression of romantic involvement, it was

⁴⁰ *Hansard NI (Commons)*, iii, col. 732, (8 May 1923). This chapter will go into further analysis of the role of urban/rural divide in the Stormont debates regarding unmarried mothers. Research questions include, what differences were discussed in terms of rural and urban unmarried mothers and putative fathers? Did MPs and Senators from urban or rural constituencies express different politics regarding this legislation than their rural or urban counterparts?

⁴¹ *Ibid*, iv, col. 300 (25 Mar. 1924).

⁴² McCormick, *Regulating sexuality*, p. 51.

seduction or innocence'.⁴³ Following this logic, the unmarried mothers could not claim any agency in their relationship with the putative fathers and were immediately rendered victims of male sexuality.

In the same debate, Dehra Chichester, UUP MP for Derry City,⁴⁴ provided another depiction of unmarried mothers and a different motivation behind the bill:

I am one of those who believe that what we sow we must reap. It is the mother who reaps in shame, sorrow, anguish and suffering, but surely we can expect, we can demand, that the financial responsibility is to a certain extent borne by the man...As I said before, it is not for the woman I am making an appeal; it is for the child. It is the innocent child who suffers in these cases.⁴⁵

Chichester did not follow Morrison's view of the women as 'wronged' but she did support his point that affiliation orders would provide for the welfare of women who suffered from the lack of child support. While Chichester did not frame the women in Morrison's terms as powerless victims, she did not depict them as seducers either.

Morrison's bill began attracting support from members of civil society to pressure the government to consider his bill. Civil society groups had a history of petitioning MPs in Ireland. In the 1920 debates about the Bastardy Act, Sir Robert Lynn, UUP MP, noted he had received 'a large number of letters' from rescue societies in Ireland. He provided the details of the letter from an unnamed rescue society asking that 'the Irish law may be brought into line with the English law, and that the father may be compelled to share in the responsibility for the maintenance of his child'.⁴⁶ Similarly, Samuel McGuffin, UUP MP for Belfast North, noted: 'in accordance with instructions which I have received from certain societies in Ireland, I desire to ask that this Bill should be applied to Ireland. We have illegitimates in Ireland, though I am proud to be able to say that they are not in such a large proportion as in England or in Scotland.'⁴⁷ McGuffin's second comment falls in line with McCormick's thesis that despite close connections to England and Scotland, Northern Irish statesmen saw Northern Ireland as morally superior to Great Britain. This petitioning of MPs continued after partition. On 27 June 1922, Morrison and

⁴³ Earner-Byrne, 'Reinforcing the family', p. 364.

⁴⁴ A note on terminology: 'Derry City' was the term used by Stormont for the parliamentary seat at the time.

⁴⁵ *Hansard NI (Commons)*, iii, col. 734 (8 May 1923).

⁴⁶ *Parliamentary debates (Hansard) House of Commons*, vol. 128, col. 2416 (7 May 1920).

⁴⁷ *Ibid.*, col. 2438.

representatives from the NSPCC and the Malone Rescue Home met with the Minister of Home Affairs. The delegation urged the government to draft a bill providing legislative protection for unmarried mothers.⁴⁸ Their pressure to legislate ahead of the Imperial Parliament was a further departure from the policy of parity. Another important measure to be taken away from the delegation's agenda was their advocacy for legislative protection of the mother, not the child. While it was accepted that the better welfare of the mother in turn meant better welfare for the child, it is significant that the delegation framed its advocacy in terms of protecting the unmarried mother.

Another motivation which the delegation expressed to the minister was the desire to have Northern Ireland pass its affiliation orders act before the Free State passed a similar law. In the minutes from the delegation's meeting with the Minister of Home Affairs it was noted that 'Dr Morrison stated that he understood the Southern Parliament would shortly be bringing in a measure and he thought the Northern Government should be first'.⁴⁹ It is unclear from where Morrison received his evidence regarding the passing of affiliation orders legislation in the Free State, for the earliest indication in the Free State files stems from a minute in the Department of Justice files in December 1923,⁵⁰ and the legislation was not passed until 1930. The June 1922 minute from the delegation's meeting is the only evidence of reference to the Free State legislation. While this reference is small in 1922, it is significant in the wider context of Irish and Northern Irish social policy, for the articulation by one of the new states of a desire to surpass the policy of the other was not uncommon. Often this comparison came from politicians in the Free State in their calls for social reform, as Northern Irish social legislation was often introduced earlier than its Free State counterpart.⁵¹

In April 1923, the support for Morrison's bill from various aspects of civil society continued to put pressure on the government. The involvement of non-religious groups challenges previous discussions of the influences of civil society in political lobbying, such as Buckland's argument that 'the most persistently vocal

⁴⁸ Notes from the conference at the Ministry of Home Affairs, 27 June 1922 (PRONI, Ministry of Home Affairs papers, HA/5/1366).

⁴⁹ Ibid.

⁵⁰ See Kevin O'Higgins, Minister of Home Affairs, to Hugh Kennedy, Attorney General, 21 Dec. 1923 (NAI, Department of Justice papers, JUS 90/9/19).

⁵¹ This will be discussed in more detail in chapter four's examination of widows pensions.

pressure groups were those interested in religious or quasi-religious and moral issues. Here Protestants clearly outstripped Catholics in respect of influence on government'.⁵² Morrison's bill saw letters written on its behalf to the Ministry of Home Affairs by secular groups such as the NSPCC and the BWAC,⁵³ as well as religious and religious-affiliated groups such as the United Council Christian Churches in Ireland (UCCCI), the Malone Rescue Home in Belfast, and the Irish Protestant National Teachers' Union. The involvement of the UCCCI is significant in light of partition, as it was a Protestant all-Ireland group which commented on policy in Northern Ireland and the Free State. Members of the Council, such as the Presbyterian hierarchy, had been calling for the implementation of the English Bastardy Act to Northern Ireland for years. In 1915 the Presbyterian General Assembly heard from its subcommittee on legislation for women and children in which it called for the extension of the Bastardy laws to Ireland.⁵⁴ While religious groups were prominent and important in lobbying for welfare reform, non-religious groups were also of crucial importance to putting pressure on the government for change.

The Irish Protestant National Teachers' Union advised the Ministry of Home Affairs of its new resolution: 'that we approve of Dr Morrison's Bill for the Protection of illegitimate children, and hope that it may soon be placed on the Statute Book'.⁵⁵ Similarly, the ministry received a letter from the UCCCI calling for social reform for unmarried mothers: 'That in view of the very unsatisfactory state of the law in respect of unmarried mothers and their children, this Council urge upon the Government of Northern Ireland the necessity of bringing before Parliament at an early date considered legislative proposals on this subject'.⁵⁶ The UCCCI's letter reveals the network of advocacy regarding legislation for unmarried mothers, as the religious council came to this conclusion 'after the council had received an influential deputation of ladies from the Belfast Women's Advisory

⁵² Buckland, *The Factory of Grievances: Devolved Government in Northern Ireland*, p. 60.

⁵³ See p. 21 of introduction chapter for further discussion of the BWAC.

⁵⁴ William Eoin Davison, 'A Critical Analysis of the Decisions of the General Assembly of the Presbyterian Church in Ireland on Social Issues, 1921-70' (PhD thesis, Queen's University Belfast, 1978), p. 22.

⁵⁵ Irish Protestant National Teachers' Union to the Ministry for Home Affairs, 10 Apr. 1923 (PRONI, Ministry of Home Affairs papers, HA/5/1366).

⁵⁶ United Council of Christian Churches and Religion Communion in Ireland, 13 Apr. 1923. (PRONI, Ministry of Home Affairs papers, HA/5/1366).

Council setting forth the proposals which they intend to bring before the Government of Northern Ireland'.⁵⁷ The BWAC and the UCCCI also worked together after the legislation passed. The BWAC brought the attention of the UCCCI to the success of the affiliation orders legislation in Stormont. In November 1924 the council minutes note: 'A request was received from [BWAC] for the assistance of the Council in making known to the public through the Churches the important reforms secured in Northern Ireland by the passage into laws of the Illegitimate Children (Affiliation Orders) Bill . . . the Council decided to ask its constituent Churches and Communion to recommend to all their ministers to make themselves acquainted with the provisions of the Act'.⁵⁸ The Presbyterian Church in Ireland notes that the Council printed 2000 leaflets to distribute to the various congregations.⁵⁹

These civil society groups also engaged in debates about the step-by-step policy. The Minister of Home Affairs received a letter of protest from the BWAC criticising the government's approach to the policy of parity:

We feel your reference to the Imperial Parliament is irrelevant [sic]. As you are well aware, legislation already protects, to some extent, the Unmarried Mother and her child in England and Wales, also in Scotland. There is no such legislation operative in Northern Ireland. In the opinion of my Council, it is therefore very important that a measure be introduced during the present session.⁶⁰

This letter suggests that civil society groups had little interest in the step-by-step policy if it did not produce social legislation; while at the same time, a comparison with other parts of the UK highlighted the injustice of a lack of legislation in Northern Ireland. This examination of how the wider UUP and civil society dealt with the policy of parity engages further with the historical analysis of the step-by-step policy. It appears that outside of the cabinet, step-by-step was supported if it

⁵⁷ United Council of Christian Churches and Religion Communion in Ireland, 13 Apr. 1923. (PRONI, Ministry of Home Affairs papers, HA/5/1366).

⁵⁸ Minutes of the United Council of Christian Churches in Ireland, 19 Nov. 1924 (Representative Church Body Library and Archives [hereafter RCB], United Council of Christian Churches in Ireland papers, MS 667.1).

⁵⁹ Minutes of the proceedings of the General Assembly of the Presbyterian Church in Ireland, Belfast, pp 96-7, 3 June 1925 (PRONI, Presbyterian Church records, CR/3/46/2/14).

⁶⁰ Belfast Women's Advisory Council to Sir Dawson Bates, 26 Oct. 1923 (PRONI, Ministry of Home Affairs papers, HA/5/1366).

was useful to social policy, but was criticised if it meant social legislation was delayed.

The step-by-step policy can be seen as the reason that the government did not act on Morrison's bill. The cabinet wanted to draft a bill directly along the lines of the English 1923 Bastardy Act, which at that time had a provision providing for the legitimisation of the illegitimate child upon the marriage of its parents.⁶¹ Consequently, the government refused to draft a bill that only dealt with affiliation orders legislation (as was already in force in England and Wales). Bates articulated this in response to a parliamentary question by Dr Morrison in October 1923. Bates argued: 'it has not been possible for the Government to find time to deal with this question. In any event, the Imperial Government have not completed their legislation on the subject, as they have only passed one of the Bills dealing with the question of contributions'.⁶² By the end of 1923 Westminster passed an amending affiliation orders act, thus opening the door for the northern government to draft its own bill.

IV. The Ministry of Home Affairs' affiliation orders legislation

Despite the cabinet's focus on the step-by-step policy, throughout the drafting and debating process of the affiliation orders bill the government increasingly amended the bill away from the English legislation. Ultimately the bill moved so far away from its English precedent that the Senate, and particularly its leader Lord Londonderry, intervened to amend the bill closer to the English law. This provides an example of the budding step-by-step policy and of early social policy in Northern Ireland, as the young House of Commons attempted to draft the bill on Northern Irish terms, but was eventually overruled by the Senate in order to keep the bill along English legal lines. The government began drafting its own bill in January 1924.⁶³ The Chief Medical Officer (CMO), W.R. Dawson, wrote the first draft. Dawson was formerly H.M. Inspector of Asylums, Ireland and a specialist in

⁶¹ William Dawson to Major Harris, the Ministry of Home Affairs, 2 May 1923 (PRONI, Ministry of Home Affairs papers, HA/5/1366).

⁶² *Hansard NI (Commons)*, iii cols 1601-2 (25 Oct. 1923).

⁶³ Morrison stopped campaigning for legal reform when the government began writing its own draft of an affiliations bill.

nerve diseases to the troops in Ireland.⁶⁴ Having the CMO write the first draft of the bill is indicative of the government's approach as treating support for unmarried mothers and their children in part as a health and welfare issue, instead of seeing the bill only in moral terms. This approach follows that taken by Dr Morrison based on his experience as a coroner. Moreover, Dawson's desire to adhere to the policy of parity provides insight into the difficulty the government had in following this convention. In a memorandum outlining the heads of these bills, Dawson indicated that the bill was drafted strictly along lines of the British legislation. However, Dawson stepped away from the English legislation by giving the Northern Ireland bill a different title, the Illegitimacy bill, instead of the English 'Bastardy' bill. Similarly, while he wrote the legislation 'on the principle of introducing only provisions already in force in England',⁶⁵ it appears that, in fact, the desire for a step-by-step policy took a back seat in this drafting process. Dawson suggested incorporating stipulations written by civil society advocacy groups, such as the BWAC. He noted 'the draft proposals put forward by Belfast Women's Advisory Council, however, are well deserving of consideration. They go further than the memo [prepared by Dawson]'.⁶⁶ The proposals he identified related to allowing parents or guardians of unwed mothers who were minors to take legal action on the minor's behalf, and to allow Boards of Guardians or other organisations with whom the mother lives to take action on her behalf. Dawson's inclination to amend the legislation was indicative of the wider pattern in this drafting process that saw amendments to improve the welfare of the mother and child push the bill away from the English precedent.

The drafting process of the Ministry of Home Affairs' affiliation orders bill brings to light an often over-looked component of the step-by-step policy, that is, the role of the British government in maintaining the policy. The notes from the Home Office regarding the Northern Irish affiliation orders legislation reveal that Whitehall was just as interested as Craig's cabinet was in maintaining the policy of parity. In April 1924, the Home Office wrote to the Imperial Secretary to the Governor of Northern Ireland outlining his observations on the bill: '[the Secretary

⁶⁴ W.R. Dawson, 'Work of the Belfast War Hospital (1917-19)' in *British Journal of Psychiatry*, lxxi, no. 293 (1925), p. 219.

⁶⁵ W.R. Dawson, 'Memorandum. Heads for Illegitimacy Bill', 10 Jan. 1924 (PRONI, Ministry of Home Affairs papers, HA/5/1366).

⁶⁶ *Ibid.*

of State] thinks the Minister of Home Affairs or the Attorney General might be glad to receive certain observations which the experience of this Department suggests'.⁶⁷ The Home Office identified four clauses as problematic, such as one which allowed a married woman to take out affiliation orders proceedings against a man other than her husband. In respect to this, Whitehall wrote: 'The Secretary of State would regret to see this principle embodied in the law of this country', and outlined the current English law that stipulated that the husband of a woman was responsible for all her children (legitimate or illegitimate).⁶⁸ The Senate eventually amended the married woman's clause, so in the Minister of Home Affairs' reply to the Secretary of State he indicated that the clause would not be of any concern. In the internal notes between civil servants in the Home Office, it is noted that certain provisions would be unwelcome or would not work in an English act. However, it is acknowledged by the Home Office that some differences may be more applicable to Northern Ireland, such as a clause that called for orders only to be enforced by the court in which it was made, not the court in which the woman was resident. On this note the Home Office observed: 'this may not be so inconvenient in N.I. as it would be in England & Wales'.⁶⁹

Bates took issue with the Secretary of State's suggestion to reconsider a clause that allowed an affiliation order to be filed retroactively. The clause read as: 'Any weekly sum payable under an Affiliation Order shall be calculated as from such date, not earlier than the birth of the child, as the court sees fit',⁷⁰ and the phrase 'as the court sees fit' was problematic for the Home Office. The Secretary of State saw this clause as 'severe upon the defendant to make him liable for a retrospective period',⁷¹ for it allowed the unmarried mother to claim more payments. This line of argument supports Buckley's observation about comparable legislation in the Free State: 'the measures introduced were more focused on protecting the husbands and fathers than on supporting mothers and illegitimate

⁶⁷ J.B. Simpson, Home Office, to the Imperial Secretary to the Governor of Northern Ireland, 4 Apr. 1924 (The British National Archives at Kew [hereafter TNA, Kew], Home Office papers, HO 45/11697).

⁶⁸ Ibid.

⁶⁹ Home Office, minutes on Northern Irish Affiliation Orders bill, 29 Mar. 1924 (TNA, Kew, Home Office papers, HO 45/11697).

⁷⁰ From 14 Geo. 5 Illegitimate Children (Affiliation Orders) bill, draft, Mar. 1924 (PRONI, Ministry of Home Affairs papers, HA/5/1366).

⁷¹ J.B. Simpson, Home Office (Whitehall) to the Imperial Secretary to the Governor of Northern Ireland, 4 Apr. 1924 (PRONI, Ministry of Home Affairs papers, HA/5/1366).

children'.⁷² However, Bates declined to change the clause and left the power to the Courts to decide when the mother could start claiming for affiliation orders.⁷³ The disapproval of the bill's departure from English precedent reveals that Whitehall had interest in Northern Ireland maintaining a policy of parallel policy.

The correspondence between Whitehall and the Ministry of Home Affairs adds to the point made by Peter Martin that: 'It is also clear that "step by step" was a more fraught process than the Unionist Party like to claim and it must be questioned to what extent Northern Ireland was dragged behind the UK, rather than following faithfully'.⁷⁴ While the motivation to follow the policy of parity was clearly expressed and held dear by the cabinet, including Bates, there was some resistance to following it without any room for variation. This can be seen in Bates' rejection of the Secretary of State's amendments. Moreover, Martin's thesis can be supported by the fact that the letter from the Home Office reveals that even if Stormont tried to write legislation on its own terms, Whitehall would step in to ensure the Northern Irish legislation remained on similar terms to England and Wales. This complicates the argument put forth by Buckland, Bew, and other historians which overlooks the role of the British government in maintaining the step-by-step policy, as the correspondence indicated that the policy was not just one sided. Whitehall looked to maintain parity as well.⁷⁵

V. The bill in the House of Commons and the Senate

House of Commons

⁷² Buckley, *The cruelty man*, p. 78.

⁷³ Secretary to Minister of Home Affairs to Imperial Secretary, Belfast. 29 Apr. 1924 (PRONI, Ministry of Home Affairs papers, HA/5/1366).

⁷⁴ Peter Martin, 'Ending the pauper taint: medical benefit and welfare reform in Northern Ireland, 1921-39' in Virginia Crossman and Peter Gray (eds), *Poverty and welfare in Ireland, 1838-1948* (Dublin, 2011), p. 234.

⁷⁵ This discussion of the role of the policy of parity in the relationship between London and Belfast raises the question of a step-by-step policy in Scotland. Scotland had its own legal system and therefore had different laws than England and Wales in certain circumstances. Regarding illegitimacy, Scotland had affiliation orders legislation and introduced a legitimisation clause earlier than the rest of the UK, allowing for the legitimisation of the child upon the marriage of his/her parents.⁷⁵ Despite the close connections between Northern Ireland and Scotland, however English law was referenced more in the debates and drafting process.

The Northern Irish bill was introduced to the House of Commons on 12 March 1924. The following section will scrutinise how these parliamentary debates about the bill reveal the ‘official’ attitude toward unmarried mothers, and will then turn to how the step-by-step policy was discussed. It will be seen that the House departed from the step-by-step policy to incorporate views more in line with its own conservative paternalism, as well as to make the terms of the bill more accommodating to the Northern Irish administration. However, the upper chamber believed that the House went too far, causing the bill to lose the spirit of the English legislation. Consequently, the Senate stepped in and changed the bill. This exercise of power by the upper chamber challenges traditional ideas of the Northern Irish Senate as a powerless institution. In *Two Irelands*, Fitzpatrick argues: ‘The Senate provided no useful check, since all but two of its members were elected by the lower house. Its limited ability to delay or amend legislation was never deployed to the point of deadlock with the Commons, so that the two houses never had to be convened in joint sitting’.⁷⁶ The intervention of the Senate and its significant reworking of the bill demonstrates an instance of its ability to check the House of Commons and to ensure the success of a wider approach to policy making, mainly, the step-by-step policy.

The bill was greeted in Commons as a strong piece of welfare legislation, and sympathetic views of the unmarried mother were expressed by several MPs. Samuel McGuffin, one of the MPs who spoke in favour of extending the English legislation to Ireland in the 1920 Westminster debates, saw the bill as having the purpose:

to remove a serious injustice in respect of the womanhood in the Six Counties . . . I felt a poignant sorrow at what these women were compelled to endure. For months prior to maternity they were working hard, and compelled to resume their occupation only a few weeks after that event, and to struggle on from month to month and from year to year in support of the offspring whose birth is always feared and never welcomed.⁷⁷

McGuffin’s sympathy for the unmarried mother was not matched in Dáil and Seanad debates. His remarks were reminiscent of the sympathy expressed by Morrison, and like Morrison, McGuffin did not provide the unmarried mother with any agency. The latter point is particularly evident in McGuffin’s phrase ‘[the] birth

⁷⁶ Fitzpatrick, *Two Irelands*, pp 143-4.

⁷⁷ *Hansard NI (Commons)*, iv, cols 293-4 (12 Mar. 1924).

is always feared and never welcomed'. This builds on Earner-Byrne's argument that the Dáil debates did not afford the man and woman the possibility of romantic engagement, for just as the woman was not given any agency to participate willingly in a relationship with the putative father, the woman in the Stormont debates was not afforded the opportunity to love the child born out of wedlock.

While MPs agreed on the overarching principle of the bill, there was significant disagreement about the terms of the legislation. This disagreement largely took the form of debating whether the Stormont MPs could add amendments unique to Northern Ireland, or whether they had to follow the English legislation. The remarks made by Dr Morrison indicate how some MPs referred to the policy of parity when it was useful for their political work. As was discussed in the examination of his early advocacy, Morrison was not a strict adherent of the step-by-step policy; in fact in a few instances he attempted to depart from the policy if it meant the legislation would be introduced earlier. In other cases he appealed to the policy to highlight the lack of urgency the government gave affiliation orders legislation. This utilisation of the step-by-step policy to highlight the lack of movement by the government demonstrates how the policy did not permeate the entire UUP, and was sometimes used as a rhetorical device to criticise the government.

Morrison was not alone in his criticism of step-by-step and the government's slow approach to reform the law for unmarried mothers. Robert Megaw, UUP MP for Antrim and the Parliamentary Secretary to the Minister of Home Affairs, suggested that legislation for unmarried mothers was an instance in which the government could depart from English legislation: 'I am one of those who think we should step forward as much as possible in sympathy with and have the same legislation as, England as far as we possibly can, except when, as the hon. Member for Derry has said, we can improve on it. There certainly will be no indisposition to improve on it when we have the opportunity of doing so'.⁷⁸ Several points can be discerned from Megaw's remarks. Firstly, as Parliamentary Secretary to the Minister of Home Affairs, Megaw's sentiment of departing from the step-by-step policy demonstrates how the parallel policy was in its infancy, for the expression of the sentiment of surpassing English policy by someone close to the

⁷⁸ Ibid.

Minister of Home Affairs, a proponent of the policy of parity, was out of step with the Government's convention regarding social policy. The second point to be garnered from Megaw's statement sheds light on the motivation behind falling out of line with English legislation. His sentiment of possibly improving upon the English legislation fits with McCormick's argument that the Northern Irish government saw its state as morally superior to the British mainland.⁷⁹ This then raises questions as to how McCormick's thesis fits in to the step-by-step policy with England. How could a country that saw itself as morally superior to England also have similar social laws to England? This is a question this thesis seeks to answer.

One of the biggest critiques of the policy of parity came from George Hanna, UUP MP for Antrim, and a former solicitor. In the second reading of the bill in the House of Commons, Hanna asked the Minister of Home Affairs if the bill could be amended out of step with English law. The minister replied: 'I said it mainly follows the English Bill', and Hanna responded with an overt aversion to the step-by-step policy and the laws that emanate from it: 'I have not heard the answer to my question whether [the minister] will be prepared to accept any amendments, and if he does not the Bill will have my most uncompromising hostility'.⁸⁰ Hanna's criticism demonstrates the controversial policy of parity, for the 'hostility' comes from a UUP member keen on maintaining links with Britain. Hanna's critique highlights the issues in social policy in the early years of Northern Ireland, for his remarks suggest a sense of powerlessness or redundancy in the formation of social policy:

It is absolutely idle and absolutely useless, and to me, an absolutely heartless job to try to study the Bills that follow too closely the English law, to sit down and waste time in preparing amendments if I am to be told the Government will not accept the Change of one single word . . . I would like to feel and know in relation to this matter, in which I claim to be greatly interested, and in which I claim to be able to say something having behind me the experience that I referred to [in his previous profession as a solicitor], that I am not wasting my time but in the performance of my duty, and am encouraged to do some good.⁸¹

Hanna's frustration raises another key question this thesis seeks to answer, that is, to what degree could Stormont MPs direct legislation and/or introduce their own

⁷⁹ McCormick, *Regulating sexuality*, p. 207, *passim*.

⁸⁰ *Hansard NI (Commons)*, iv, col. 269 (20 Mar. 1924).

⁸¹ *Ibid.*, col. 271.

legislation? Hanna displayed interest in reforming the welfare of unmarried mothers, and mentioned how his experience as a solicitor helped inform his knowledge in this area, but he was restricted by the policy of parity from having any real input in the terms of the legislation. Moreover, his remarks demonstrate a more dynamic debate about the step-by-step policy, since Hanna supported the bill but was against the lack of self-determination accompanying the policy of parity. Therefore, this does not fit into Bew's classification of populists in favour of the step-by-step policy, for Hanna still had populist politics, but was an advocate for writing social legislation on Stormont's own terms. Moreover, Hanna was outside of Craig's cabinet, thus demonstrating that the theories of Bew, Buckland, and Walker need to be extended beyond the inner circle of the UUP.

The ultimate response to the criticisms of the policy of parity was articulated by the Attorney General, Sir Richard Best, in the Committee Stage of the bill:

I am told, of course, that we should not slavishly follow Great Britain. May I say this, that the most successful jurisprudence in the world is the jurisprudence of Great Britain. Great Britain has given laws to the English-speaking people; they all follow the laws of Great Britain with the exception of Scotland – their law is based upon Roman law. Great Britain, as I say, has given a lead to all the nations of the world in laying down a proper system of jurisprudence, and I am not ashamed of following Great Britain as far as law is concerned, because I am following the best example in the world.⁸²

The Attorney General's statement makes clear the government's policy, but the difference of opinion between Best and Hanna, both UUP members, demonstrates how this wider challenge of defining Northern Ireland's role in the UK permeated the Stormont debates in the immediate post-partition years.

The 'in camera' debate, morality, and step-by-step policy

Despite the drives for parallel policy, the House of Commons debates saw the incorporation of amendments distinct from the English legislation which were justified by an idea of higher Northern Irish morality. This was a recurrent issue in Northern Irish social policy throughout the 1920s and 1930s. The debate over including an *in camera* clause is therefore representative of the wider debate regarding writing Northern Irish social policy, and provides insight into the 'official' attitude regarding women in Northern Ireland. The English Bastardy Act

⁸² *Hansard NI (Commons)*, iv, col. 406 (2 Apr. 1924).

did not contain any provision for *in camera* proceedings, but some Stormont MPs adamantly pushed for such a clause. These MPs were so successful that the original bill passed through the Stormont House of Commons with an *in camera* clause, but the Senate overruled the House to maintain parity with England. This debate about affiliation orders is also of crucial importance because it is one of the main clauses which differentiates the Northern Irish from the Free State legislation, for the amendment was rejected in the former and agreed to in the latter. The Northern Irish debates regarding *in camera* proceedings open up questions about the legal relationship with England and demonstrate how certain MPs in the House were prepared to break the policy of parity to preserve the conservative social morals of Northern Irish society. Buckland writes that Stormont ‘seem[ed] to exist largely to endorse government policy’,⁸³ but the debate over the *in camera* clause in the affiliation orders bill demonstrates how the House, at least in this instance, provided a different voice to the government’s policies.

Chichester introduced the amendment for private proceedings. It should be noted that she did not have an overt interest in legislating on issues relating to women. In fact, as Diane Urquhart notes, Chichester made a point not to legislate on issues relating to women. Urquhart pointed to an article Chichester wrote in the April 1927 issue of *Northern Ireland Home and Politics: A Journal for Women* in which she criticised female legislators who prioritised women’s issues over wider politics. Similarly in a 1935 Stormont debate, Chichester said she did not have an agenda regarding progressing women’s rights. However, Urquhart argues that Chichester did support bills relating to women: ‘When supporting legislation of this sort, she did, however, attempt to avoid being labelled as a “women’s” MP by making only passing reference to her sex, instead concentrating on the need for reform or the intricacies of the bill.’⁸⁴ Chichester’s introduction of the *in camera* clause builds on Urquhart’s thesis that, despite her best efforts to avoid legislating on issues relating to women, her arguments for this bill demonstrate a clear interest in the welfare of unmarried mothers.

Chichester introduced the *in camera* clause for the purposes of providing anonymity for an unmarried mother to rebuild her respectability. However she only allocated this potential to rebuild respectability to unmarried mothers with one

⁸³ Buckland, *Factory of grievances*, p. 26.

⁸⁴ Urquhart, *Women in Ulster politics, 1890-1945*, p. 189.

illegitimate child, who she later identified as the ‘more decent of the fallen class’.⁸⁵ She also argued for the clause as means to protect innocent men from being victims of blackmail by ‘unscrupulous and immoral women’.⁸⁶ Chichester’s concern about blackmail was echoed by MPs throughout the debates about affiliation orders. There was a concern that by empowering this ‘immoral’ element of working-class women, the legislation put wealthy men at risk. Earner-Byrne’s comments on the Free State fear of the working-class single woman can be applied to the Northern Irish situation as well: ‘class prejudices were often also gendered: the figure to be watched and circumvented was the poor female. A “deadweight” in welfare terms, she was capable of blackmail . . .’.⁸⁷ Interestingly, in the 1920 Westminster debates regarding the Bastardy bill Conservative MP Neville Chamberlain anticipated concerns about blackmail: ‘At this point I think I hear the familiar cry of ‘blackmail.’ It is always raised whenever any question arises of trying to put further restrictions upon immorality. It is always made a bogey. It was when the age of consent was raised. I have no doubt it will be trotted out again this afternoon’.⁸⁸ Chamberlain’s comment illustrates that blackmail concerns were not isolated to Stormont or, as will be seen, the Oireachtas, but were also articulated in Westminster.

Stormont MPs expressed this concern about blackmailing in relation to clause two of the bill which allowed a married woman to take out affiliation orders proceedings against a man other than her husband. James Cooper, UUP MP for Fermanagh and Tyrone, argued: ‘I think I never saw in any Act of Parliament a provision more likely to lead to blackmail than set out in Clause 2 of the Bill . . . Under that provision I do not think there is even a Cabinet Minister of this House who would be safe. It is the greatest blackmailing provision I ever saw in an Act in my life’.⁸⁹ While Cooper depicted the unmarried mother as a distrustful figure, he gave these women the agency that they were not given in other parts of the debate. While this is an incredibly detrimental form of agency, this potential for blackmail was the only responsibility the majority of MPs gave to the women, for the Stormont legislators generally depicted the putative fathers as irresponsible males,

⁸⁵ *Hansard NI (Commons)*, iv, col. 490 (2 Apr. 1924).

⁸⁶ *Ibid*, iv, col. 268 (20 Mar. 1924).

⁸⁷ Earner-Byrne, ‘Reinforcing the family’, p. 362.

⁸⁸ *Parliamentary debates (Hansard) House of Commons*, vol. 128, col. 2401 (7 May 1920).

⁸⁹ *Hansard NI (Commons)*, iv, cols 272-3 (20 Mar. 1924).

and the unmarried mothers as vulnerable, powerless victims to male sexuality. Interestingly, when the bill appeared before the Senate, the senators expressed little to no concern about blackmailing. In his introduction of the bill to the upper house, Lord Londonderry, the leader of the Senate, assuaged fears of blackmail: ‘The statement has often been made that legislation of this nature leads to blackmail, but the provisions of the Bill . . . remove this objection . . . I may say that on inquiries which I have made in reference to this matter I am told that cases of blackmail are very few and far between’.⁹⁰ Londonderry’s sentiments, which were repeated by other senators in this debate, were a far cry from the claims of Chichester that blackmailing was ‘undoubtedly a possibility’.⁹¹ Senator James Leslie expressed his concern that ‘the difficulty which has always existed in Ireland of getting the woman to say who the father is’ was of more concern than the potential for blackmail.⁹² However, it is important to note that the senators were not against the idea of a closed court. Londonderry approved of an amendment which allowed for a deal to be reached between parties before appearing in court. A Justice of the Peace in a closed court could review this. Londonderry praised this amendment by noting ‘It would obviously be advantageous as far as possible that these matters should be kept out of public Courts . . .’⁹³

While the concerns about blackmail were discussed in detail in the Commons debates, little discussion was afforded to how *in camera* proceedings would protect the respectability of the mother. MPs focused on sealing of the testimony of the unmarried mothers to protect the public. This relates to the desire to separate first time unmarried mothers from unwed women with multiple children. Following the logic of the MPs, just as separating these two categories of mothers was seen as a means to aid restoring respectability to the first time mothers, the sealing of testimony also restricted the potential for unmarried mothers to have influence on vulnerable first time unwed mothers. This further marginalisation of unmarried mothers from the public demonstrates the extent to which it was acceptable to hide unmarried mothers from wider society and conforms to wider fears of them as a source of moral contagion.

⁹⁰ *Hansard NI (Senate)*, iv, col. 139 (20 May 1924).

⁹¹ *Hansard NI (Commons)*, col. 268 (20 Mar. 1924).

⁹² *Ibid*, col. 144.

⁹³ *Hansard NI (Senate)*, iv, col. 229 (21 Oct. 1924).

The idea of a superior Northern Irish morality threads through the Stormont debates about the *in camera* clause. The clause was supported by MPs through speeches which suggested Northern Irish morality was stronger than English morality, and that this needed to be protected. The remarks of Samuel McGuffin represented this sentiment. To support his argument in favour of keeping the press outside of affiliation order proceedings, he said: ‘It has been said here that the harrowing details [of the court proceedings] will be published in the Press. The Belfast Press is particularly careful in these matters as compared with the Press across the water. We never read in our local papers the harrowing and obscene details that we see published in regard to cases tried in Great Britain’.⁹⁴ McGuffin differentiated between what he saw as the respectable Northern Irish press from the morally questionable publications found in the English press.

In that same sitting of the House of Commons, Robert Crawford, UUP MP for Antrim, reiterated McGuffin’s belief of introducing a new clause to protect the virtues of the nation, he said: ‘So far as I can see no injury will be done to the plaintiff or the defendant by [*in camera* proceedings], and to my mind a great benefit will accrue to the public by their inability to hear the unseemly details that are likely to be brought out in cases of this description’.⁹⁵ However, Crawford’s concern about the unseemly details of affiliation orders cases was without much grounding, as unmarried mothers did not go into much detail about the sexual relationship they had with the father of their illegitimate child. Cliona Rattigan’s work on infanticide in Ireland and Northern Ireland provides insight into how women discussed their relationship with the father of their child in judicial proceedings:

Overall, single infanticidal women in the pre-independence period and in Northern Ireland appear to have been far more reticent about sex and relationships than defendants in the Twenty-Six County state. It is not clear, however, whether this was due to the manner of the police interrogation – women’s statements were clearly shaped by the way in which they were questioned – or whether other factors came into play . . . Few women in Northern Ireland referred to their sexual experiences in any detail.⁹⁶

Rattigan’s findings can be applied to affiliation order cases, and it can be surmised that the unmarried mother would not provide much detail about the sexual

⁹⁴ *Hansard NI (Commons)*, iv, col. 494 (2 Apr. 1924).

⁹⁵ *Ibid.*, col. 493.

⁹⁶ Rattigan, *Single mothers and infanticide*, p. 130.

relationship with the father of the illegitimate child. Therefore, the sensitive morality of the public was not at risk if the cases were to be heard publicly.

The question of preserving superior Northern Irish morality through *in camera* proceedings was challenged by the cabinet's drive to maintain parity with English social legislation. The parliamentary secretary to the Minister of Home Affairs brought the debate back to the legislative precedent of following English social legislation and said: 'The hearing of cases in camera is alien to the system of justice that has commended itself to the people in the British Isles, and cases are certainly regarded with very great suspicion that are heard in camera. It enables evils to be hushed up, and publicity is a very important affair in all administration of law'.⁹⁷ The parliamentary secretary's argument accomplished two points: it maintained the step-by-step policy, and it argued that public proceedings actually maintained the just society that the Stormont MPs saw in Northern Ireland, for open justice was a pillar of British law. In reply to this argument, Chichester maintained her beliefs to step away from the policy of parity in this instance: 'It is possible that the hearing of these cases is alien to the system of justice that has held sway here hitherto. I would ask hon. Members: Are we to be hidebound by tradition all the time? Can we not strike out for ourselves? Must we always copy other legislation? Must we always copy what has been done across the water?'⁹⁸ Therefore Chichester argued that a departure from the step-by-step policy was necessary if it maintained Northern Irish morality. Finally, the debate was settled by the Attorney General, who announced that the Government would not accept Chichester's amendment, and that the cases would be heard in public.⁹⁹ By claiming itself as morally superior to Britain, and introducing measures to maintain this moral purity, the affiliation orders debates demonstrate the complicated process of defining Northern Irish social morality within the UK, and how members of the new parliament were prepared to defy the policy of parity with Westminster to reform the welfare of unmarried mothers and maintain what they saw as a distinct, superior morality.

Senate overrules House of Commons in favour of step-by-step policy

⁹⁷ *Hansard NI (Commons)*, iv, pp 307-8 (25 Mar. 1924).

⁹⁸ *Ibid.*, col. 490 (2 Apr. 1924).

⁹⁹ *Ibid.*, cols 495-6.

When the affiliation orders bill was introduced to the Senate the main source of debate was the extent to which the bill had lost the spirit of the English legislation. Just as the Home Office disapproved of the divergence from English law, the Senate stepped in to maintain the policy of parity with England. Again, this complicates Bew and Buckland's argument that Craig's cabinet was most invested in the policy of parity with Great Britain, for senators as well as the Home Office expressed interest in maintaining parity. The amendments introduced by the House of Commons strayed too far from the English legislation, so the Senate stepped-in to return the Northern Irish bill to the original English principles. While the Senate's revision of the bill did not bring the upper chamber into deadlock with the Commons, the intervention drastically changed the measure. Very little has been written on the Senate, arguably, because it was seen as having little power or influence. In *Political forces and social classes*, Bew does not devote any space to the role of the Senate in the first twenty years of Stormont, whereas Buckland briefly mentions the upper house in *Factory of grievances*. Patrick Magill's 1965 PhD thesis from Queen's University Belfast, 'The Senate in Northern Ireland, 1921-62' is one of the few studies devoted to the Upper House.¹⁰⁰ Magill notes an uneasy relationship between Commons and the Senate: 'Opinions and judgements on Northern Ireland's Upper House, while not overwhelming in their amplitude, have been concise and, in the main, unfavourable. In the Commons some members never hesitated to snipe at the Senate, their bursts generally indicating a political target rather than an impartial effort to assess the work of the Chamber . . .'¹⁰¹ This examination of the intervention of the Senate adds to Magill's study of the work of this house and illuminates key measures taken by the Senate which challenge the traditionally held view of it as an ineffective legislature.

Senator Leslie was the first senator to raise this point (a point that became the main source of contention the senators had with the bill). Leslie said:

it is important that we should keep as closely as possible to England in this matter . . . I am afraid I must say that in my judgement the Bill is dangerously overloaded. We ought to remember that we in Northern Ireland have no experience worth mentioning of the administration of any law of bastardy. In

¹⁰⁰ Patrick Francis Magill, 'The Senate in Northern Ireland, 1921-62' (PhD Thesis, Queen's University, Belfast, 1965).

¹⁰¹ Ibid., p. 337.

England they have at least eighty years experience, and they have not found it necessary to introduce some provisions contained in this Bill.¹⁰²

Leslie's comments highlight the experience of English legislators and echo the Attorney General's remarks in the House of Commons that supported following English law because 'it is the best example in the world'.¹⁰³ Leslie's concern about moving away from the English principles was echoed by Senator Thomas Greer: '[regarding the provision that allows a married woman to take out an affiliation order against a man who is not her husband] I think I am right in saying that in England no such power is given to the married woman who is living with her husband. That section goes a very long way, and I almost think it is a dangerous power to give'.¹⁰⁴ Greer's comments demonstrate how powerful the step-by-step policy was, for it overruled amendments even if the House of Commons believed it was in the best interest of the welfare of the unmarried mother. Magill notes that the Senate also took issue with the provision in this bill which allowed a mother to give a deposition before the birth of her child: 'hitherto, it had never been known in the law of England that a deposition could be used in a civil case after the death of the person making the deposition. Senators, disliking this attempt by the Commons to make new law on so fundamental a matter, threw out the sub-clause'.¹⁰⁵

The strongest criticism of the House's amendments came in correspondence from Lord Londonderry, the leader of the Senate, to Craig and Bates. Londonderry condemned the bill and saw the House's amendments as the cause of the bill's flaws:

When it was introduced into the House of Commons, the bill was a good one but various amendments were made in the House which have transformed the measure into a bad one . . . The bill itself differs from the English Bill of the same character in no less than five very important points and I am certainly of opinion that the House of Commons of Northern Ireland is wrong in each one of these points . . .¹⁰⁶

Londonderry's letter demonstrates how the Senate acted as a check the House of Commons, and reveals how the senators were also invested in maintaining the legislation's link with the English law. Moreover, the second part of Londonderry's

¹⁰² *Hansard NI (Senate)*, iv, cols 145-6 (20 May 1924).

¹⁰³ *Hansard NI (Commons)*, iv, col. 406 (2 Apr. 1924).

¹⁰⁴ *Hansard NI (Senate)*, iv, col. 154 (20 May 1924).

¹⁰⁵ Magill, 'The Senate in Northern Ireland', p. 344.

¹⁰⁶ Londonderry to Prime Minister James Craig, 21 May 1924 (PRONI, Cabinet papers, CAB/9/B/39/1).

letter speaks to the development of the relationship between the House of Commons, the Senate, and the cabinet, as well as the development of the power of the House of Commons. He condemned the government's decision to allow the House to vote on issues 'without the Government expressing any opinion whatsoever'. He attributed this to a mistake by the new government: 'It is very natural in a new Parliament that all these difficulties should arise and there is bound to be a danger for some time to come of legislation being enacted which has not been thoroughly and efficiently examined. This applies particularly to the Children's Bill, which we most certainly cannot allow to pass into Law in the form in which it stands at the present moment'.¹⁰⁷ Following Londonderry's logic, the affiliation orders bill (which he called 'the Children's Bill') can be seen as an example of the early developing stage of social policy in Northern Ireland. The House attempted to amend the legislation to benefit the welfare of women in Northern Ireland, but the Senate stepped in as it believed the bill moved too far from the English law. In fact, Bates remarked on how much influence the house had on this legislation: 'I do not remember any Bill which was so thoroughly threshed out by our House of Commons'.¹⁰⁸ The House had not yet developed the tradition of following the government's legislation, and at this point, had more power over social policy than perhaps the government wanted.

From May to October 1924, Bates, the Parliamentary Draftsman and Senator Leslie met to realign the bill closer to English law. Leslie had experience as a lawyer and a career civil servant in the British civil service. Just as the medical expertise of Morrison and Dawson influenced the terms of the bill, Leslie and the parliamentary draftsman's legal training would influence the final terms of the law. However, these meetings saw Bates continuing to push against completely matching English policy. This can be seen in his correspondence with Londonderry in October in which the two disagreed about the provision that gave the illegitimate child inheritance to his father's estate. Bates fought to maintain this clause, while Londonderry was vehemently against its inclusion. Londonderry's argument was rooted in the desire to stick with English policy: '[the clauses] represent a departure from the law of England. With the vast experience and the great store of legal

¹⁰⁷ Ibid.

¹⁰⁸ Sir Richard Dawson Bates to Prime Minister James Craig, 6 Oct. 1924 (PRONI, Cabinet papers, CAB/9/B/39/1).

authority which is at the disposal of the Imperial Parliament, I cannot help thinking that on important matters like this, we should exercise the most extreme hesitation before deciding to alter the law in Northern Ireland . . .'¹⁰⁹ When it appeared that Bates was not prepared to budge on the matter, Londonderry wanted to distance himself from the bill, and suggested Bates bring it to the Senate:¹¹⁰

I gather from your letter that the Government seem decided to maintain the Bill as it is. It certainly is not a matter on which I could tender my resignation, but I am bound to say that I disagree and I think it would be as well if you conducted the business through the Senate. Of course, I could do it and would do it, as it would be my duty unless I were prepared to resign, and I am not proposing to do that. Believe me . . .¹¹¹

The political clout of Londonderry can be read in Bates' response: 'Indeed it is only lately that I was aware that you took exception to the matters raised by you. If I had been aware of the fact, I would have brought the bill and the Amendments before the Cabinet.'¹¹² The minister's letter demonstrates a desire to please Londonderry and maintain the support of the upper house. The Committee Stage of the bill in the Senate saw the amendment of clauses that the senators saw as problematic, and the bill returned to resemble the English legislation.

When introducing the Senate's amendments to Commons, the Minister of Home Affairs asked the House to accept the changes: 'I would like to express my appreciation of the care which was devoted by [the Senate] to considering the Bill. It frequently happens that amendments are introduced, which subsequent and more mature consideration shows might be more advantageously placed elsewhere . . . I hope that the House will see their way to agree with the Senate in these amendments.'¹¹³ Commons accepted the changes and the bill passed into law on 7 November 1924.

This example of the House breaking the step-by-step policy in favour of amending the bill for the improved welfare of women provides insight into the attitudes of the MPs at the time. However, the intervention of the Senate reveals

¹⁰⁹ Lord Londonderry to Sir Richard Dawson Bates, 4 Oct. 1924 (PRONI, Cabinet papers, CAB/9/B/39/1).

¹¹⁰ The convention was for Londonderry to continue to lead the bill through the senate, as he introduced it in the opening session.

¹¹¹ Lord Londonderry to Sir Richard Dawson Bates, 8 Oct. 1924 (PRONI, Cabinet papers, CAB/9/B/39/1).

¹¹² Sir Richard Dawson Bates to Lord Londonderry, 10 Oct., 1924 (PRONI, Cabinet papers, CAB/9/B/39/1).

¹¹³ *Hansard NI Commons*, iv, col. 1586 (5 Nov. 1924).

how strong the step-by-step policy was in the administrative mind of Northern Irish legislators. Moreover, the intervention of the Senate to bring the law back to the English terms challenges the image of the Northern Irish Senate as powerless and redundant.

VI. Conclusion

The affiliation orders legislation in Northern Ireland is a perfect starting point for this thesis. It introduces issues that we will track throughout the thesis, particularly how ideas of a superior morality was at odds with the step-by-step policy. The step-by-step policy was in its infancy at this stage so it faced many challenges. It came to a head when the legislators tried to incorporate an English precedent to Northern Ireland while maintaining ideals of a superior Northern Irish morality. In the process of drafting and debating this act it is seen that, in the opinion of the House of Commons, the protection of the superior Northern Irish morality supersedes the importance of maintaining parallel policy to England. The intervention of the upper chamber and Lord Londonderry sets the precedent that maintaining parity with England was of utmost importance. This analysis of the conflict between houses of parliament and between approaches to policy-making adds crucial understanding to policy making in the early years of Stormont. Traditionally step-by-step has been understood as applying to state insurance legislation, but here we see the application of the policy of parity to social legislation as well.

In the next chapter we will see how the affiliation orders legislation was debated in the Free State legislatures. In the absence of a step-by-step policy, the Free State legislators could include terms different from the British legislation, the most controversial measure being the provision for *in camera* proceedings. It will be discussed whether this was a protective measure for the respectability of the unmarried mother, or a barrier between immorality and the public. It will be seen that these similar paternalistic attitudes toward unwed mothers, particularly the rural unmarried mother, were just as strong across the border and across religious divides.

Chapter three: Conservatism and the Catholic state: the writing of the Free State Illegitimate Children (Affiliation Orders) Act.

‘Happily there are many parishes throughout Ireland where such a pitiable situation seldom arises, and unhappily no parish can count itself immune from the sinful lusts of the flesh’.¹

I. Introduction

The Free State passed affiliation orders legislation in 1930, six years after the Northern Irish act. Such a gap in the law between the two new states demonstrates a clear difference in legislating for women’s welfare after partition. The following chapter examines the lengthy Free State drafting process, how the Oireachtas’ discussions about unmarried mothers sheds light on wider issues in the early years of the new state, and how it can be compared to the Northern Irish debates about the legislation. As with the previous chapter, this chapter scrutinises the official discourse about unmarried mothers and affiliation orders. This analysis adds to the literature on unmarried mothers by comparing the official opinions of northern and southern legislators about these women and official attempts to redress injustices. It will examine the work of civil society groups in the Free State before delving into a detailed analysis of the steps taken by the government towards drafting an affiliation orders bill, including a comparative analysis of the treatment of the unmarried mother and affiliation orders in the Northern Irish Report of the Departmental Commission on Local Government and Administration, with the Free State Report on the Commission on the Relief of the Sick and Destitute Poor, including the Insane Poor, both published in 1927. Ideas about motherhood, class, and reputation come to the fore through the examination of these groups, reports, and legislative debates, revealing that the Free State and Northern Ireland held similar paternalistic ideas about unmarried mothers, but the Free State codified its concerns about empowering the working-class, sexually-active female. This concern about empowering a traditionally dispossessed woman threads through many of the debates explored in this thesis.

It has been argued elsewhere that the Free State affiliation orders act ‘was probably the most important piece of legislation for unmarried mothers introduced

¹ *Church of Ireland Gazette*, 21 Nov. 1924.

between 1920 and 1939', as it allowed mothers for the first time to exercise their own agency to get financial support from putative father.² However, this line of argument risks overstating the significance of the affiliation orders legislation, for the act provided little material welfare for unmarried mothers, both in the Free State and Northern Ireland. Luddy notes how legal fees were too expensive for the mothers to pursue fathers who default on payment, and by 1950 'it was observed that the act had proved inoperative'.³ Furthermore, Buckley notes how the act was criticised by the NSPCC in the south as being inaccessible to working-class women.⁴ This criticism is crucial, as a memorandum from the Free State Department of Justice illustrates how the act was made for the welfare of working-class women: 'the provisions of the Bill now proposed to be introduced are designed as a remedy for the less well-to-do'.⁵ As Earner-Byrne notes in relation to the Free State, other acts provided for the welfare of the women more effectively than the affiliation orders legislation. She identifies the 1934 Maternity Home Registration Act and the 1939 Public Assistance Act as more important for the welfare of these mothers.⁶

The first government of the Free State did not prioritise social policy. As such, affiliation orders were slow to materialise into legislation. The economic viability of the state was prioritised over social policy. As Kelly notes: 'this resulted from a combination of the tattered economy inherited by the Saorstát and the overwhelming desire of the Cumann na nGaedheal leaders to establish the economic security of the new state; to prove that an independent Ireland could and would exist as a financially viable entity, whatever about existing as a culturally and socially viable entity'.⁷

² Ann-Marie Graham, 'Unmarried mothers: the legislative context in Ireland, 1921-79' (M. Litt thesis, National University of Ireland, Maynooth, 2012), p. 140.

³ Maria Luddy, 'Unmarried mothers in Ireland, 1880 – 1973' in *Women's History Review*, xx no. 1 (2011), p. 121.

⁴ Buckley, *The cruelty man*, p.78.

⁵ Illegitimate Children (Affiliation Orders) Bill memorandum prepared by the Department of Justice. Undated (c. 1929). (National Archives of Ireland [hereafter NAI], Department of Justice papers, JUS 90/9/18).

⁶ The former act legislated that all institutions that cared for unmarried mothers undergo mandatory inspections, register with the state, and keep adequate records. Earner-Byrne notes, 'In return for compliance, these institutions could apply for grant assistance under the maternity and child welfare system' (p. 190). The Public Assistance Act provided free medical care for people unable to cover their own costs. Other important acts that covered the welfare of unmarried mothers include the numerous National Health Insurance Acts, the numerous Housing Acts, and the Local Government Bills, as these provided for the welfare of all Irish citizens. Earner-Byrne, *Mother and child*, p. 190.

⁷ Kelly, 'Social Security in Independent Ireland', p. 68.

Moreover, there was not the same urgency to pass affiliation orders legislation as in Northern Ireland. Since the Free State did not practice a step-by-step policy with British legislation, the government was not under the same pressure to introduce social legislation. Ferriter's observation about the relationship between the Free State and English legislation can be applied to the affiliation orders debate: 'A reluctance to replicate British legislation highlighted the tendency in Ireland to sometimes ignore or avoid issues to do with sexuality, pregnancy, and illegitimacy'.⁸ Earner-Byrne goes further to suggest that the lack of engagement by the government with women's welfare was partly due to the nature of the welfare needed: 'in relation to unmarried mothers, the ambiguity between health and morality lent itself even more successfully to paralysis and manipulation, allowing the central government to renege on its responsibility on the grounds that the issue was too morally sensitive for the ostensibly secular hands of government'.⁹ 'Paralysis' accurately describes the state of the Free State's affiliation orders bill from 1923-30, as efforts to prepare such legislation started in 1923 but was met with a series of false starts until 1929.

Powell argues that the 'complete abrogation of civil rights of single mothers with illegitimate children in Ireland at this time' was due to the government's 'excessive zeal for the ideal of chastity'. With what he describes as 'a chilling intolerance', this zeal extended to Irish society as a whole that condemned moral trespassing, and was therefore hesitant to provide aid to unmarried mothers. This approach, Powell argues, reinforced Catholic social teaching in Irish social policy, as well as reinforcing 'patriarchal values as the idiom in forming the treatment of women within the welfare system'.¹⁰ Powell's argument demonstrates the strict moral code enforced by the Irish government and more informally by society in this period, but his argument runs the risk of attributing social policy only to the influence of the Catholic Church. As demonstrated in the previous chapter about the Northern Irish affiliation orders debates, conservative, moralistic, and patriarchal opinions about unmarried mothers were not confined to countries with a strong relationship to the Catholic hierarchy and Catholic social teaching. While it is undeniable that the Catholic Church held a strong influence over the social policy of the Free State, it is dangerous to attribute the policy

⁸ Diarmaid Ferriter, *Occasions of Sin: Sex and Society in Modern Ireland* (London, 2009), p. 23.

⁹ Earner-Byrne, *Mother and Child*, p. 173.

¹⁰ Powell, *The politics of Irish social policy*, p. 183.

only to these Catholic influences. Finnane argues this point in relation to the 1930-1 Carrigan Committee: 'The consolidation of the moral authority of the Catholic Church in these decades should not be allowed to obscure the part played by other agencies . . . in the shaping of a distinctive society'.¹¹ This thesis argues that parallels to the Northern Irish debates, as well as similarities across religious divides, challenges this strongly held emphasis on the role of Catholic teaching in Irish social policy. It is argued that Catholic influence was also characteristic of wider conservative political currents of the time.

II. Civil society and the unmarried mother in the Free State

Throughout the period under review, the Free State illegitimacy rate increased each year. Table 3.1 (see next page) provides the statistics on the number of illegitimate births from 1922-39, thus providing an idea of the number of unmarried mothers in the Free State in this period. Since the table does not provide information regarding the number of unmarried mothers, just the illegitimate children, it is difficult to ascertain a firm number of the mothers, particularly because of the high rates of maternal mortality. It is also impossible with the available data to reach any conclusions about the regional incidence of unmarried pregnancies, still less to determine where conception occurred (because many expectant mothers moved to larger towns and cities in pursuit of anonymity).

In the context of limited social support and the absence of strong legal protection, unmarried mothers often travelled to England to have their children. Studies by Earner-Byrne, Garrett, and Redmond, analyse the experiences of female Irish emigrants to England and the position of the Catholic Church and the Irish state regarding this emigration.¹² Importantly, as these scholars highlight, the government's

¹¹ Mark Finnane, 'The Carrigan Committee of 1930-1 and the "Moral Condition of the Saorstát' in *Irish Historical Studies*, xxxii no. 128 (Nov. 2001), p. 520.

¹² See Earner-Byrne, 'The boat to England: an analysis of the official reactions to the emigration of single expectant Irishwomen to Britain, 1922-1972' in *Irish Economic and Social History*, xxx (2003), pp 52-70; Paul Michael Garrett, 'The Abnormal Flight: the Migration and Repatriation of Irish Unmarried Mothers' in *Social History* xxvi no. 3 (Oct. 2000), pp 330-43; Redmond, 'In the family way and away from the family, pp 163-85; Redmond, "'Sinful Singleness"? Exploring the discourses on Irish single women's emigration to England, 1922-1948' in *Women's History Review*, xvii no. 3 (2008), pp 455-76.

concern about unmarried mothers going to England was not just confined to the welfare of the women.

3.1 The number and percentage of illegitimate births for Ireland, 1922-39.¹³

Years	Rate	Illegitimate Births
1922	2.6	1520
1923	2.6	1624
1924	2.6	1677
1925	2.7	1662
1926	2.8	1716
1927	2.9	1758
1928	3.0	1788
1929	3.2	1853
1930	3.2	1863
1931	3.4	1925
1932	3.2	1819
1933	3.4	2004
1934	3.5	2030
1935	3.3	1946
1936	3.3	1908
1937	3.2	1813
1938	3.3	1878
1939	3.2	1781

There were concerns in independent Ireland that the large numbers of unmarried mothers going to England would tarnish Ireland's reputation. Redmond wrote: 'The concern appeared to stem from a fear that Ireland's reputation as not only a moral but an exemplary Catholic country was being tarnished by the number of unmarried pregnant Irish women coming to the attention of the British Catholic hierarchy, charitable organisations, and health authorities'.¹⁴ Further, Earner-Byrne summed up: 'The idea that Ireland's moral linen was washed in Britain was anathema to the aspirations of the new state'.¹⁵ This concern about reputation took many forms in the affiliation orders debates, for many of the arguments over details of the legislation were about how to protect the putative father's reputation, in addition to underlying concerns about Ireland's reputation as a moral nation.

¹³ Earner-Byrne, *Mother and Child*, p. 174.

¹⁴ Redmond, 'In the family way and away from the family: examining the evidence in Irish unmarried mothers in Britain, 1920s-40s', p. 183.

¹⁵ Earner-Byrne, *Mother and Child*, p. 192.

In the place of government support, civil society groups, often with religious associations, provided the bulk of aid for unmarried mothers. Because many unmarried mothers moved to Dublin, that was where the civil society groups were centred. Saint Patrick's Guild, the Catholic Protection and Rescue Society, and the Legion of Mary were groups that provided aid to unmarried mothers.¹⁶ As noted by Luddy, the 'aid' provided by certain moral rescue organisations involved separating mother from child by boarding the child out. Other rescue societies cared for expectant and nursing mothers.¹⁷

As early as 1922 President Cosgrave and Archbishop Byrne met about unmarried mothers and Cosgrave suggested 'that your Grace might take steps to form a Central Committee of a federal character to unify and help the efforts of the existing religious and charitable associations'. Cosgrave offered to subsidise the committee with a 50% grant.¹⁸ No further correspondence on this committee exists, but the work of the church and state regarding unmarried mothers is well documented. Calls for the regulation of the unmarried mother were not limited to Catholic religious groups. As discussed in the previous chapter, the UCCCI had a great interest in affiliation orders legislation north and south of the border. A Church of Ireland body, the Dublin Christian Council, reported to the 1927 General Synod of the Church of Ireland of a questionnaire it sent to candidates ahead of the general election that year inviting their support on a number of issues, including 'certain agreed measures of reform for the protection of unmarried mothers and their children'.¹⁹ Similarly, the Bray Christian Citizenship Council held a public meeting in April 1929 calling for welfare reform, including a specific call for affiliation orders legislation.²⁰

Interestingly, the welfare of the unmarried mother was not a prominent issue with feminist groups, and instead fell to the provision of the moral lay groups. However, when the government introduced the affiliation orders legislation, Rosamund Jacob, honorary secretary of the Irish Section Women's International League for Peace and Freedom, wrote to the *Irish Independent* to publicly support the

¹⁶ Ibid., p. 186.

¹⁷ Luddy, 'Moral rescue and unmarried mothers in Ireland in the 1920s', p. 801.

¹⁸ W.T. Cosgrave to Archbishop Byrne, 22 June 1922 (DDA, Archbishop Byrne papers, government and politics file, box 466).

¹⁹ *Journal of the General Synod of the Church of Ireland* (Dublin, 1928) (RCB, General Synod Journals).

²⁰ Ibid., 1930. (RCB, General Synod Journals).

bill on behalf of the League, and called for women justices to hear the cases.²¹ The bill garnered cross border attention, too. Dora Mellone of the BWAC wrote to the *Connacht Tribune* in 1928 to raise awareness about the lack of affiliation orders legislation in the Free State.²² Mellone did not write on behalf of the BWAC, but instead signed only her own name and her address in Blackrock, Co. Dublin. This is interesting, as Mellone was a prominent figure in Northern Irish civil society, but signed her letter to the *Connacht Tribune* from a Dublin address. Daly discusses the Free State feminist groups' lack of interest as a paradox in Irish social culture: 'given the emphasis that Catholic social teaching and Irish politicians placed on the family, Irish feminists might have been well advised to adopt a similar discourse and to redefine a feminist agenda within a context of maternal and family needs, as did many feminists in Britain, the United States, and Europe.' However, she continues, Irish groups focused on citizenship rights instead of 'maternal feminism, or second-wave feminism', which actually was more closely aligned with 'the underlying philosophy of Irish society'.²³ Indeed, the early Irish women's movement differs from other movements, such as certain Canadian suffrage movements which had 'an intimate connection between the suffrage movement and child welfare laws'.²⁴

The wider public involved itself in calls for further responsibility of the father. In 1924 a series of letters to the *Church of Ireland Gazette* debated how to provide further support to the unmarried mother. One writer, calling him/herself 'A Love of Babies', criticised the letter by the Good Hope Home in Terenure because it did not call for further support from fathers:

I do not think that an appeal to public charity is the best way to provide funds for the Northcote Rescue Home, and would suggest that the fathers of these unwanted babies would shoulder their responsibilities and support their children. It is beginning to be understood at last, that each of these children "has a father as well as a mother" and all that is necessary is to get their names and addresses, and, forcibly or otherwise, suggest that they shoulder their part of the burden.²⁵

²¹ *Irish Independent*, 24 Feb. 1930.

²² *Connacht Tribune*, 15 Sept. 1928.

²³ Daly, 'Wives, Mothers, and Citizens: the Treatment of Women in the 1935 Nationality and Citizenship Act', p. 263.

²⁴ Patrick Brode, *Courted and abandoned: seduction in Canadian Law* (Toronto, 2002), p. 142.

²⁵ *Church of Ireland Gazette*, 12 Dec. 1924.

In response, C.A. Pigott, honorary secretary of the society, agreed that fathers should be made responsible, but that in reality it was so difficult to track the fathers down and make them pay that '[it is] so difficult that some of us rescue workers do not make the attempt, and save our energies and money for the task of making it possible for the girl to do her duty to the baby, and try to lead her to a new life'. Pigott romanticised the strength of the unmarried mother who carried on without the father: '... many girls have said to me: "I would not ask him for a penny; I would rather work for the child myself. I want to have no more to say to him"'. The best type of girl would rather do, or bear, anything than drag her family, as well as herself, into the shame of publicity.²⁶ Therefore, in the public sphere at least, the fear of publicity and concerns about shame were prioritised over justice. As will be discussed below, this fear of publicity became a major point of debate in the Free State *in camera* debates. Further, these calls for an increased presence of the father was only limited to monetary support. The role of the mother as a primary caregiver, however, was included into the affiliation orders legislation. Clause 14 of the Free State act read: 'Nothing in this Act shall operate to remove or diminish the liability of the mother of an illegitimate child to maintain such child'.²⁷

III. The Free State drafting process

Early calls for affiliation orders legislation came in 1923 after the Minister of Home Affairs, Kevin O'Higgins, was approached by civil society groups about the flawed system in place.²⁸ O'Higgins asked the Attorney General to draft an affiliation orders bill that year, but this did not begin until 1928, and no law was passed until 1930. The department records demonstrate no response to the December 1923 letter from O'Higgins. In fact in March 1924 and later in December 1924, the Secretary to the Minister of Home Affairs wrote the Attorney General asking for a reply.²⁹ In the December 1924 note, an attitude of sympathy for the unmarried mother was evident in the letter: 'In justice, therefore, too many unfortunate unmarried mothers, who in

²⁶ Ibid., 27 Dec. 1924.

²⁷ Irish Free State, *Illegitimate Children (Affiliation Orders) Act*, 1930.

²⁸ Ministry of Home Affairs to the Attorney General, 21 Dec. 1923 (NAI, Department of Justice papers, JUS 90/9/19).

²⁹ Ibid., 4 Mar. 1924 (NAI, Department of Justice papers, JUS 90/9/19); Ibid., 22 Dec. 1924 (NAI, Department of Justice papers, JUS 90/9/19).

this country are very often denied a shelter by their own families and are frequently forced by circumstances to become recruits to the prostitute class, it is felt that legislation should be introduced enabling single mothers to obtain from Courts of summary jurisdiction affiliation orders against the putative father'.³⁰ This recognition of the isolation and shame faced by unmarried mothers was an attitude not acknowledged to the same degree in the Oireachtas debates. As will be demonstrated, the parliamentary debates in both houses became overly concerned with the threat posed by the working-class unmarried mother to the middle-class man. This was a sentiment absent from the Stormont debates. However, it should be noted that the spirit of protection and aid expressed in this letter is likely only in relation to the first time unmarried mother. The fear of her descending into the 'prostitute class' conforms to the trend of the state and civil society only caring for first time unmarried mothers and seeing women with more than one illegitimate child as beyond reform.

This letter is also significant because it recommends the consultation of the Northern Irish legislation. The postscript to the letter reads: 'The Northern Ireland Government have a recent Affiliation Orders Act. I shall send the [parliamentary] draftsman a copy of it later in case it might be of use to him'.³¹ This demonstrates that despite the separation of jurisdictions, the Free State was well aware of the legislation in Northern Ireland. In fact, in this period newspapers reported on the passing of the affiliation orders act in Northern Ireland. On 26 March 1924, the *Irish Independent*, as well as the regional paper the *Kerryman*, reported on the affiliation orders debates in Stormont. This report was about the debate over *in camera* proceedings in which Dr Morrison advocated for private proceedings. The newspaper paraphrased Morrison: 'too much publicity was given to sex cases, and they [Stormont] should adopt the attitude of the Catholic Church and keep these things from the gaze of the community'. The newspaper did not provide any commentary on this statement.³² This is the only report by a newspaper throughout the drafting process of the bill. While it is neither detailed nor analytical, it demonstrates that the Free State was paying attention to developments in Northern Ireland.

³⁰ Secretary to the Minister of Justice, to the Attorney General, 22 Dec. 1924. (NAI, Department of Justice papers, JUS 2000/22/365).

³¹ Ibid.

³² *Irish Independent*, 26 Mar. 1924; *Kerryman* 29 Mar. 1924.

Heads for the bill were sent to the Attorney General on 22 December 1924 as well as a request from the Minister for Justice to ‘arrange for such a Bill to be drafted’. Again, the department attached a copy of the Northern Irish bill.³³ However, the bill was not drafted until 1928. Its low priority was demonstrated in the scant coverage it received in the minutes of the Executive Council. In a December 1927 meeting it was given third-level priority status.³⁴ In April 1928 when the priority of bills was discussed, the affiliation orders bill was not mentioned, as it had not been drafted.³⁵ Again in July 1928, the affiliation orders bill was not listed in the Executive’s discussion of the parliamentary programme.³⁶ Other social welfare bills that were passed in this period include several national health insurance acts, housing acts, local government acts, two old age pensions acts, legislation relating to education, unemployment insurance, and army pensions, as well as local government administration of welfare. In January 1929 the parliamentary draftsman corresponded with the Attorney General about the government’s upcoming parliamentary programme: the affiliation orders bill was listed for drafting.³⁷ However it was not until October 1929 that the bill was finally listed as ‘approved for introduction in the Dáil’.³⁸ The lack of a step-by-step policy and the prioritisation of other social welfare bills demonstrates the lack of urgency in the Free State for affiliation orders legislation.

IV. 1927 commission reports and the unmarried mother

Before discussing the specific details of the Free State affiliation orders legislation, it is necessary to place the debates in the wider context of each state’s approach to the welfare of unmarried mothers. This comparison is necessary as the Free State’s 1927 report predates the 1930 affiliation orders act, thus allowing for an interrogation of how perceptions of unmarried mothers change from the commission into law. In 1927, three years after the Northern Irish affiliation orders act and three

³³ É. Ó Frighil, Department of Justice, to the Attorney General, 22 Dec. 1924 (NAI, Department of Justice papers, JUS 90/9/19).

³⁴ Minutes of the Meetings of the Executive Council, 2 Dec. 1927 (NAI, Department of the Taoiseach papers, TSCH CAB/1/2).

³⁵ Ibid., 24 Apr. 1928.

³⁶ Ibid., 24 Jul. 1928.

³⁷ Parliamentary draftsman to Attorney General, 31 Jan. 1929 (UCDA, Mulcahy papers, P7/C/86).

³⁸ Minutes of the Meetings of the Executive Council, 15 Oct. 1929.(NAI, Department of the Taoiseach papers, TSCH CAB/1/2).

years before the Free State law, both Northern Ireland and the Free State published reports on the organisation of local government and the provision of aid through its structures. A comparative study of these reports reveals similarities in attitudes toward unmarried mothers, as well as some key areas of difference. Historians of single mothers in this period have interrogated the Free State report in detail, while the northern report has received little attention. The latter is a rich, underused resource for social and political historians. An examination of it puts the Free State commission in a wider context and also complicates the discussion of women in Northern Ireland. The commissions are more significant in terms of the ideals discussed rather than the actions taken as a result of the reports. Adrian Kelly makes this point with respect to the Free State commission, as well as two other Free State commissions into old age pensions (1926) and national health insurance (1928): 'If of little value for what they achieved in practice, the three inquiries underlined in particular the need for radical reform of the poor law, the area of social legislation most criticised by nationalists in pre- and post-independence Ireland'.³⁹ Kelly's observation can be applied to the discussion of the affiliation orders legislation too, for the effectiveness of the legislation was minimal, but the debates regarding motherhood, women, and the law highlight areas of social policy the two Irelands grappled with throughout the 1920s and 1930s. While Stormont MPs were less condemning of unmarried mothers than their Free State counterparts, the reports of the local government commissions on both sides of the new border were remarkably similar in their discussions of unmarried mothers.

Both commissions distinguished between unmarried mothers based upon perceived ideas of who was more deserving: the first-time unmarried mother or the unwed mother with more than one illegitimate child. The Free State report distinguished between these mothers in terms of the possibility of the restoration of the women's respectability: the former as 'amenable to reform' and the latter, including deserted wives with a child by a man other than their husband, as 'less hopeful cases'.⁴⁰ Concerns about the second-time unwed mother were also expressed at the 1931 minutes of the standing committee of bishops held at University College

³⁹ Adrian Kelly, 'Social security in independent Ireland, 1922-52' (PhD thesis, NUI Maynooth, 2012), p.70.

⁴⁰ *Report of the Commission on the Relief of the Sick and Destitute Poor, including the Insane Poor* (Dublin, 1927), p. 68.

Dublin. On the agenda for that meeting was ‘the problem of the unmarried mother – second offender’.⁴¹ The Northern Irish report was also greatly concerned with morality. For instance, to preserve the morality of the first-time unwed mother, the Northern Irish report justified the segregation of mothers from each other as a means to ensure the reform of the first-time unmarried mother: ‘All these classes are in daily contact with one another, and we feel that the result often is that young girls who have fallen for the first time lose their sense of shame and become as depraved as their other inmates’.⁴² The overarching policy of reforming the first-time unmarried mother is clear in both reports and threaded through the parliamentary debates in each state.

The states, however, differed in their approaches to the reform of the unmarried mother. The Free State took a more penal approach to the institutionalisation of women. Earner-Byrne describes this punitive approach to the unmarried mother as: ‘in approaching the issue of unmarried motherhood from the perspective of crime and punishment, the social conscience was appeased and satiated: the problem was neither ignored nor condoned . . .’⁴³ This difference in the articulation of the perceived threat that the unmarried mother posed to society relates back to the amount of agency given to the unmarried mother in each state’s debate over affiliation orders. The Stormont debates generally depicted the putative fathers as irresponsible males and the unmarried mothers as vulnerable, powerless victims to male sexuality, while it will be seen below that several Free State TDs portrayed unmarried mothers as powerful agents of immorality, specifically blackmail. Therefore, the Free State’s emphasis on penal reform fits with the legislators’ discussion of the potential of the unmarried mother to commit blackmail.

The Northern Irish report recommended the institutionalisation of unwed mothers on two different occasions. Firstly, it recommended rescue homes house first-time mothers during their pregnancy and six months after they gave birth. This appears to be optional. By comparison, the detention of unmarried mothers was recommended if a woman who had been deemed unfit to care for her child attempts to take her fostered out child away from his/her foster parents. In such a case, the report recommends that the poor law authority petition the Petty Session Court for an order

⁴¹ Agenda for standing committee, held at UCD, 1931 (DDA, Archbishop Byrne papers, Irish Bishops, Bishops of the Province of Armagh file, box 444).

⁴² *Report of Departmental Commission on Local Government Administration in Northern Ireland* (Belfast, 1927), p. 80. (PRONI, Stationary Office, SO/1/A/73).

⁴³ Earner-Byrne, *Mother and child*, p. 176.

to 'detain women who are feeble-minded or of vicious habits or mode of life while the children are maintained by the authority, this order to be reviewed a if *prima facie* case for reconsideration be made by the person detained'.⁴⁴ This difference in the Northern Irish policy of detention was arguably rooted in a paternalistic view of first-time unmarried mothers as powerless, and therefore not a threat to the wider community, and the mother with several illegitimate children as more lost and 'fallen' than a threat to society. This idea was not restricted to Northern Ireland. In Chambers' analysis of Canadian affiliation orders legislation, she discussed a social worker from Ottawa who 'remained convinced that most unwed mothers were of "low mentality" and consequently unable to successfully raise their children for the state'.⁴⁵ These commonalities can be linked to wider conservative Christian principles across the Anglo-speaking world.

The main area where the two reports differ is the discussion of affiliation orders. The northern report did not mention the legislation at all, despite it coming into law in 1924. This is unfortunate for the historian, as a discussion of the effectiveness of the affiliation orders act would have been enlightening. Perhaps this demonstrates how ineffective the act was in this period, as it was not even mentioned. The Free State did not have affiliation orders legislation at the time of the report, so the report called for the introduction of such a law and described it as a preventative measure: 'it is, we consider, desirable that the law should be strengthened in the direction of prevention by the introduction of affiliation orders and by the amendment of the laws relating to sexual offences'.⁴⁶ More strikingly, the report describes affiliation orders as legislation to help the welfare of the unmarried mother. This differs from the discussion of the legislation in the Oireachtas which highlighted the lack of trust held by the legislators toward working-class unmarried mothers. The commission raised issues about the lack of fairness in the current state of the law: 'the law gives the man every loophole for escape from the shame and dishonour that is cast upon the woman',⁴⁷ and the lack of redress that the mother had in the current laws and recommends the law be amended to allow for the filing of an order on the

⁴⁴ *Report of Departmental Commission on Local Government Administration in Northern Ireland*, p. 83.

⁴⁵ Chambers, *Misconceptions*, p. 24.

⁴⁶ *Report of the Commission on the Relief of the Sick and Destitute Poor, including the Insane Poor*, pp 71-2.

⁴⁷ *Ibid.*, p. 72.

application of the mother. Moreover, a later section of the report noted that many of the unmarried mothers were between the ages of 17 and 21, and that ‘the age of 16 is entirely too young for many girls to have full knowledge of and realise the consequence of an act that may be brought about by the thoughtlessness and the seductive pleadings of the male partner in guilt’.⁴⁸ This sympathy for the unmarried mother was not expressed in the Oireachtas debates, but resembles the attitude of sympathy for the mother and disdain for the father taken by several Stormont MPs.

The local government reports published in 1927 give insight into each state’s policy regarding unmarried mothers, as it demonstrates trends in ideas and themes that were carried through from the Northern Irish parliamentary debates into the commission, as well as some areas of departure from opinions expressed in the 1924 debates. Similarly, the Free State 1927 commission provides insight into how policy towards unmarried mothers stayed the same or departed from the report. The more punitive ideas of the Free State report foreshadows the concerns about the unmarried mother in the Oireachtas debates about affiliation orders.

V. The bill in the Oireachtas

When the bill was introduced to the Oireachtas in 1929, its main object was unclear. The changing opinions of who the bill provided for sheds light on ideas of welfare, morality, gender, and class. When the bill was presented to the Dáil by the Minister for Justice, James Fitzgerald-Kenney, the child was seen to be the main object: ‘This is a Bill the object of which is to make the fathers of illegitimate children liable for their support’.⁴⁹ Similarly, in the Committee Stage of the bill, the minister reiterated this purpose of the bill in much harsher terms: ‘The Bill is for the support and maintenance of the child, and not for the advantage of the mother at all’.⁵⁰ Maguire argues that statements such as these about the welfare of illegitimate children carried little weight in reality: ‘Lawmakers also paid lip-service to their responsibility to protect illegitimate children, although they, too, were preoccupied by more practical concerns, such as the cost of caring for children, and their desire to be seen

⁴⁸ Ibid.

⁴⁹ *Dáil Éireann deb.*, xxxii, no. 4, col. 520 (30 Oct. 1929).

⁵⁰ Ibid., xxxiii, no. 2, col. 195 (13 Feb. 1930).

as compassionate, in keeping with similar legislation elsewhere in Europe'.⁵¹ This tension between rhetoric and reality can be seen in the affiliation orders debates. While the minister set out the purpose of the bill in clear terms which did not mention the unmarried mother, the debate in the Dáil and Seanad focused almost exclusively on the welfare of the mother and father. Similarly, other TDs and senators focused on the welfare of the child only when discussing the principle of the bill, not the detailed terms of the legislation. When the details of the law were discussed, it appears that questions of morality and the threat of the unmarried mother surpassed the discussion of providing for the child. This differs from the Northern Irish debates that looked to improve the welfare of the mother, though this drive to protect the mother stemmed from a paternalistic view of women as vulnerable and weak.

The role of the mother and father took centre stage in the affiliation orders legislation debates in the 1920s and 1930s, but of the few times children were discussed, it is noteworthy that infanticide was only brought up once and not at all in the departmental records. Moreover, it was not brought up at all in the Stormont debates or the Ministry of Home Affairs records about the affiliation orders legislation. As Brennan notes, infanticide was often associated with illegitimate children, therefore it is surprising that the topic was not discussed in the affiliation orders debates. Using the records from the Central Statistics Office, Brennan found 181 cases of individuals charged with infanticide in the Free State from 1924 and 1949.⁵² The only legislator to highlight the issue was another medical man: Cumann na nGaedheal Senator Dr Oliver St John Gogarty. Gogarty, a surgeon, highlighted infanticide in the state when arguing in favour of *in camera* proceedings. In addition to protecting the public, Gogarty argued that *in camera* could play a role in stopping infanticide:

I think that the Bill would be useless without the hearing of cases in camera . . . on account of the reluctance of the girls to appear in a public court. There is an appalling condition of affairs in this country, and that is infanticide. Anything that will give the mother a chance and will encourage her to preserve the life of the child and not to strangle it, deserves our consideration. It is as important for us to keep these innocent children alive . . .⁵³

⁵¹ Maguire, *Precarious childhood*, p. 48.

⁵² Karen Brennan, 'Punishing infanticide in the Irish Free State', in *Irish Journal of Legal Studies*, iii no. 1 (2013), p. 6.

⁵³ *Seanad Éireann deb.*, xxxiii, no. 13, col. 704 (19 Mar. 1930).

Crucially, Gogarty's hope that infanticide rates would be reduced by the economic support offered by the affiliation orders legislation was not realised. Rattigan's findings demonstrate that the affiliation orders act did little to stop infanticide:

few single women charged with infanticide in Ireland at this time seem to have sought maintenance from the fathers of their illegitimate infants. This may have been because they were aware of the difficulties involved in pursuing such a course of action. In the words of a solicitor who had dealt with "a number of application for affiliation orders", the bill passed in the Irish Free State in 1930 often "involved considerable time and work with no outcome whatsoever".⁵⁴

Therefore, as discussed earlier in this chapter, the act was not effective in substantially increasing the welfare of unwed mothers and their children. Instead the act's historical significance can be seen in the ideas and priorities expressed. Gogarty's statement is indicative of an important factor which this bill highlights about the Free State's approach to women's welfare policy. He argued that increased aid to the mother's welfare adds to the safety and well-being of the child. Therefore, whether by proxy or by intention, the welfare of the mother was in the interests of the child. The idea of a woman receiving welfare for the benefit of her child was a theme of Irish social policy on both sides of the border which threads through welfare policy relating to unmarried mothers, widows, and more, as will be discussed throughout this thesis.

Despite the framing of the bill as solely for the welfare of the child, many legislators viewed the bill as aid for the unmarried mother. For instance, Senator Michael Comyn argued that the current recourse of action in a seduction claim was a 'fiction of law invented by the courts in their desire to see that some measure of justice was given to the girl. This Bill puts an end to public hypocrisy, and public hypocrisy was at the bottom of the ill-treatment of these girls in times past'.⁵⁵ Comyn was an experienced civil servant and a prominent lawyer, most notable for his defence of republican prisoners following the 1916 rising and for his defence of Erskine Childers.⁵⁶ Interestingly, in their remarks about the long delay in affiliation orders legislation, the TDs and senators never referred to the Northern Irish act. It is difficult

⁵⁴ Rattigan, *Single mothers and infanticide*, p. 11.

⁵⁵ *Seanad Éireann deb.*, xxxiii, no. 13, cols 695-6 (19 Mar. 1930).

⁵⁶ Pauric J. Dempsey, 'Comyn, Michael', in James McGuire and James Quinn (ed), *Dictionary of Irish Biography*. (Cambridge, 2009). (<http://dib.cambridge.org/viewReadPage.do?articleId=a1907>) (24 Sept. 2017).

to surmise why this was so as the departmental records demonstrate that Free State legislators studied the Northern Irish act. Moreover, this discrepancy between Fitzgerald-Kenney and Comyn's views of the bill reflect the disagreements between those who argued that the unmarried mother should be the principle object of the bill and those who maintained it was for the welfare of the child.

The concerns for the welfare of the mother only ran so deep. Legislators acknowledged that conditions in Ireland forced expectant unwed mothers to travel to England to have their child. Redmond emphasises that when considering this phenomenon, which is 'important in illuminating hidden aspects of history', historians must be careful 'not overshadow the fact that this was not the experience of most female migrants'.⁵⁷ This minority of women who emigrated to conceal their pregnancies was a reality that legislators acknowledged, but instead of discussing how to fix the root causes, efforts were made to incorporate this pattern into the affiliation orders debate. The trend of unmarried mothers going to England was so entrenched in Irish society that, to allow time for women to return from England after giving birth, the legislators discussed amending a clause in the bill which limited the period within which a woman could take action against the father. Patrick Little, Fianna Fáil TD for Waterford, suggested amending the statute of limitations on the amount of time given to a mother who had her child outside the Free State. Little explained his motivation: 'the amendment is meant to deal with cases—there are a great many of them, as I am told by social workers . . . in which the girl goes across to England, where the child is born. She then comes back here and may leave the child after her in England, or, perhaps, she brings it back, and it becomes a burden upon the community. We wish to provide for that case so that the father may be made liable'.⁵⁸ The reaction to Little's amendment demonstrates further knowledge of this phenomenon of unmarried mothers going to England. Fitzgerald-Kenney argued against the amendment based on the opinion that women who went to England rarely returned with the child, so it was unnecessary to legislate on this matter:

The mother goes to England for the purpose of concealing from her neighbours the fact that she is pregnant. She comes back and conceals, as far as she can, from her neighbours the fact that a child was born. If there are exceptional cases where the mother goes to England and the child is born there, and she decides to bring it back instead of leaving the child in a home

⁵⁷ Redmond, '*Sinful singleness?*', p. 468.

⁵⁸ *Dáil Éireann deb.*, xxxiii, no. 1, col. 135 (12 Feb. 1930).

there, which is the practice, as I understand from persons who have given me information, the ordinary woman would come home in the ordinary time, and if you accept six months as the proper period I do not see how any exception should be made in her case.⁵⁹

Therefore the legislators were aware of this trend of unmarried mothers going to England and returning to Ireland without their child. Glaringly, no action is suggested to reduce the number of mothers going to England. Instead legislators simply acknowledged this phenomenon and looked to incorporate it into the affiliation orders legislation.

VI. Distrust and privacy in the legislative debates

An element of distrust of the mother and concern for the reputation of the named father underscored two prominent debates in the Oireachtas: concerns about blackmail and the decision to close proceedings to the court. The descriptions of motherhood and femininity in these debates shed light on the motivations and influences behind the different arguments put forth regarding the terms of this legislation. A prominent concern in the debates occurred over the potential for the unmarried mother to use affiliation orders proceedings as blackmail against an ‘innocent’ unsuspecting middle-class man who would ‘be a good mark’.⁶⁰

Concerns about blackmail ran through the drafting and debating process of this bill. The *Irish Independent* noted that ‘to guard against the possibility of blackmail the Bill provided that the evidence of the mother should be corroborated’.⁶¹ The popularity of this idea adds weight to the fear expressed by politicians in the period. It demonstrates that the politicians with a variety of backgrounds, particularly legal and medical, held the same beliefs and fears about single motherhood. Moreover, what was conspicuously absent from the Free State debates was the strongly expressed belief in the Stormont debates about the ‘innocence’ of the mother and the culpability of the father. Instead the prominent image of the unmarried mother was one of danger and corruption. The trend to condemn the actions of the mother

⁵⁹ Ibid., cols 135-6.

⁶⁰ Ibid., col. 129.

⁶¹ *Irish Independent*, 31 Oct. 1929.

was discussed by Breathnach and O’Halpin regarding the placing of blame on mothers who committed infanticide:

Before 1922 coroners’ courts used their power as a means of restoring honour to first-time ‘fallen’ women . . . we argue that from 1922 in the Irish Free State there was a discernible shift away from an approach which generally discounted the mothers’ culpability for the deaths of their newborn children towards a judicial process which sought to punish and shame errant mothers through criminal prosecution.⁶²

This trend to see unmarried mothers through a lens of criminality and danger is evident in the debates about the affiliation orders legislation, as the depictions of the unmarried mother were often coated in fear and anxiety.

Senator Andrew Jameson, whom Foster describes as ‘a distilling magnate, director of the Bank of Ireland and quintessential *ancien regime* Unionist making terms with the new order’,⁶³ and Bowen notes as ‘an acknowledged leader of the Protestant business community’,⁶⁴ articulated the fear expressed by many TDs and senators of the potential for an unmarried mother to take action against a wealthier man should she fall pregnant, even if he was not the father of her child. With this potential to take a man to court, Jameson claimed: ‘I would not like to be alone in my house with any clever and designing servant girl if my wife was away for a night or two’.⁶⁵ Jameson followed this statement with his perspective on who the bill was about: ‘Let there be justice done to all, and let the Seanad look at the class of people we will be dealing with. We are not dealing with a highly moral class of people; we are dealing with girls whose idea of their conduct is such that they are not very particular about their honour’.⁶⁶ His comments not only illuminate important fears about empowering working class women, they also indicate that these fears were not limited to Catholic politicians. This issue of class was the main concern behind the fear of blackmail, for only working-class females were given the potential to blackmail. Jameson’s comments also illuminate the other understanding of class that politicians implicitly referred to in these debates, that is, a moral class. Unmarried mothers were seen as morally corrupt and part of the ‘undeserving poor’. As such, fears about empowering this type of class were common.

⁶² Breathnach and O’Halpin, ‘Scripting blame’, p. 213.

⁶³ R.F. Foster, *W.B. Yeats: a life. Vol. II: the arch-poet, 1925-39* (Oxford, 2003), p. 229.

⁶⁴ Kurt Bowen, *Protestants in a Catholic State: Ireland’s Privileged Minority* (Dublin, 1983), p. 19.

⁶⁵ *Seanad Éireann deb.*, xiii, no. 15, cols 835-6 (26 Mar. 1930).

⁶⁶ *Ibid.*

Remarks made by some legislators suggested that unmarried mothers came from a class which biologically predetermined them to blackmail. The Minister for Justice suggested that this sinister calculating potential was a product of nature and nurture: 'I do not say that would happen in the case of a respectable woman whose daughter fell by accident. There are, however, certain classes of people and illegitimacy seems to be almost hereditary with them . . . In my opinion an illegitimate mother who has got an illegitimate daughter, would be just the very type of person who would urge that daughter to bring a charge of that kind'.⁶⁷ Similarly, Michael Kennedy, Fianna Fáil TD for Longford-Westmeath, suggested that unmarried mothers could be divided into two classes, and the mothers inclined to blackmail came by that inclination biologically: 'Amongst the latter type you have a small percentage of mothers who themselves are illegitimate, who come of an illegitimate stock, and who observe no moral code whatever, but are bred in the art of blackmail'.⁶⁸ Kennedy's use of the term 'bred' suggests a biological compulsion to blackmail. In addition to dividing the women into sub-categories based on class, Kennedy and Fitzgerald-Kennedy do not afford the women any agency in determining their own actions.

While such concerns about blackmail arose in the Stormont debates, the Free State legislators discussed this possibility in greater detail and supported this fear with the use of 'expert' opinion. Just as the previous chapter demonstrated the influence that the professional training of the MPs and senators in Stormont had on the terms of the legislation, this chapter will also demonstrate how influential the medical and legal professionals in the Oireachtas were in the debates about the legislation. Dr Conn Ward, a medical doctor and Fianna Fáil TD for Monaghan, appealed to psychology and pathologised the mothers to suggest the detention of the women. Ward became well versed in marrying medical work with public policy, as he later became parliamentary secretary to the Minister for Local Government and Public Health, playing a large role in the reform of the hospital system in the Free State. He raised controversy for many of his plans and: 'Frequently consulting with Catholic Church authorities (notably Dublin archbishop John Charles McQuaid) over medical matters, at episcopal behest he banned sale of the newly marketed sanitary tampons

⁶⁷ Ibid., no. 13, col. 709 (19 Mar. 1930).

⁶⁸ *Dáil Éireann deb.*, xxxiii, no. 2, cols 184-5 (13 Feb. 1930).

(1944) out of concerns regarding the sexual arousal of girls at an impressionable age'.⁶⁹ In 1929, he issued a warning about unmarried mothers:

Much complaint has been made on the ground of the inadequacy of the protection afforded to the unmarried mother. Many people will assist in passing the Bill who know little or nothing of the psychology of the mother in such cases. I have had some opportunity of studying these people in the course of my professional work in institutions where these people are treated, and I want to say that it appears to me that the male section of the population will require some protection under the terms of the Bill. The vast majority of these mothers are more sinned against than sinning, we will all agree, but there is little doubt that some of them would use the powers conferred by this Bill for the purposes of blackmail.⁷⁰

Ward's comments echo the arguments in the Free State local government commission that called for the detention of the mothers for the greater protection of society. His pathologising of the mother's moral behaviour as a medical condition recalls influences of the eugenics movement of the period. Lewis discusses the influence of eugenics on English debates about unmarried mothers: 'Influenced heavily by the eugenics movement, contemporary studies showed that a disproportionate number of unmarried mothers were feeble-minded and that their children were much more likely to become criminals . . .'⁷¹ With the power of eugenics and medicine underlying such remarks, Senators Ward's and Jameson's articulation of fear were representative of the wider argument in these parliamentary debates which called for provisions in the act to protect the male defendant. TDs and senators made their arguments regarding the details of the bill by placing emphasis on the welfare of a variety of actors: the unmarried mother, the putative father, the 'innocent man' who might fall victim to a blackmailing unmarried mother, and the illegitimate child. Importantly, the welfare of the child was often overlooked in the *in camera* debates. This was indicative of the legislators' preoccupation with reputation, morality, and their fear of the immoral potential of the working-class unmarried mother. The emphasis upon the welfare of each of these figures reveals that when writing a bill for the welfare of the unmarried mother, the welfare of the male played a crucial, and in the case of some of the arguments that were advanced, more important, role.

⁶⁹ Lawrence William White, 'Ward, Francis Constantine ('F. C.', 'Con')', in James McGuire and James Quinn (ed), *Dictionary of Irish Biography* (Cambridge, 2009) (<http://dib.cambridge.org/viewReadPage.do?articleId=a8917>) (24 Sept. 2017).

⁷⁰ *Dáil Éireann deb.*, xxxii, no. 4, col. 524 (30 Oct. 1929).

⁷¹ Jane Lewis, 'The problem of lone-mother families in twentieth-century Britain' in *Journal of Social Welfare and Family Law*, xx no. 3 (1998), p. 258.

These debates about motherhood, the welfare of the unmarried mother, the child, and the father came to a head in the discussion of *in camera* proceedings in the Oireachtas. The *in camera* proceedings were debated to a lesser extent in the Stormont House of Commons. In the Free State debates the discussions over this clause allow for analysis of wider questions about gender, welfare, and the law. Legislators in favour of private proceedings argued that the privacy of the court would protect the mothers and fathers. TDs and senators against the private proceedings argued the exact opposite: that the private proceedings would harm the welfare of the mothers and fathers. This emphasis on the welfare of the plaintiff and defendant, mother and father, often turned in favour of the putative father and working-class women imbued with legal power were seen as a threat. This complex treatment of the balance of women's welfare and men's welfare demonstrates the complex approach to female social policy in the Free State which tried to legislate with a multitude of contradictory and complex ideas and fears about the potential of working-class women to abuse the law. As discussed in the previous chapter, the affiliation orders bill was not a watershed moment for the legal protection of women, and unmarried mothers in particular. However, the opinions expressed and the ideals revered in the discussion of this bill can be seen as crucial in the development and understanding of women's social policy in the Free State.

As discussed in the introduction of this section, this thesis adds to the debate in Irish historiography about the extent to which Catholic social teaching determined Irish social policy. This thesis argues that there is a need to discuss other influences on social policy. Similarly, this discussion adds to the growing history of women on the island of Ireland by analysing legislation outside of the prism of sexuality or morality. An analysis of previous attempts to bring *in camera* proceedings provides insight into the use of these proceedings in cases unrelated to questions of sexuality and immorality. In May 1929 the Dáil debated over an *in camera* clause in the Juries (Protection) Act, 1929. Under the Juries Act 'only counsel and regular newspaper reporters [could be] present. Minister of Justice to have power to ban a particular reporter on request of superintendent'.⁷² Interestingly, those in favour of private proceedings for affiliation orders were against the proceedings for the Juries Act. Those against *in camera* for the affiliation orders proceedings advocated for private

⁷² Document describing the Juries Protection Act, c.1929 (UCDA, Mulcahy papers, P7/C/86).

proceedings in the Juries Act. The main advocate against *in camera* in the affiliation orders debates was the Minister for Justice. However, only a few months earlier he introduced a clause to the Juries (Protection) Act 1929 which called for the jury to sit in private so the defendant cannot see them and for a judge to clear the court upon the request of a superintendent of the Garda Síochána. The minister maintained the clearing of the court was not an *in camera* trial. Senator Comyn, a leading advocate for *in camera* clauses in affiliation orders cases, challenged the minister's amendment by highlighting the tradition of open courts and the jury system in European law: ' . . . In the development of freedom and in the perfection of this wonderful system of trial by jury, the greatest part was played by the Gael . . . But what is the system? The system is this: recognising that the first and greatest right of the citizen is the right to personal freedom, it provides that in any serious criminal cases he shall be tried upon the oath of his peers and that the trial shall be open'.⁷³ The other senators who became champions of the *in camera* clause in the affiliation orders bill did not play any significant part in the Dáil or Seanad debates over the Juries bill. Their absence and the shift in Comyn's opinion about private proceedings demonstrates how some legislators saw the development of social policy relating to women and morality defined in different terms than policy relating to other areas of law.

The timid unmarried mother

Moving now to a discussion of the *in camera* clause in the affiliation orders bill. Initially it did not contain such a clause, but Fianna Fáil TD Patrick Little introduced the amendment in the Dáil debates on the bill. This was a decision taken by the Fianna Fáil party at the General Committee meeting in 1929.⁷⁴ Fianna Fáil, in opposition at the time, played a major role in the final terms of this legislation. The party established a subcommittee to 'go into the Bill in detail', and voted as a party on the amendments to be introduced in the bill. Little was the chairman of this committee with other notable members including Seán T O'Kelly and Dr Conn Ward.⁷⁵ When introducing the *in camera* clause in February 1930, the crux of Little's argument hinged on the claim that unmarried mothers were too ashamed and too timid to go to

⁷³ *Seanad Éireann deb.*, xii, no. 16, col. 923 (21 June 1929).

⁷⁴ Minutes of the meeting of the General Committee, 1 Nov. 1929 (UCDA, Fianna Fáil papers, P176/453).

⁷⁵ Minutes of Special Committees meeting., 31 Oct. 1929 (UCDA, Fianna Fáil papers, P176/443).

open court, so it would be in their favour to proceed in private. Interestingly, Little linked the jurisprudence of this clause to the ‘old procedure of the ecclesiastical courts, which are the foundation in British law of the Chancery Courts . . . It would be in consonance with our tradition . . .’.⁷⁶ This appeal to English law and Protestant ecclesiastical courts was a surprising argument put forth by Little in post-independence Ireland, though it does bring to light the question of the role of Catholic social teaching in Free State legislation, as Little’s reference demonstrates, there was more at work in the drafting of legislation than conforming to Catholic social teaching. It is also surprising that Little’s appeal went unchallenged, as his reference to English law was outdated since it did not conform to the contemporary English act which did not have public *in camera* clauses.

In the Seanad, Little’s argument about the timidity of unmarried mothers was championed by Independent Senator Jennie Wyse Power. Wyse Power, whom Fitzgerald-Kenney dubbed ‘the great protagonist of secrecy’ in the debates about the *in camera* clause,⁷⁷ relied upon the testimony of those who worked closely with unmarried mothers, such as social workers, nuns, and priests. She referenced the work of Fr Richard Devane, a prominent moral rescue worker and Jesuit priest. Devane had long called for affiliation orders legislation. In 1925 he testified to the local government commission and called for maintenance from the fathers for their illegitimate child, amongst other moral reforms.⁷⁸ When reporting on Devane’s testimony, the *Irish Times* supported his call, arguing: ‘The physical protection of young girls from vice and its consequences is a far more urgent matter than the proposed censorship of Sunday newspapers’.⁷⁹ Wyse Power referred to an article in which Devane published his findings from interviews with multiple convents that held unmarried mothers. The article, ‘Mothers: why actions should be heard in camera’, reported that all the convents expressed similar replies to that of ‘convent A’: ‘we believe no girl would expose herself to such an extent. If such cases were heard in a private court, we feel sure that the majority of mothers would seek maintenance orders for their illegitimate children’, and, importantly, added ‘we have never heard of

⁷⁶ *Dáil Éireann deb.* xxxiii, no. 2, cols 176-7 (13 Feb. 1930).

⁷⁷ *Seanad Éireann deb.*, xiii, no. 17, col. 1039 (9 Apr. 1930).

⁷⁸ *Irish Times*, 7 Nov. 1925.

⁷⁹ *Ibid.*

a case of blackmail.’⁸⁰ The legislators did not discuss the latter point even though concerns about blackmail were a major point earlier in the discussions about the legislation. Importantly, the absence of the opinion and voices of the unmarried mothers in the convent cannot be overlooked. This is in keeping with the paternalistic approach to this legislation. The references to Fr Devane in Wyse Power’s statement reinforces the role civil society played in working with unmarried mothers and petitioning the Irish government. The testimony from the organisations that housed and worked with unmarried mothers stated unequivocally that blackmail was a minimal risk, yet the legislators continued to debate and form a large part of their opinions over the protection of the innocent male being blackmailed by a calculating unmarried mother.

Members of the public took also interest in the *in camera* debates and expressed similar opinions to those heard in the Oireachtas. A letter to the *Irish Independent* in February 1930 argued that ‘public inquiry into cases will defeat the object of the Bill and render it inoperative’. Adding that ‘it is extremely difficult to get [the mother] to give the name of their betrayer . . . this reticence is sometimes born of loyalty to the man for whom the girl has still affection, and sometimes it has the noble motive of saving another woman suffering, since the young mirrored Don Juan is more in evidence now than he used to be’.⁸¹

In camera provisions held many complexities. It could be seen as a means to protect the unmarried mother, but could also be seen as a way to marginalise unseemly moral issues. This debate about whether a closed court was in the best interest of the mother was not an Irish phenomenon. In Nova Scotia, Canada, affiliation orders proceedings were held in open court until amending legislation was passed in 1951 which closed the court to the public. The new *in camera* provision was introduced as a part of a wider law that gave more rights to the mothers, such as increasing the amount payable by the father and allowing the woman to start proceedings on her own behalf rather than seeking the support from the poor district. These changes were welcome by the Halifax Council of Social Agencies who saw it as less condemning of the unmarried mother and more in tune with the vision of the

⁸⁰ *Seanad Éireann deb.*, xiii, no. 15, col. 830 (26 Mar. 1930); Devane’s article was originally published in the *Irish Independent*, 12 Feb. 1930.

⁸¹ *Irish Independent*, 4 Feb. 1930.

society.⁸² Therefore, *in camera* proceedings could be seen as part of both progressive and repressive laws.

Advocates against the Free State *in camera* clause challenged the argument that timid unmarried mothers would not take their case to open court. Those who challenged this ‘timidity’ argument argued that there was no evidence to support it, that it was based on sensationalised concerns about unmarried mothers, and that the hearing of cases in private would undermine the system of open justice in the newly independent Free State. The strongest voice against the clause was the Minister for Justice. Throughout the debates in each house about *in camera*, he consistently requested hard evidence of an unmarried mother not going to court because of the fear of public humiliation. Letters to newspapers highlighted similar concerns, but did not provide any specific examples of women avoiding court out of fear of publicity. This is reflected in a letter to the editor from M.J. Cruice, honorary secretary of St Patrick’s Guild, Dublin: ‘I have dealt with about 6000 cases . . . my work has been based on a scientific examination of each individual case. Every girl is interviewed personally by myself. The conclusion I have come to is that scarcely six decent class Irish girls would be willing to go into court. Only after long efforts to gain her confidence and prove to her my real desire to befriend her will the average type of girl disclose the truth . . .’⁸³ This type of testimony about unmarried mothers was not enough to convince the Minister for Justice, however. In response to Senator Farren’s argument for *in camera* proceedings to allow timid women to go to court, the minister exclaimed: ‘Will you give a single example of that? That is what I am crying out for and cannot get’.⁸⁴ The minister’s frustration was rooted in his argument that there was no hard evidence of women not going to court: ‘It appears to me to be a question of theory against the actual experience which we have . . . It is mere speculation as to what will happen in the minds of girls in the future, weighed against the course of conduct which girls similarly circumstanced have adopted in the past’.⁸⁵ This aspect

⁸² Karen Balcom, ‘Scandal and social policy: the ideal maternity home, and the evolution of social policy in Nova Scotia, 1940-51’ in Raymond B. Blake and Jeffrey A. Keshen (eds), *Social fabric or patchwork quilt: the development of social policy in Canada* (Peterborough, 2006), p. 109.

⁸³ *Irish Independent*, 27 Jan. 1930. Cruice wrote to the *Independent* again on 28 Mar. 1930 to say she had examples unmarried mothers ‘running, not into hundreds but into thousands’ who would not appear in court because of the publicity.

⁸⁴ *Seanad Éireann deb.*, xiii, no. 15, col., 837 (26 Mar. 1930).

⁸⁵ *Dáil Éireann deb.*, xxxiii, no. 14, col. 1903 (13 Mar. 1930).

of the debate sheds light on the wider argument in social policy of writing laws along legalistic terms or along moralistic and emotional terms. The arguments made in favour and against *in camera* highlight these debates.

Rural innocence and unmarried mothers

Another factor that legislators used to justify *in camera* was that it was for the welfare in particular of the unwed mother from the country. Two senators spoke in favour of *in camera* proceedings, highlighting how the private proceedings were even more important to secure the well-being of unmarried mothers in rural Ireland. A particular heightened fear for the concern of unmarried mothers from the country and motivation to protect single girls from the country was a salient point north and south of the border. Dr Morrison's address to Stormont portrayed country girls as particularly prone to the preying male: 'the persons in rural Ulster today who are guilty of these actions and who seduce innocent, helpless, possibly emotional girls, are irresponsible boys and lads who have no sense of morality and no sense of justice'.⁸⁶ There was a fear that the rural young woman was more naïve and vulnerable than her urban counterpart. Moreover the presence of country girls in rescue homes was of significance to legislators and moral rescue workers. The Protestant Magdalen Asylum on Leeson St in Dublin noted that most of its occupants came from country parishes.⁸⁷ Similarly, in Belfast, a newspaper report highlighted the presence of country girls in the Belfast Midnight Mission's maternity home. Minutes of a meeting of the mission saw this as highly problematic: 'A newspaper report was read where attention was again being directed to the fact that in our maternity home we had too many girls from country districts . . .'⁸⁸ In Dublin the Mothers' Union (MU) and Girls Friendly Society (GFS) organised meeting country girls at train stations to ensure their safety in the big city. There was a fear that these young women would be tricked by urban males: ' . . . Dublin, like every other big city and port, has many centres of vice, and the object of the Committee is to get our worker to meet girls coming from the country or from other cities and prevent their

⁸⁶ *Hansard NI (Commons)*, iii, col. 732, (8 May 1923).

⁸⁷ *Church of Ireland Gazette*, 24 Oct. 1924.

⁸⁸ Minutes of a meeting of the Belfast Midnight Mission, 14 Nov. 1934 (PRONI, Belfast Midnight Mission papers, D2072).

falling victims to those on the watch to lure them to their evil surroundings'.⁸⁹ Of their work, the MU and GFS wrote: ' . . . we know not from what perils many of these girls have been saved through having been helped and looked after at perhaps a very critical moment in their lives, for the dangers in our city, though possibly less than when the work was begun in 1913, are, alas! still in existence'.⁹⁰ The vigilance work was carried out with the Irish Women Patrols who employed one Protestant worker and one Catholic worker.⁹¹ However, this work prompted fear of proselytising as well. The station work created competition between the Catholic Protection and Rescue Society of Ireland (CPRSI) and the Protestant workers. Even the Catholic bishops released a statement about these concerns: ' . . . Unmarried mothers who wish to hide their shame fly to the big centers of population. They and their offspring are eagerly sought out by the proselytising agencies and only too often their children are sent to the "Birds' Nests" [Protestant orphanages]'.⁹² This statement was in the CPRSI papers, highlighting the motivations and support behind their work.

In this context, the concerns about protecting the innocence of the rural 'girl', and more so ideals of rural Ireland, through *in camera* proceedings carried significant weight. Fianna Fáil Senator Colonel Maurice Moore argued that unmarried mothers in rural Ireland faced harsher ostracisation and punishment from the community:

The position of these girls in the country is ever so much worse than can be imagined by people who are not acquainted with the matter. In Dublin people can go here and there and cover up these things, but I know of cases in the country where girls who made one mistake were absolutely boycotted, turned out practically like lepers, driven out of their parents' houses and obliged to live in such places as a little mud house on the side of a bog all their lives in the most terrible way. I think anything that can be done to ameliorate that state of affairs ought to be done, and I look forward with hope to this Bill to help their cases to some extent.⁹³

Just like the other statements which discuss how these women and men were treated by wider Irish society, Colonel Moore's description of unmarried mothers 'turned out like lepers' sheds light on the amount of shame and isolation cast upon unmarried

⁸⁹ Annual report for the Girls' Friendly Society, 1933 (RCB, Girls' Friendly Society papers, MS 578/19/5).

⁹⁰ Ibid., 1923 (RCB, Girls' Friendly Society papers, MS 578/19/5).

⁹¹ Annual report for the Girls Friendly Society, 1921 (RCB, Girls' Friendly Society papers, MS 578/19/5).

⁹² Statement of the bishops of Ireland, 'The evils of proselytism', 23 June 1925. (DDA, Archbishop Byrne papers, Catholic Protection and Rescue Society file, lay organisations box A37/1).

⁹³ *Seanad Éireann deb.*, xiii, no. 13, col. 703 (19 Mar. 1930).

mothers. Moreover, his sympathetic appeal for these women and his articulation of hope for this bill presents it as a piece of legislation for the welfare of the mother, thus adding to the multitude of approaches with which the legislators took to this measure. Finally, Moore's statement articulated what underscored several arguments put forth in the Oireachtas, that there is hope that the bill would remove some of the shame associated to women. This sympathy complicates the relationship between the state and unmarried mothers in this period, as the words fell on deaf ears, for the shame, alienation, and institutionalisation of unmarried mothers continued throughout the twentieth century, with attitudes only beginning to soften in the 1970s.

Continuing the discussion of the urban/rural divide, Cumann na nGaedheal Senator Kathleen Browne presented a sympathetic view of the unmarried mothers in rural Ireland, and again argued that *in camera* would provide for their well being: '... from my experience in an absolutely rural district, that the vast majority of these unfortunate girls are comparatively innocent of the crime they commit. They are trapped into this unfortunate state, and from the cases that have come under my notice, I am absolutely certain that not one in a thousand would go into a public court, though they might go into a court where the evidence would be heard in camera'.⁹⁴ While Senator Browne articulated her sympathy for first-time unmarried mothers, she expressed deep concern about more 'immoral' unmarried mothers: 'Of course, there are hardened sinners who certainly might try to blackmail a man. That might apply in a city, but not in the country, except in very few cases'.⁹⁵ Browne was the first legislator to complicate the divide between first-time unmarried mothers and unmarried mothers with more than one child by adding an urban/rural divide to these mothers. According to her, the calculating, blackmailing unmarried mother was a small concern to the country, but more of a symptom of urban women.

Jurisprudence, reputation, and in camera proceedings

Several of the arguments made against the *in camera* clause cited how the clause undermined the policy of open and public justice. An analysis of these arguments moves the study of unmarried mothers outside of the realm of sexuality and into debates about jurisprudence and the practice of law in the Free State. Senator James Douglas, a Quaker senator and one of the chief drafters of the Irish

⁹⁴ Ibid., col. 703-4.

⁹⁵ Ibid., col. 704.

constitution,⁹⁶ argued that *in camera* would actually harm the welfare of the unmarried mothers because it did away with open justice:

I do believe that there are some [judges] who, if acting *in camera*, would have a tendency almost always to acquit a man because their sympathies are in that direction . . . I believe that the small amount of difficulty that would be created, if only the essential points were published, is nothing like as important as the great danger of injustice which would occur if you had complete secrecy all over the country in every case. I honestly believe, from the point of view of the girl, leaving out the man for the moment, that she would have far more to lose by that secrecy.⁹⁷

The absence of legal reports raises the important issue that the hearing of cases in private could have reverberations for the practice of law and the decision of judges in future cases, as it limits access to the details of cases and therefore following of legal precedents. The Minister for Justice explained this: ‘It will be very helpful—that is what precedents are for—when one District Justice knows what another District Justice has decided. It would be very helpful to know what is the meaning given to the word “corroboration.” He will see that in the newspaper report, although it may not be binding on him or quoted to him as an authority . . .’⁹⁸ Fitzgerald-Kenney’s comments shed light on an often overlooked aspect of any legislation relating to women. That is, what reverberations the legislation will have on future legal work. The minister’s comments bring up the question of how will *in camera* affect the carriage of justice throughout the Free State? Will the protection of morality mean the unequal distribution of justice or the complication of legal precedents? This consideration of the effect legal precedent and practice to the study of the affiliation orders legislation allows for a wider discussion of the implications such a law had on social policy and the practice of law in the Free State.

This discussion of legal precedents allowed for a rare moment in the affiliation orders legislation drafting process in which the Free State looked to the legal precedent of other countries. As noted above, the Free State did not turn to Northern Ireland, however it did look to England for legal precedent. English affiliation cases were heard in open court, so the Minister for Justice cited English jurisprudence to defend his opposition on private proceedings:

⁹⁶ J. Anthony Gaughan, ‘Douglas, James Green’, in James McGuire and James Quinn (ed), *Dictionary of Irish Biography*. (Cambridge, 2009). (<http://dib.cambridge.org/viewReadPage.do?articleId=a2723>) (27 Sept. 2017).

⁹⁷ *Seanad Éireann deb.*, xiii, no. 19, col. 1043 (7 May 1930).

⁹⁸ *Ibid.*, col. 1040 (7 May 1930).

I do not say that we should follow blindly English customs. I do not say that at all, but I do say that in this country, where legislation and the court procedure are very much the same as in England, where they have tried and where they have found the thing not to be successful, we should [178] not lightly embark upon the same principle in new legislation.⁹⁹

Conversely, Senator Wyse Power discounted any turn to English law: ‘After all the case that the Minister referred to happened in England and it is agreed that Ireland is not England’.¹⁰⁰ These references to England bring up several important discussions for this thesis. Firstly, the complex relationship between Dublin and London, and the Free State with its past, is embodied in Fitzgerald-Kenney’s turn to England. Since the Free State followed the common law system of England it is logical that the minister appealed to the English law. However, Wyse Power’s remarks have an additional sting to them in light of the protracted, complicated, and long history of Irish movements for independence. Moving away from movements for Irish home rule, the discussion elicited by this appeal to England highlights the key difference in Irish and Northern Irish social policy, that is the step-by-step policy in Northern Ireland, and the lack of such a policy in the Free State. Despite the absence of a step-by-step policy, English legislation was clearly in the minds of the legislators after partition. Finally, this reference to England was one of the few times in the debate that the legislators looked beyond Ireland.¹⁰¹ In the Westminster debates about the Bastardy Act in 1920, the British MPs referred to Australia, Norway, and the dominions to demonstrate how Britain lagged behind international trends and for inspiration. For instance, when introducing the bill Neville Chamberlain remarked: ‘in this matter of the Bastardy Laws we have lagged far behind what has been done in foreign countries and in our Dominions, and it is not merely in material matters, it is in the whole attitude of our legal system towards illegitimate children that the time has come when some alteration must be made’.¹⁰² While England had more reason to look outwards, such as monitoring the legal practice in the dominions, Ireland’s inward-looking approach to this debate was surprising, as legislators looked abroad in other parliamentary debates.

⁹⁹ *Dáil Éireann deb.*, xxxiii, no. 2, cols 177-8 (13 Feb. 1930).

¹⁰⁰ *Seanad Éireann deb.*, xiii, no. 13, col. 694 (19 Mar. 1930).

¹⁰¹ As will be demonstrated in the following chapter, this differs from the debate about widows’ pensions in which legislators turn to the dominions, Scandinavian countries, and the United States for precedents about social policy relating to widows.

¹⁰² *Parliamentary debates (Hansard) House of Commons*, vol. 128, col. 2395 (7 May 1920).

The discussion of the implications of private proceedings on the practice of law in the Free State fits into a wider issue faced by legislators the world over: how to legislate following legality or following emotion and morality. Captain William Archer Redmond, National League TD for Waterford, argued based on his training and beliefs as a lawyer that: ‘I think that not only would it be detrimental to the public interest at large if that system [of open justice] were discontinued, but it would be an exceedingly bad precedent for the future criminal administration in this country’.¹⁰³ An important question to ask in regards to the *in camera* argument is, why were the legislators so open to changing the rules of justice in this instance? Fitzgerald-Kenney and Senator Jameson put forward arguments which highlighted this discrepancy amongst the legislators. Jameson noted: ‘If such a clause were in any other Bill the Seanad would throw it out at once and would not give it legal sanction . . . I think we are establishing a principle of law that we should be very slow to establish . . . I doubt whether we should break what is the great principle of common justice for the good that might be done under this Bill.’¹⁰⁴ Similarly, the Minister for Justice argued that the *in camera* clause was unjust by applying it to other cases: ‘I heard an argument put forward to-day against publication in the interests of the defendant. If that were driven to its logical conclusion you would have every single court in the country sitting *in camera*’. However his line of argument was not supported by all. Senator Farren said the minister could not draw a parallel between another court case and an affiliation orders case as ‘A legal verdict is different to a moral verdict’.¹⁰⁵ Farren’s argument sheds light on the issues and the approach of the government to social policy. His argument demonstrates that legislators were prepared to introduce extraordinary measures in cases dealing with morality. This parallels the attempts in Northern Ireland to defy step-by-step when discussing laws dealing with questions of morality.

A letter to the *Irish Independent* continued this moral debate about the reputation of the defendant and the benefits of *in camera* proceedings. Calling him/herself ‘NEMO’, the writer warned that if a man’s name was published in the paper in an affiliation orders case his reputation would be ruined: ‘he would have to give up his work and, in most cases, drift to perdition’. Consequently, he would be

¹⁰³ *Dáil Éireann deb.*, xxxiii, no. 2, col. 188 (13 Feb. 1930).

¹⁰⁴ *Seanad Éireann deb.*, xiii, no. 19, col. 1023 (7 May 1930).

¹⁰⁵ *Ibid.*, cols 1040-1.

unable to pay the order made against him ‘and the whole object of the Bill would be defeated’. Echoing the discussion in the Seanad about a moral conviction, the writer argued: ‘It was also mentioned that if a man was proved innocent the fact should be published. For what purpose? In this country, as was remarked recently, one is not only guilty till proved innocent, but even guilty after being proved innocent’.¹⁰⁶

Indeed, this concern about the reputation of the man was of great importance to some TDs and senators, just as the reputation of the rural unmarried mother was of importance to other legislators. The Minister for Justice argued it was in the interest of the putative father, the unmarried mother, and the community that the proceedings be held in public. Regarding male welfare and reputation, he argued that private proceedings would not allow victims of wrongful charges to publicly clear their name. The minister’s explanation of this claim also sheds light on the nature of Irish society at the time: ‘all of his neighbours will know of the charge. Suppose that they even hear that the charge has been dismissed, they will not know the grounds upon which it has been dismissed. Sometimes the charge may be dismissed on technical grounds and for want of corroboration . . . [but] suppose he can completely establish his innocence. In such circumstances is he not entitled to have that fact made public?’.¹⁰⁷ Several of the arguments against *in camera* claimed that private proceedings would serve to damage the welfare of the male defendant, and in particular his reputation. On this point, Luddy argues: ‘It is clear from the discussions that took place that the situation of the alleged father was of much greater concern than that of the mother’.¹⁰⁸ The reputation of the father was a significant issue which threaded through this debate. On this point, Earner-Byrne argues: ‘The issue of reputation was central to much of the social control exercised in Ireland. The fear of the loss of one’s reputation was based largely on the understanding of the family as a unit: if one member disgraced themselves the rest of the family was tarnished by association. Protection of the family’s reputation was perceived as extremely important to the traditional Irish family’.¹⁰⁹ Even though the illegitimate child, unmarried mother, and putative father were not designated a ‘family’ in the eyes of the state and society, the concern of maintaining a proper reputation was crucial to the sustainability of financial support

¹⁰⁶ *Irish Independent*, 26 Mar. 1930.

¹⁰⁷ *Dáil Éireann deb.*, xxxiii, no. 2, cols 179-80 (13 Feb. 1930).

¹⁰⁸ Luddy, ‘Moral rescue and unmarried mothers in Ireland in the 1920s’, p. 812.

¹⁰⁹ Earner-Byrne, ‘Reinforcing the family’, p. 363.

within this marginalised familial unit. Several TDs and senators put forth the argument in favour of *in camera* by arguing that, should the reputation of the father be harmed and he face economic consequences, he might default on his affiliation order payment and the mother and child would not receive their financial aid.

Fitzgerald-Kenney also discussed how the censorship of proceedings poses a threat to wider society: ‘Surely this amendment makes for blackmail . . . Possibly, if there is to be no publicity, that hardened woman might get several decrees in respect of the same baby against putative fathers’.¹¹⁰ Therefore, not only do public proceedings allow for the clearing of the name of an innocent party, it also acts as a cap on miscarriage of justice and allows for the continued communal monitoring of unmarried mothers, as public proceedings meant her name is published and she will not be able to take out several affiliation orders. The latter point about monitoring of the behaviour of unmarried mothers was discussed by Rattigan. She notes: ‘It is possible that the police, particularly in rural areas, would have had unmarried pregnant women under observation . . . In a report to the Carrigan Committee . . . [NSPCC] inspector Hannah Clarke claimed that the gardaí were “now keeping an eye on girls in trouble to prevent infanticide” . She stated that a sergeant in Maynooth “had ten cases under observation recently”’.¹¹¹ Therefore, whether the proceedings were public or not, the community was often aware of the behaviour of an unmarried mother. Interestingly, and quite important to this study of women on both sides of the new Irish border, Rattigan later notes: ‘The phenomenon of local communities monitoring the behaviour of young women is less evident in the sample for Northern Ireland (perhaps because it was a more urbanised society)’.¹¹²

Arguments to support the moralistic approach to legislation framed the legal approaches as cold and not in the interest of the welfare of those involved. For instance, Little argued: ‘There is no one who can be so inhuman as a legal theorist’ and the Dáil should follow the advice of the social workers who worked with the women on a daily basis.¹¹³ Indeed social workers and moral rescue workers made public statements in favour of affiliation orders. Mary Cosgrave, social worker and leading figure in the Irish Women’s Citizen Union, Fr Devane, as well as the above-

¹¹⁰ Dáil Éireann debs., xxxiii, no. 2, col. 181 (13 Feb. 1930).

¹¹¹ Rattigan, *Single mothers and infanticide*, p. 177.

¹¹² Ibid., p. 183.

¹¹³ *Dáil Éireann deb.*, xxxiii, no. 2, col. 176 (13 Feb. 1930).

mentioned M.J. Cruice of the St Patrick's Guild, all wrote to the papers to express their support for *in camera* proceedings.¹¹⁴ Even barristers advocated in favour of defying the principle of open justice in the case of affiliation order cases. For instance, Fianna Fáil TD for Galway, Frank Fahy was studying law at Kings Inn but argued: 'I have not yet acquired that legal attitude towards things which very often leaves out humanity. There is a social evil to be remedied here and what we should consider is not what the legal mind thinks of it as but how best to remedy it . . . and I am strongly of opinion that you are more likely to get the evil remedied by having the cases heard in camera'.¹¹⁵ By placing unmarried mothers and illegitimacy as part of a social evil, it is not surprising that legislators looked to contain details of 'immoral' sexual conduct to the courtroom. This fits with wider patterns found in work by Keating which examines how the Free State press underreported sexual crime or wrote 'coded' articles about crimes. He examined 6000 files relating to sexual offences in the 1920s and 1930s and found only 15.17% received press coverage. Of the coverage, he notes: 'the vast majority produced reports that ranged from those that completely obscured the sexual nature of the offence to those wrapped in language that was so oblique that the detail and nature of the crime was barely discernable'.¹¹⁶ By placing the discussion of unmarried mothers in this context, it also draws attention to the role that the public and the press played in reinforcing conservative ideals, particularly of the containment of immoral behaviour.

The *in camera* discussion could fit into the wider discussions of the containment culture in Ireland. Closed-court proceedings fed the culture of containment by barring public debate about a sensitive issue. Smith describes the effect of a culture of containment:

A developing rhetoric of national identity formation, in particular, the official discourse of Irish motherhood, refused to acknowledge and therefore ignored the mistreatment of Irish women and children. By preventing public debate the political response legitimised a stigmatization of illegitimacy and contributed to the perpetuation of oppressive conditions directly and disproportionately impinging on women while eliding male culpability.¹¹⁷

¹¹⁴ See Cosgrave's letter to the *Irish Independent*, 1 Feb. 1930; Devane's letter to the *Irish Independent* 12 Feb. 1930; Cruice's letter to the *Irish Independent*, 27 Jan. 1930.

¹¹⁵ *Dáil Éireann deb.*, xxxiii, no. 2, col. 188-9 (13 Feb. 1930).

¹¹⁶ Anthony Keating, 'Sexual crime in the Irish Free State 1922-33: its nature, extent and reporting' in *Irish Studies Review*, xx no.2 (May 2012), p. 146.

¹¹⁷ Smith, 'The politics of sexual knowledge: the origins of Ireland's containment culture and the Carrigan Report (1931)', p. 228.

A lack of awareness and understanding of the issue and of the variety of situations that lead to a child out of wedlock meant that the unmarried mother and her child remained marginalised and stigmatised. As such, societal beliefs and values played a large role in the entrenchment of containment culture. Institutions promoted the idea of secrecy for the benefit of the unmarried mother, as well. Lucey notes that mother and baby homes and magdalen laundries ‘contended that the secrecy which surrounded these institutions allowed for women on discharge to return to normal lives free from the stigma associated with single motherhood . . . ’¹¹⁸ Women needed the secrecy to be able to return to society – if they did – but the secrecy of the institutions allowed for harsh conditions and wide-scale abuse.

The perception of *in camera* proceedings in Nova Scotia as a support for the unmarried mother, rather than a shielding of the public from issues of morality, provides a different interpretation behind the significance of the *in camera* clause in Ireland. While the clause can be understood within the context of the culture of containment and the era of censorship of publications, it can also be considered in a different light as a way to protect the unmarried mother. This thesis does not look to take a stand on either of these interpretations, but merely raises these two interpretations to open more debate and discussion on where the *in camera* clause might fit in wider Irish culture.

This discussion of the *in camera* clause highlights several important themes at work in the affiliation orders debate in the Oireachtas. The analysis of concerns relating to class, immorality, and sexuality add to previous works on unmarried mothers. However, the analysis of the legislators’ discussion of the implications the clause would have on the practice of law in the Free State demonstrates the excavation of new questions and debates when issues pertaining to sexuality and morality are examined under a different lens. This addition to the historiography can be applied to the Northern Irish debates as well. In particular, the power struggle between the Senate and the House of Commons in Stormont had significant implications for the affiliation orders bill, and had little to do with debates about morality and unmarried mothers.

¹¹⁸ Lucey, *The end of the Irish Poor Law?*, p. 86.

VII. Conclusion

As discussed above, the affiliation orders legislation is more significant in terms of the debates raised in the drafting of the bill, rather than its final product. In practice, the act provided little welfare to unmarried mothers. Calls for reform after the passing of the act in 1930 again focused on the welfare of the unmarried mother. The Joint Committee of Women's Societies and Social Workers (JCWSSW) appealed to Fianna Fáil TD Patrick Little to amend what they saw as an injustice in the act that required mothers to receive payment directly from the fathers. The JCWSSW called for the fathers to pay the court and the court to pay the mother. Little brought the bill to the Minister for Justice and in 1939 he reported that an amending bill was being prepared by Justice.¹¹⁹ However, the law was not reformed until 1971.¹²⁰ Similarly, a letter from a solicitor to the Minister for Justice in May 1935 highlights the failures of the bill, and his arguments about the ineffectiveness and inaccessibility of the legislation is reminiscent of the legislators' condemnation of the legal situation of unmarried mothers before the affiliation order act:

proceedings under the Illegitimate Children (Affiliation Orders) Act are practically foredoomed to failure so far as any genuine result is concerned by reason of the fact that there is no proper machinery for enforcing the decision of the Court. Any practitioner in the Courts is well aware that the type of man who has to be brought into court to pay instalments under either of these acts, is absolutely immune from any proceedings for the purpose of making him pay under the Enforcement of Court Orders Act. It is a blot on our social system that Statutes should be allowed to remain in apparent effect, while they are only in reality holding out false hopes to women who have in one way or another being wronged.¹²¹

Therefore, the affiliation orders act cannot be seen as an effective law for improving women's welfare in the Free State and Northern Ireland.

However, it is significant because it sheds light on how social policy was written for women in each new state. This examination of the drafting and debating process of the affiliation orders bill reveals how state social intervention into the welfare of unmarried mothers changed as a result of partition.

¹¹⁹ See minutes of meetings JCWSS, 27 Jan. 1938, 29 Sept. 1938, 27 Oct. 1938, 24 Nov. 1938, and 26 Jan. 1939 (NAI, Joint Committee of Women's Societies and Social Workers papers, 98/14/5/1)

¹²⁰ *The Law Reform Commission Report on Illegitimacy* (Ireland, 1982) ¶63, p. 30. (<http://www.lawreform.ie/fileupload/Reports/rIllegitimacy.htm>) (26 Sept. 2017).

¹²¹ Seán Ó Huadhaigh, Solicitor, Dawson St. to the Minister for Justice. 25 May 1935. (NAI, Department of Justice papers, JUS 90/9/20).

This study has also examined the ‘official’ attitude toward unmarried mothers. As discussed above, the Northern Irish MPs differed significantly from their Free State counterparts in the sympathy expressed for unmarried mothers. Stormont MPs and senators articulated concerns for the welfare of the unmarried mother, and not just in terms of the mother as a vessel to protect the child. However, this concern was part of a wider paternalistic attitude that was motivated by the belief in protecting vulnerable women from the influence of male sexuality, thus affording the unmarried mother no agency in her relationship with the father of the child. Free State TDs and senators often afforded women the power of independence of thought and action, but coated it in sentiments of immorality and criminality.

As a consequence of the administrative policies stemming from partition and devolved government, social policy in Northern Ireland was directly influenced by legislation passed in Westminster. Further, as a result of the policy of parity, the terms of welfare legislation of unmarried mothers was determined by the extent to which the Northern Irish government followed English legislation. Why was the Free State legislation so late to follow the English and Northern Irish acts? An argument can be made that the Irish government followed Catholic teaching and did not prioritise aid to the unmarried mother. Earner-Byrne made this argument in regards to the *Report of the Commission on Widows’ Pensions* (1933) which recommended the illegitimate child of a widowed mother not be deemed a dependent child. Of this Earner-Byrne wrote: ‘Irish society was distinctly reluctant to allow social policy to bend to the dictates of what was culturally considered moral transgression. In reality, this meant that, despite the rhetoric, Irish society was not willing to facilitate illegitimate motherhood by offering such mothers the assistance it offered to institutions and foster parents. This reluctance was in keeping with catholic moral teaching’.¹²² This reluctance informed the slow process of drafting the affiliation orders bill. In addition to this, reasons behind the delay in legislation for unmarried mothers could also be attributed to the settling of the new state, the prioritisation of other social welfare legislation that had wider implications than the affiliation orders bill, and the lack of pressure from outside legislatures in the absence of a step-by-step policy seen in Northern Ireland.

¹²² Earner-Byrne, *Mother and Child*, p. 178.

Ultimately, this discussion of the affiliation orders act illuminates the complicated process of writing social policy in each new state in light of new influences after partition. Moreover, the approach of focusing on this topic through the interrogation of legislation allows for a discussion of women's history within the wider context of the development of the Northern Irish and Irish states. This builds from Finnane's argument that called for a re-examination of Irish law within a wider context:

a consideration of the context of law reform in the first fifteen years of the Free State may suggest a need to review the common perception of independent Ireland as a place obsessed with sex to the neglect of other national problems. In understanding this idiosyncratic history, we may also be led to conclude that belated law reform was part of a larger complex, in which the political élites in the newly independent state sought to avoid public recognition of the implication of continuing sexual offending, namely that the behaviour of the citizens of independent and Catholic Ireland was not very different from that of their neighbours north of the border or across the Irish Sea.¹²³

The similarities between the Northern Irish debates and the Free State debates about affiliation orders challenge the idea that the Free State was unique in its concerns about morality. Moreover, this re-examination of the issues in the drafting process of each law reveal the complexities the legislators faced that were not related to morality at all. The Northern Irish concern regarding step-by-step was arguably more pressing than the need to constrain the movement of the unmarried mother or the father. Similarly, the debates regarding the *in camera* clause in the Free State demonstrate a complex approach to legislating for the welfare of the mothers, fathers, and children.

Moreover, this examination has proven that more influences were at work in the text of the bill than a hyper-concern about morality, for several of the arguments regarding the clause related to the practice of law in the Free State. Crucially, the presence of similar debates regarding women and morality in each state presents a challenge to the long-held narrative of the role of Catholic teaching in Free State social policy. It is undeniable that Catholic ideology played a large role in defining Irish social policy, but it is important to not neglect other significant influences at work. As the Northern Irish debates demonstrate, the similarities in the conservative approaches to illegitimacy and unmarried mothers challenges what historians have

¹²³ Finnane, 'The Carrigan Committee of 1930-31 and the 'Moral Condition of the Saorstát' in *Irish Historical Studies*, p. 522.

identified as Catholic in influence, and may in fact be part of a wider trend of the time. Breathnach and O’Halpin note the importance of challenging this idea that only Catholic social teaching could be conservative: ‘Catholics had no monopoly on moralizing. Two of the most senior judges whose strictures about the problem of infanticide were picked up and amplified by the national press – Henry Hanna and William Johnston of the High Court – were Presbyterians’.¹²⁴ Similarities between Catholic, Presbyterian, and wider Protestant views demonstrate that Catholic moral teaching was not the only moral influence on policy. This challenge to the traditional narrative of the role of the Catholic Church in Free State policy will continue to be developed throughout this thesis. In making this argument, this thesis in no way tries to whitewash the long, harrowing history of abuse at the hands of Catholic orders and the Church across Ireland, particularly relating to the abuse of unmarried mothers. Instead this places Catholic social teaching in its wider context of conservative paternalism.

Ideals about, and the treatment of, the unmarried mother are crucial when examining the role of the state in women’s lives after partition. While offering a limited picture of women’s lives in the period, as unwed mothers made up a small minority of women north and south of the new border, it provides complicated and dynamic discussions of femininity, motherhood, class, law, and the relationship between the new states and Britain. The following two chapters on widows’ pensions provide strong foils to the debates regarding the unmarried mother. While the unmarried mother was seen as morally questionable, the widow was presented in each new state as a pious sufferer in need of help.

¹²⁴ Breathnach and O’Halpin, ‘Scripting blame’, p. 223.

Chapter four: Pious sufferers and devolved government: widows' pensions legislation in Northern Ireland.

'I want to congratulate the British Parliament on imposing this Bill on the Northern Government'¹

I. Introduction

The discussion of the widow in the 1925 widows' pensions legislation debates was not nearly as controversial as the previous year's debates about provision for the unmarried mother. The widow was thought of as a pious figure to be pitied and protected. However, that is not to say that the passing of the widows' pensions acts in each state was without controversy. Particularly in the Northern Irish legislature, the writing of widows' pensions legislation illuminated many problems in developing social policy after partition. This chapter will demonstrate how the passing of this legislation highlights issues including insecurity about Northern Ireland's role in the UK, financial constraints, fissures in the relationship between Belfast and London, as well as gendered ideas of welfare and the role of government in family life. Curiously the pensions scheme has received little attention in the scholarship on policy in the early years of Northern Ireland. Instead it has been overshadowed by the complexities and controversies surrounding the unemployment insurance scheme. This chapter will rectify this neglect of the widows' pensions scheme in the literature. However, at the time of the drafting of the pensions scheme in 1925, it was often discussed as a precedent to the unemployment insurance: if Northern Ireland was successful in securing financial support for the widows' pensions scheme, the cabinet believed it could receive similar support from Britain for unemployment insurance. As such, the scheme was of crucial importance beyond providing welfare for women and children.

Widows' pensions legislation was enacted in Northern Ireland in 1925. Keeping along parallel lines with Britain, the Northern Irish legislation was a reproduction of the pensions scheme in England. However, the Stormont cabinet initially thought the state would be included in the Westminster bill. The decision by the imperial cabinet to exclude Northern Ireland from the bill was not welcomed by the Stormont cabinet. As such, several ministers lobbied the imperial government to secure a place in the bill. These efforts provide insight into how the

¹ George Leeke, MP, *Hansard NI (Commons)*, xi, col. 1715 (3 Dec. 1929).

relationship between London and Belfast operated, as well as how the Northern Irish ministers interpreted this relationship and Northern Ireland's wider role in the UK. What also becomes apparent from their lobbying, and later in the Stormont debates about their own bill, was that the state's relationship to the rest of the UK was of high importance in the widow's pensions negotiations. Indeed, this issue of Northern Ireland's role in the UK often took prominence over issues related to women's welfare. As such, the welfare of widows and their families in Northern Ireland was influenced more by issues of devolution than ideals of welfare and state support for necessitous families.

When analysing social policy and social security in Northern Ireland, it is crucial to understand that the northern government's ability to write social policy was restricted by the terms of the Colwyn Committee. Set-up in 1923 as the Northern Ireland Arbitration Committee under Lord Colwyn, the committee was charged to 'consider whether, in view of the ratification of the Constitution of the Irish Free State, any alteration is needed in the present scale of the contribution of Northern Ireland to the cost of Imperial Services'.² This stemmed from issues relating to section 23 of the Government of Ireland Act, 1920, which stipulates that Northern Ireland must pay an imperial contribution for UK-wide services. The act was written in 1920 when the Northern Irish economy was booming, particularly in the linen and shipbuilding industries as a result of the Great War. However, after a crash in industry the Northern Irish state had difficulty paying the imperial contribution and funding its own domestic services.³ The state had little resources to raise taxes and therefore accrue revenue. As such, Northern Ireland was left with little funds to finance its own social services to a level equal to England and Wales, so a committee was established to re-evaluate the terms of the contribution. The implications that the Colwyn agreement had on the state was huge, as Follis argues: 'Northern Ireland was not merely seeking to improve her financial position but was attempting to find a settlement which, by rectifying the method of calculating her imperial contribution, would remove the threat of bankruptcy'.⁴

² Report of the Northern Ireland Special Arbitration Committee, 4 Sept. 1923 (PRONI, Ministry of Home Affairs papers, HA/32/1/398).

³ D.S. Johnson, 'The Northern Ireland Economy, 1914-39' in Liam Kennedy and Philip Ollerenshaw (eds), *An economic history of Ulster* (Manchester, 1985), p. 203.

⁴ Bryan Follis, *A state under siege. The establishment of Northern Ireland, 1920-1925* (Oxford, 1995), p.135.

An added consequence of Northern Irish financial problems was that it could raise grievances about partition from those who did not want it, particularly unionist voters who made up the support base for the UUP. Bogdanor elaborates on this: 'Surely they [the Northern Irish people] were entitled to the same level of services, especially as they had accepted devolution not because they wanted it, but because it had been pressed upon them by the British government'.⁵ To remedy this inequality, the Colwyn Committee recommended in 1925 that the first charge on the Northern Irish exchequer should be domestic expenditure (such as social services and policing) and that the imperial contribution be a residual charge after the domestic expenditure was covered. Bogdanor summarises the rest of the findings as: 'It argued that per capita spending on services in Northern Ireland ought to increase at the same rate as per capita expenditure on services in the rest of the United Kingdom, and the sum required to secure such a rate of increase should constitute Northern Ireland's necessary expenditure. The Imperial Contribution should not be paid until this necessary expenditure had been financed'.⁶ The report entrenched the step-by-step policy by recommending that funds would be provided to Northern Ireland to ensure social services remained on par with the rest of the UK, as long as the standard of Northern Irish services did not exceed that of the rest of the UK. Should the Northern Irish service exceed the UK standard, Northern Ireland was required to pay for the service. Therefore Stormont was encouraged to maintain parity so Westminster could fund the social services. Consequently, the terms of welfare legislation were subject to strict parameters and amendments to legislation were often not feasible. Follis argues that even with this financial aid from London, 'simply maintaining parity with Great Britain for basic services almost overwhelmed [Northern Ireland]'.⁷ This chapter will demonstrate how this policy proved problematic in debates about widows' pensions, as opposition MPs argued for improved conditions of the scheme, but the government's hands were tied by the recommendations of the Colwyn Committee and the British widows' scheme. Buckland argues that a consequence of this adherence to the policy of parity was a development of social services in Northern Ireland that were 'piecemeal' and 'largely imitative', with the drive for reform normally coming from

⁵ Vernon Bogdanor, *Devolution in the United Kingdom* (Oxford, 2001), p. 83.

⁶ Bogdanor, *Devolution in the United Kingdom*, p. 84.

⁷ Follis, *A state under siege*, p. 147.

Westminster.⁸ As seen in the affiliation orders debate, this discussion raises one of the crucial questions of this thesis, what role did the Northern Irish government have in determining social policy? Was it an administrative supervisory role to make sure British laws were adapted to Northern Ireland, or was there room to draft policy specific to Northern Ireland?

Before examining the drafting process, it is necessary to discuss the terms of the widows' pensions act itself. In Northern Ireland the principal act, the 1925 Widows', Orphans', and Old Age Contributory Pensions Act, provided pensions for individuals who were covered under the National Health Insurance Act and paid a contribution into their pension fund. Widows received 10s/week with an additional 5s/week for the first child and 3s/week for each child thereafter. The children's allowance expired when they reached the age of fourteen, or sixteen if still in school, and the widows' pension expired after the age of seventy or if the woman remarried. The pension was only valid if the breadwinner had successfully paid 104 contributions over 104 weeks prior to his death. Each contribution was 9d for men and 4½ d for women. In the case of the male employee, he and his employer each paid a contribution of 4½d into his pension fund. For the female employee, whose contribution only went towards an orphans' fund, she paid 2d and her employer paid 2½d.⁹ An amending act in 1929 expanded the criteria for pre-act widows and enabled insured widows who were previously disqualified to receive more funds, as well as allowing for the scheme to be extended to Northern Irish contributors living abroad in the British dominions (with the exception of the Free State, which will be discussed below).¹⁰ A 1931 amending act further widened the scope for widows covered under the act and also allowed adopted children who were not legally recognised before the father's death to be covered as dependents.¹¹ Finally, a 1937 amending act, the last widows' pensions act passed during the period under examination here, allowed for individuals employed in an industry not covered in

⁸ Buckland, *The Factory of Grievances: Devolved Government in Northern Ireland*, p. 150.

⁹ Widows', Orphans', and Old Age Contributory Pensions (Northern Ireland) Act, 1925. 15 & 16 Geo. V., c. 23 [N.I.] (6 Nov. 1925).

¹⁰ Widows', Orphans', and Old Age Contributory Pensions (Northern Ireland) Act, 1929. 20 Geo. V., c. 17 [N.I.] (19 Dec. 1929).

¹¹ Widows', Orphans', and Old Age Contributory Pensions (Northern Ireland) Act, 1931. 21 & 22 Geo. V, c. 17 [N.I.] (24 Nov. 1931).

the previous acts to become voluntary contributors. This includes occupations such as farmers, ministers of religion, blacksmiths, and private nurses.¹²

The following chapter will examine the prominent elements in the writing of the pensions scheme, focusing on the 1925 and 1929 schemes. In particular it will examine how gendered ideas of motherhood, respectability and charity converged in the writing and debate process of the scheme. It will then examine what role the new border played in the lives of widows. Finally, it will argue that the lobbying by the Craig cabinet for a specific place in the UK was a strong driving force behind the bill and that the pensions scheme was seen as a step to secure funding for the unemployment scheme, a scheme that would also have far-reaching effects for the welfare of women and children in Northern Ireland.

II. Conceptualisations and realities of the widow

Throughout the debates over the widows' pensions bill, MPs valorised the idea of the pious, suffering widowed mother. Conceptualisations of the widow took several forms throughout the debate, however. She was pitied, revered as a mother, and presented as a means through which aid could be given to the child. Rarely was the widow depicted as a woman in her own right. The references could take the more dramatic appeal such as that of Nationalist Party leader Joseph Devlin in 1925 in which he described widows as 'poor, wretched creatures, who are perhaps the most pathetic and the most tragic figures in our industrial life. We have been watching the tears of the poor widows, and we want to get some of their blessings. We have been listening to the cries of the little starving, helpless children, and we want to rejoice at the merriment of their childish laughter.'¹³ Another Nationalist Party MP, George Leeke, who sat for Londonderry, made the case for the small farmer's family: 'I would also like to appeal for . . . the widow of a small farmer who has, perhaps, only twenty or twenty-five acres, and who is left with nine or ten of a family. No more deserving case could possibly be quoted, nor is there any case which the Minister should try harder to include in the ambit of this Bill'.¹⁴ While

¹² See remarks of John M. Andrews, the Minister of Labour, *Hansard NI (Commons)*, xix, col. 1785 (6 Oct. 1937).

¹³ *Ibid.*, vi, cols 475-6 (7 May 1925).

¹⁴ *Ibid.*, xi, col. 1715 (3 Dec. 1929).

every mention of a widow was not decorated in flowery moralistic terms, the frequency and nature of these depictions is significant.

Outside of public statements, the widow was treated with more suspicion. Morton writes of a similar case in Nova Scotia, Canada, in which a widow was disqualified from her pension after giving birth to an 'illegitimate' child and 'her immoral behaviour [was] reinforced by the fact that she had taken in boarders of "undesirable character"'.¹⁵ Smith also discusses the strong distrust and suspicion of British war widows during the First World War. There was moral surveillance of the widows: they should be sober and mourning, and were disqualified from their pensions when they 'were adjudged to have failed to maintain the honoured memory of the "glorious dead"'.¹⁶ While this concern about a widow's relationship with men and her sexuality did not present itself in the official record, Earner-Byrne demonstrates how a gendered approach to these anxieties transferred into welfare policy. There was a suspicion that women could '[marry] an elderly man with a view to a widow's pension and having children with impunity for benefit'.¹⁷ Therefore the sympathetic words of these politicians across the Free State and Northern Ireland may not have translated into empathetic practice. In fact the main object of the Northern Irish pensions bill was the fatherless child. Dr Morrison explained how it allowed for the state to intervene if the mother neglected the children and place them 'under some recognised authority' and provide them with an orphans pension 'so that they may be properly looked after when taken from the care of their mother'.¹⁸ This is similar to the affiliation orders legislation which provided maintenance to the unmarried mother as a means to support her child.

The support to the widow based on her motherhood was not a novel idea in pensions legislation. Pederson notes that in Britain after the First World War a suggestion was made by the Family Endowment Committee to the War Cabinet Committee on Women in Industry and the National Birth Rate Commission that mothers should be given state support from confinement until the youngest child reaches the age of five and, as one committee member noted, 'no money should be

¹⁵ Suzanne Morton, 'Women on their own: single mothers in working-class Halifax in the 1920s', in *Acadiensis* xxi no.2 (Spring, 1992), p. 101.

¹⁶ Angela Smith, 'Discourses of morality and truth in social welfare: the surveillance of British widows in the First World War' in *Social Semiotics*, xx no. 5 (Nov. 2010), p. 528.

¹⁷ Earner-Byrne, 'Reinforcing the family: The role of gender, morality and sexuality in Irish welfare policy', p. 362.

¹⁸ *Hansard NI (Commons)*, vi, col. 128 (9 Oct. 1925).

paid to the wife as a wife, but as a mother'.¹⁹ While this proposed scheme was unsuccessful, the idea of supporting the widow on the grounds of her motherhood remained a prominent concept. This idea was also not limited to the Conservative Party in England. It defied party lines. NILP MP Jack Beattie stated in 1925: 'We in the Labour movement believe that widowed mothers should be taken out of industry and that the State should give her sufficient to maintain her in her own home',²⁰ thus emphasising the domesticity of the mother. Activists outside government also held this claim. For instance the BWAC lobbied for 'the fundamental demand of the women's organisations – the provision for the widowed mother that will render it possible for her to stay in her own home and care for her own children'.²¹ Such a sentiment also motivated widows' pensions in New South Wales in 1926. Joy Damousi writes of the popularity of this idealisation of the family: 'Along with members on both sides of parliament, [Prime Minister] Lang fiercely promoted a glorified image of the mother and of an idealised nuclear family when discussing the necessity for granting the pensions: "The main purpose of the bill is to keep homes together and allow the mother to keep her children with her . . ."'²² As will be demonstrated in the subsequent chapter on Free State widows, this emphasis on the mother thrived in the Free State political climate, too. On the Free State, Earner-Byrne notes: 'Bolstered by theories of the sanctity of the family, the judicious limitation of state power, and Catholic social teaching, the Irish welfare debates . . . instead focused on the need to protect poor fatherless children. As in the other welfare debates of the period, the emphasis was on child protection rather than citizenship rights or patriarchal theory'.²³ However, Catholic social teaching did not carry the same weight with Northern Irish legislators as it did with Free State policymakers, which demonstrates that even in the absence of a dominant

¹⁹ Susan Pederson, *Family, Dependence, and the Origins of the Welfare State: Britain and France, 1914-1945* (New York, 1993), pp 151-2.

²⁰ *Hansard NI (Commons)*, vi, col. 1282 (14 Oct. 1925).

²¹ Letter to the *Northern Whig*, 30 May 1925.

²² Joy Damousi, 'The state and the widow: pension debates in inter-war years Australia', in Lynne Hansey and Lisa Pollard (eds) *Families of a New World: Gender, Politics and State Development in a Global Context* (London, 2003), p. 101.

²³ Lindsey Earner-Byrne, "'Parading their Poverty...': Widows in Twentieth Century Ireland' in Bórbála Faragó and Moynagh Sullivan (eds.), *Facing the Other: Interdisciplinary Studies on Race, Gender and Social Justice in Ireland* (Cambridge, 2008), p. 33.

Catholic Church, religious and political conservative morality permeated the island after partition and the legislatures produced much of the same legislation.

Another purpose of the Northern Irish act was to allow widows to maintain a level of respectability. In October 1925 the liberal-unionist leaning paper the *Belfast Evening Telegraph*²⁴ praised the contributory scheme for allowing people ‘that self-respect which comes to men and women who are receiving that for which they laboured and to which they contributed out of their own earnings’.²⁵ When the scheme was reformed in 1929, Beattie warned that the low rates of the benefit threatened the widows’ respectability: ‘Ten shillings is very little to give to a widow who has a healthy appetite, who has rent to pay, light to pay, furniture to provide, and respectability to maintain’.²⁶ This desire for respectability was linked with the concept of the deserving poor. Widows and children have always come under this umbrella of the ‘deserving’ poor, that is, those who were poor by situations beyond their control. This also included the sick and the disabled.²⁷ This desire for respectability was not limited to urban widows. In the 1937 amending bill debates, Dehra Parker (formerly Dehra Chichester)²⁸ drew attention to the economic hardships of farmers’ widows: ‘They were left with absolutely nothing to live on and nothing to look forward to but the workhouse. These were people accustomed to a certain standard of life. They had been accustomed to keep up appearances and, naturally, in common with all classes, they looked upon the workhouse with horror. I think here is a Bill which is going to obviate the possibility of such occurrences in future’.²⁹ This concern with respectability also occurred in the Canadian provinces. Gavigon and Chunn found ‘significantly, mother-recipients were constituted

²⁴ John Horgan, *Irish media: a critical history since 1922* (London, 2001), p. 22.

²⁵ *Belfast Evening Telegraph*, 14 Oct. 1925.

²⁶ *Hansard NI (Commons)*, xi, col. 1985 (12 Dec. 1929).

²⁷ For a discussion of the deserving poor, gender, and morality in Ireland, see Crossman, ‘Viewing women, family, and sexuality through the prism of the Irish Poor Laws’, pp 541-50.

²⁸ Formerly Dehra Chichester. She changed her name upon her second marriage in 1928. Bridget Hourican, ‘Dame Dehra Parker’ *Dictionary of Irish Biography*. (<http://dib.cambridge.org/quicksearch.do?jsessionid=1EEB8A7D2A5FBF05664F77EEAD3124DF>) (28 Sept. 2016).

²⁹ *Hansard NI (Commons)*, xix, col. 1812 (6 Oct. 1937).

discursively not as charity cases, but rather as government employees on contract, who were charged with the responsibility of raising “good” citizens.’³⁰

In 1929 the widows’ pensions scheme was extended, however funds were limited so the government had to be discerning as to which demographic of widow was the most in need. The Minister for Labour argued that the older widow, which meant over age of fifty-five, would benefit most because she had less access to industrial jobs: ‘this age is fixed because it is felt that as women get older they find it, as it were, more difficult to get employment. They get out of the employment scheme of things, and, therefore, require the help which this pension brings to them’.³¹ This was an important departure from the emphasis of a pension for a widow based on her motherhood and instead provided a pension based on the husband’s role as an industrial labourer.

Similarly, childless widows could qualify for pensions on the basis that their industrial worker husband paid into the pension fund. After the passing of the British widows scheme, this was criticised by novelist Rebecca West in a debate held at the London School of Economics on the topic, ‘Is the place of women at home?’, West argued: ‘Look for example at the extraordinary way in which Mr Churchill has decided to give pensions to young childless widows. No feminist has ever made so absurd a request as this – that young women who have proved fatal to husbands should be tipped ten shillings a week. Nothing can excuse such an extraordinary waste of public money’.³² In fact William Beveridge, author of the Beveridge Report which marks the beginning of the welfare state, did not support pensions for widows without children. Kennedy notes: ‘He favoured support for widowed mothers. He did not favour the idea of a pension for life for a childless widow – “if she is able to work, she should work”’.³³ In Stormont Dr Johnstone, UUP MP for Queen’s University argued that ‘A childless widow is really in no worse position than a single woman. In some respects she is in a better position. I

³⁰ Shelley A.M. Gavignon and Dorothy E. Chunn, ‘From mother’s allowance to mothers need not apply: Canadian welfare law as liberal and neo-liberal reforms’ in *Law and feminism* xlv no.4 (Winter 2007), p. 752.

³¹ *Hansard NI (Commons)*, xi, col. 1693 (3 Dec. 1929).

³² *Belfast Evening Telegraph*, 6 May 1925.

³³ Kennedy, *Cottage to crèche: family change in Ireland*, p. 212.

suggest to the right hon. Gentleman that he should strike the childless widows out of the Bill' and allow for increased amounts for the child.³⁴

While many were against the incorporation of childless widows into the bill, these widows did have advocates inside and outside of parliament. Senator William Barclay asked about the position of the single working woman: 'it is a section that [people] seem to lose sight of . . . They left their situations years ago, when perhaps a mother died, to keep house for the father. They stopped with the father until his death, and after his death perhaps they stopped with a bachelor brother until he died . . . The breadwinner has gone, and no provision has been made for them'.³⁵ The BWAC published a letter with similar advocacy for the single working-woman regarding access to old age pensions, positing that in a time of such high unemployment it was impractical to assume that a single woman would be continuously insured until reaching age sixty-five for their old age pension.³⁶ Emphasising the justice to the industrial worker, the Minister of Labour, John M. Andrews denied the requests to leave the childless widow out of the legislation: 'The husband of the childless widow was a contributor for probably all his industrial career in order that his wife should get a pension when he died'.³⁷ Pederson notes a similar phenomenon regarding the 1925 pensions scheme in Westminster: 'the link between pensions and insurance made men's contribution to industry rather than the needs of women and children the main qualification for payment'.³⁸

Along with the controversy around the childless widow, the aged widow, and the single working-woman, the figure of the unmarried mother also presented a complication to the pensions scheme. Dr Hugh Smith Morrison, UUP MP for Queen's University, and leading advocate for affiliation orders legislation brought the concern of the welfare of the unmarried mother and her child into the widows' pensions debates.³⁹ He noted that during the debates over the affiliation orders legislation, an amendment was voted down which would have enabled a grandmother of an illegitimate child whose mother was deceased to take out an

³⁴ *Hansard NI (Commons)*, vi, col. 1529 (27 Oct. 1925).

³⁵ *Hansard NI (Senate)*, v, col. 433-4 (13 Dec. 1929).

³⁶ See letter to the *Church of Ireland Gazette*, 2 Oct. 1925.

³⁷ *Hansard NI (Senate)*, v, col. 436 (13 Dec. 1929).

³⁸ Pederson, *Family, Dependence, and the Origins of the Welfare State*, pp 151-2.

³⁹ See chapter two for a discussion of Dr Morrison's advocacy for the unmarried mother and affiliation orders legislation.

order against the father for maintenance. Since it was rejected in the affiliation orders act, Morrison brought it forward in this bill. This amendment allowed a potentially orphaned child to seek support from his/her father. However, it was required under the affiliation orders legislation that in order to take out an order, the mother must provide testimony against the father and have one other person to corroborate it. The death of the mother complicated this access to maintenance for the child. While expressing sympathy for the unmarried mother and her child, the government argued that it would be impractical to include an amendment for illegitimate children because it would be near impossible to prove the parentage of the child which would be required to receive a pension. In response, UUP MPs and opposition MPs argued that the government was too strict in this measure. Morrison received support across the aisle from Beattie of the NILP: 'You are depending on a broken stick if you are going to try to prove the parentage of the child. You will never be able to prove that, without a special detective force, or a system like that in operation in Scotland Yard'.⁴⁰ Dr Johnstone pointed out the flaw in this thinking: 'How does the right hon. Gentleman (Mr. Andrews) propose to bring home the responsibility to the father when the only pertinent witness to the fact is already dead?'⁴¹ While the government was sympathetic to Morrison's appeal, the amendment was defeated.

While the illegitimate child could not be legislated for, the act did cover a legitimised child. A solution to the issue of illegitimacy proposed by the government was for the parents to marry and subsequently legitimise the child. Clause 44 in the proposed legislation recognised illegitimate children of parents who subsequently married as allowed to receive pensions. On this, the minister said: "This marriage in a sense wipes out the illegitimacy altogether".⁴² Interestingly, the marriage did not have to be between the mother and the father, it could be the father marrying another woman and raising the 'illegitimate' child in that household. This legitimising amendment is important as it predates the Legitimacy Act in 1926 in England and Wales, and 1928 in Northern Ireland. Regarding clause 44, this section was included in the final act and proved problematic in practice. In April 1926 Jack Beattie brought to the attention of the

⁴⁰ *Hansard NI (Commons)*, vi, col. 1420 (21 Oct. 1925).

⁴¹ *Ibid.*, col. 1534.

⁴² *Ibid.*, col. 1369 (20 Oct. 1925).

House a case of a couple that had a child before marriage, and after the husband died at sea the widow was left without a pension because ‘owing to Section 44 not being rendered operative by a further Legitimising Bill her application was refused’.⁴³ This was a difficulty of falling in line with Britain, as Stormont had not yet introduced a legitimising act and England and Wales had.

While attempts were made to legislate for various categories of insured widows, the very nature of the contributory scheme meant that uninsured widows could not qualify for the scheme. Indeed, the Presbyterian Orphan Society noted: ‘there is a much larger number of orphans than we anticipated not eligible to receive this State pension. Upwards of fifty per cent of the applications for the coming election of orphans are ineligible for the State pension’.⁴⁴ As such the Board of Guardians and outdoor relief were still crucial in the lives of many women and after 1925, the pension scheme eased financial pressure off of the Board of Guardians and allowed more widows to qualify for outdoor relief.⁴⁵ Prior to the introduction of the contributory scheme, necessitous widows with two or more legitimate children could qualify for outdoor relief from the Board of Guardians. After 1925, an increased net of welfare provision was permitted because of the eased financial burden on the Board of Guardians,⁴⁶ and in 1927 the *Report of the Departmental Commission on Local Government Administration in Northern Ireland* recommended that outdoor relief be extended to include a widow with one legitimate child.⁴⁷ These restrictions were not limited to Ireland: in Nova Scotia, Canada, a commission on mothers’ allowances in the 1920s recommended ‘allowances would only be made available to “one class in particular as

⁴³ Ibid., vii, col. 567 (15 Apr. 1926).

⁴⁴ *Sixty-first annual report of the Presbyterian Orphan Society*, 1926 (PRONI, Presbyterian Church records, CR3/50A/6/544).

⁴⁵ After the passing of the 1925 act, national authorities and local authorities worked with each other to carry out the pensions scheme. It appears that the local authorities were informed about the legislation through leaflets at county council meetings. It is unclear if the local authorities were consulted in the writing of the widows’ pensions scheme, but they were definitely not consulted on amendments to old age pensions in 1927. The outrage expressed at not being consulted suggests that it was not unheard of for the state government to coordinate with the local authorities on legislation. See: General Correspondence 10394: Old age pensions (administration) bill, Northern Ireland, Antrim County Council Minutes, Adjourned Quarterly Meeting, 6 Dec. 1927 (PRONI, Local Authorities records, LA/1/2/GB/28).

⁴⁶ *Report of Departmental Commission on Local Government Administration in Northern Ireland* (Belfast, 1927), p. 95 (PRONI, Stationary Office, SO/1/A/73).

⁴⁷ Ibid, p. 94.

unquestionably deserving of state aid, the indigent widow with two or more children to support”⁴⁸.

While the last section discussed how male legislators’ perceived women, it need be asked, how did women react to the legislation? Female industrialists were quoted by the unionist-leading *Northern Whig*⁴⁹ as criticising the British measures and condemning ‘the total inadequacy of the allowances for widows with children’ because they were so low that they ‘would compel the widows still to seek work or relief’ and, among other criticisms, ‘the exclusion of large numbers of poor people and non-manual workers earning between £250 and £350, who are not yet brought within national health insurance’.⁵⁰ The BWAC reacted to the British scheme in May 1925. The Council wrote to the *Northern Whig* that the contributory scheme made good progress but ‘it is a long step from theoretical approval of a reform to practical embodiment of it in legislation. This has at last been done, and the measure will be welcomed, imperfect as it is’. The Council was of the same opinion as women industrialists in England who criticised the low rate that widows and orphans received, suggesting: ‘[it] will not prevent her from applying to the Poor-law or facing the bitter alternative of semi-starvation or of going out to work, in many cases leaving her children inadequately cared for’.⁵¹ The Council also criticised the lack of support for the widow in cases where the breadwinner was alive but chronically ill or permanently injured and unable to work. Finally, it advocated for the rural widow, noting the absence of support for the widow of an uninsured person, including the small farmer.

Other women’s groups commented on the pensions schemes. During the debates over the pensions bill in 1925, the Women’s Section of the NILP invited Westminster MP Eileen Wilkinson to their protest against the contributory scheme. The section moved a resolution that protested against the contributory scheme and called it a ‘mockery and pretence of giving pensions to widowed mothers, orphans, and the aged of the Six Counties. They demanded that the Government withdraw the Bill and introduce legislation to provide adequate pensions to be provided by the

⁴⁸ Morton, ‘Single mothers in Halifax’, p. 99.

⁴⁹ The UUP had leading journalists and newspaper editors in the party, including Robert Lynn, editor of the *Northern Whig*. Walker, *History of Ulster Unionist Party*, p. 76.

⁵⁰ *Northern Whig*, 4 May 1925.

⁵¹ Ibid.

State'.⁵² Conversely, four days later the Pottinger (an east Belfast area) Women Unionists held their annual meeting and praised the new pensions scheme.⁵³ Dehra Chichester, the only female MP in Stormont when the act passed in 1925, celebrated the progress at a meeting of the Londonderry Women's Unionist Association, referring the affiliation orders and widows' pensions,⁵⁴ but warned 'the strides in regard to women's legislation had been so enormous in recent years that she sometimes felt that perhaps it might be better if they stopped this fast pace at which they had been travelling and dropped from a gallop into a quieter mode of progression. She was always afraid that a world-wide reaction might set in if they attempted to go too fast, and they might possibly lose what they had already won'.⁵⁵

III. The border and widows' pensions

In addition to the gendered ideas of poverty and welfare qualification, the new border between the two Irelands also posed an issue about who could qualify for a pension. Many people lived on one side of the border and worked on the other, which complicated insurance contributions as a worker could be paying contributions towards an insurance scheme s/he could never avail of because s/he would not achieve the residency requirements. This was particularly troublesome at the time of writing of the 1925 and 1929 bills in Stormont, as the Free State government did not introduce widows' pensions until 1935, so no scheme of reciprocity could be created. Before examining this specific issue of the migrant worker, it is necessary to examine how the border was discussed more generally in the widows' debates.

In the 1925 parliamentary debates about the pensions scheme, the border was rarely mentioned. This is surprising because in the context of the 1925 boundary commission, one would imagine the border would very much be in the mind of the legislators. Only newspapers appeared to highlight the issue of having pensions on one side of the border and not the other. The *Belfast Evening Telegraph* suggested

⁵² Ibid., 17 Oct. 1925.

⁵³ Ibid., 21 Oct. 1925.

⁵⁴ Ibid., 27 Oct. 1925.

⁵⁵ *Belfast Evening Telegraph*, 27 Oct. 1925.

that the pensions scheme would push north and south further from each other, thus creating issues for nationalist politicians hoping for a united Ireland:

The fact is that the adoption of such measures in Ulster widens the chasm between the Province and the Free State by making their financial systems more and more divergent. It is to be suspected that some of the Opposition recognise this, and, while in their hearts they realise the value of the reforms brought forward, they are painfully convinced that the paths of the Northern and Southern Irish States are diverging more and more.⁵⁶

This point about the unity of the island was particularly crucial in the context of the 1925 boundary commission negotiations. The *Church of Ireland Gazette* was the only paper to specifically discuss the implications of the pensions scheme on the commission. It suggested that should a plebiscite be held,⁵⁷ the old age and widows' pensions offered an attractive reason for the border counties to stay in Northern Ireland:

This pension scheme is of particular interest to the Irish Free State, in view of the fact that the disputed counties of Tyrone, Fermanagh, Armagh, Derry and Down, all have considerable populations of men and women who either have reached the age of sixty-five or are very close to it. How will they vote if a plebiscite is taken? Under the Free State they will get nine shillings a week at seventy. Under Northern Ireland their pension will be ten shillings at sixty-five; and, furthermore, there will be no means test of any kind under the latter. Again, there are thousands of widows in these counties. How will they be tempted to vote? The prospect offers extremely interesting speculations, and we shall be very much surprised if Mr Churchill's Budget does not play an important part in the ultimate settling of our boundary problem.⁵⁸

The mention of old age pensions is particularly important in comparisons between the Free State and Northern Ireland because the two states had different rates in the 1920s. In 1924 Ernest Blythe, the Free State Minister for Finance lowered old age pensions from ten shillings to nine.⁵⁹ The Northern Irish pensions remained at ten shillings, thus in the context of the 1925 boundary commission the press raised some concern that people from the Free State would move north to

⁵⁶ Ibid., 30 Oct. 1925.

⁵⁷ Under Article 12 of the Anglo-Irish Treaty a commission, 'in accordance with the wishes of the inhabitants', was to determine the boundary of Northern Ireland. 'Final text of the Articles of Agreement for a Treaty between Great Britain and Ireland as signed', 6 Dec. 1921 (Documents on Irish Foreign Policy, no. 214, DE/2/304/1). (<http://www.difp.ie/docs/1921/Anglo-Irish-Treaty/214.htm>) (9 Oct. 2016).

⁵⁸ *Church of Ireland Gazette*, 1 May 1925.

⁵⁹ Cormac Ó Grada, "'The Greatest Blessing of All': the Old Age Pension in Ireland" in *Past and Present*, no. 175 (May, 2002), p.150.

benefit from higher pension rates. This was not suggested for widows' pensions in 1925 but it foreshadows the concerns that would be raised in the 1929 debates. A 1925 *Northern Whig* editorial articulated this idea: 'The temptation to shake the dust of the Free State from their feet and settle in Ulster will be strong'.⁶⁰ This echoes a concern expressed by the British Government Actuary's Office (GAO) that warned of '[t]he question of migrations across the border also presents itself. It is, I presume, possible that if a scheme providing enlarged pension rights is established on one side of the border only it may tend to encourage migration to a sufficient extent to create a problem of some importance'.⁶¹ Thus, while legislators did not articulate these anxieties in 1925, the fear of migrants taking Northern Irish benefits and the implications that the introduction of these benefits would have on any potential plebiscite about the border were issues taken up by the press.

A scheme of reciprocity could not be established for widows' pensions because the Free State did not have an equivalent scheme. However old age pensions could be exchanged. After the 1925 widows', orphans', and old age contributory pensions act was passed, the civil service got to work arranging how contributory pensions could transfer between the Free State and Northern Ireland. This involved a bureaucratic network between Dublin, Belfast, and London since, according to the Government of Ireland Act 1920, the British government held the power to legislate relations between dominions, so the border issue required a representative from the Home Office. In order to arrange the payment of contributory pensions from the Free State, the Dominions Office had to coordinate between the Free State and the Northern Irish Ministry of Labour. According to a letter to the Northern Irish Ministry of Labour from the British Ministry of Health, the Free State government 'raise no objection' to the proposed scheme of paying pensions through post offices in the Free State.⁶² Despite this initial success, coordinating this scheme of payment took another two years. In 1933 it was agreed that pensions would be paid through pension orders and issued through the Money

⁶⁰ *Northern Whig*, 16 Oct. 1925.

⁶¹ Government Actuary's department, Whitehall, to the Minister of Labour, Belfast (TNA, Kew, Government Actuary papers, ACT 1/250).

⁶² J.E. Elmes, Ministry of Health, Accountant-General's Department, London, to J. Gorman, Ministry of Labour Northern Ireland, 24 Feb. 1931. (PRONI, Ministry of Labour papers, LAB/5/34).

Order Department of the General Post Office London.⁶³ Therefore a network of individuals between London, Belfast, and Dublin was required to coordinate this scheme.

With the 1929 amending bill to the widows' pension act, the border, and issues relating to legislating around it, came under the close scrutiny of legislators. These debates highlight the complications of legislating after partition and provide evidence of the direct impact this had on women's lives. The prominence of the border in the parliamentary debates was prompted by a clause in the 1929 Westminster widows' act which allowed for the pensioner to carry a pension throughout the dominions. To keep in line with the step-by-step policy, the corresponding Northern Irish bill needed to include such a measure. In the Northern Irish bill, Clause 3 provided for old age and widows' pensions to be carried with Northern Irish pensioners who migrated to a British dominion or elsewhere in the empire. However, the Northern Irish bill diverged from the Westminster act by including additional restrictions in this clause regarding the Free State. In an early debate on this legislation, the Minister of Labour summed up the border issue as: 'We have a condition of affairs here that does not exist in Great Britain, because it is not possible for a Britisher to live in Great Britain and work in the Free State, and, obviously, it is not possible for a Free State worker to live in the Free State and work in Great Britain. It is possible for a Free State industrial worker to live in the Free State and work in Northern Ireland, and that is where the difficulty is'.⁶⁴ This problem demonstrates how partition created issues unique to Northern Ireland and Free State welfare. Particularly, the MPs struggled with how to legislate around the issue that people often lived on one side of the border and worked on the other side.

The British civil service anticipated this issue in May 1925. The British Government Actuary's department prepared a report for the Northern Irish Minister of Labour on 'the probable experience of Northern Ireland in adopting the provisions of the Widows', Orphans', and Old Age Contributory Pensions Bill'.

The report warned:

It should be mentioned also that the estimates . . . assume that insurance depends upon place of residence and not upon place of occupation. This may be a point of some importance in regard to persons resident near to and on either side of the boundary between Northern Ireland and the Irish Free State,

⁶³ Gorman to Elmes, 29 Sept. 1933. (PRONI, Ministry of Labour papers, LAB/5/34).

⁶⁴ *Hansard NI (Commons)*, xi, col. 1915 (19 Dec. 1929).

especially if no corresponding scheme is set up in the Free State, and reciprocal arrangements are therefore impracticable.⁶⁵

In the 1929 debates the prescience of the Actuary's department was proved and the issue of economic migration across the border became a major issue.

In the committee stage of the 1929 pensions bill, MPs looked to see if there could be a provision for these migrant workers. Nationalist Party MP for South Down, John Henry Collins, used the example of Newry lock workers to raise this issue. The Newry Port and Harbour Trust employed men as openers and shutters on the locks, a job that required the employees to live as close as possible to the canal because they were required to do work at night and during the day. In the case of the Newry workers, it was easier to live in the Free State: 'It happens that along the canal there is nothing but woodland and no houses . . . These men live on the other side of the stream dividing North and South'. As such the workers pay into the Northern Irish insurance fund, but as Collins said: 'when they want the benefit they are disqualified because they reside on the other side'. Collins also raised the issue faced by employees of all-Ireland companies. Using the example of the Great Northern Railway, the MP painted the picture of how easily the new border affected access to benefits: 'Only the other day a respectable young ticket checker was promoted and sent to Clones [Co. Monaghan, Free State]. That boy since he went into the employment of the Great Northern Railway has stamped his cards. He is now promoted to Clones. If he comes back on promotion to some other station in this area he is disqualified.'⁶⁶ Partition sits at the root of this issue; all-Ireland companies continued after partition but the worker had to navigate the issue of receiving benefits in post-partition Ireland.

Using these examples, MPs argued that a reciprocal arrangement, such as one which recognised each state's stamps on benefit cards, should be established between the Free State and Northern Ireland. However, at the time of this 1929 bill, the Free State did not have a widows' pensions scheme. As such, the government did not establish a scheme to recognise workers' contributions to the Northern Irish scheme from Northern Irish workers in the Free State. Through this debate over the migrant worker, the wide-ranging implications of partition can be seen on the lives

⁶⁵ Government Actuary's department, Whitehall, to the Minister of Labour, Belfast (TNA, Kew, Government Actuary papers, ACT 1/250).

⁶⁶ *Hansard NI (Commons)*, xi, col. 1727 (19 Dec. 1929).

of industrial widows, for the a widow would not have access to benefits should her worker-husband die. The Minister of Labour summed up the difficult position of legislating for this worker as: ‘. . . if exactly the same conditions applied to the Free State [as the rest of the Empire], you might be giving pensions out of Northern Ireland funds to persons who never lived in Northern Ireland at all, but simply because they happened to work for a time in Northern Ireland, and occupied positions which otherwise would have been occupied by Northern Ireland people’.⁶⁷ To work around the residency concerns, the government included a clause in the bill which required two years residency in Northern Ireland before any pension contributions could be made from outside the jurisdiction. However, Nationalist and Labour MPs argued that many families still fell through the cracks, such as those who did not meet the residency minimum.

The champions of this cause were Nationalist Party MPs, particularly Cahir Healy, MP for the border area of Fermanagh and Tyrone.⁶⁸ He argued that the ‘the vital Clause of the whole Bill’⁶⁹ was clause 12, the residency qualification that required the widow to have two years residence in Northern Ireland before 25 July 1929. Healy made the case for the Northern Irish worker who was forced by economic necessity to work in the Free State. He argued that this worker should have his card stamped in the Free State so he can continue to be eligible for a pension in Northern Ireland. In this criticism Healy highlighted the dire economic position in Northern Ireland and painted the government as out of touch with the population: ‘you are going to penalise some, at all events, of the residents in Northern Ireland who think it much better to seek work in the Free State than to sit and starve in the Six Counties’.⁷⁰ This leads into questions concerning the role that the government saw itself having regarding these workers. Was the government liable for the emigration of workers due to economic necessity? Did it have a responsibility to these workers to legislate around their needs? The Nationalist MPs stressed how the dire economic circumstances pushed workers to find employment across the island and that it was by necessity that they crossed the border. For

⁶⁷ Ibid., col. 1694.

⁶⁸ Eamon Phoenix, 'Healy, Cahir', in James McGuire and James Quinn (ed), *Dictionary of Irish Biography*. (Cambridge, 2009). (<http://dib.cambridge.org/viewReadPage.do?articleId=a3890>) (12 Nov. 2017).

⁶⁹ *Hansard NI (Commons)*, xi, col. 1909 (1909 Dec. 1929).

⁷⁰ Ibid., col. 1911.

instance, Joseph Connellan, Nationalist Party MP for South Armagh and John Fawcett Gordon, UUP MP and parliamentary secretary to the Minister of Labour, clashed over the responsibility of the worker. Connellan raised the issue that a Northern Irish worker would be disqualified from his/her health insurance should the worker take employment in the Free State for a few years. Gordon responded, 'That is his own fault'⁷¹, while Connellan suggested the move was due to the larger economic crisis across the island of Ireland. Connellan argued: 'It is not his own fault . . . you are actually victimising your own people, simply because of an accident, simply because they are trying to earn their living wherever they can and whenever it is easiest for them to earn it. I say that is a most unjust and inequitable state of affairs'.⁷² Here the two MPs disagreed over the role of the government in providing a safety net for its citizens. Healy reiterated this later in the debate: 'Unfortunate people looking for work will take work anywhere. If a man of that kind goes into the Free State to find employment, and comes back, why should he not be allowed to do it without loss of benefit?'.⁷³ Ultimately legislating around the porous border trumped legislating for the specific worker who did not meet the residential qualification.

In his criticism of the relationship with the Free State, Healy also drew attention to the fact that families in Belfast and the border counties were more greatly affected by this clause than others. This raises questions about how people in Northern Ireland experienced legislation. Healy explained: 'It may not affect many people resident in County Antrim or County Down, but affects a great many people resident in the border counties, and it also affects a great many people in Belfast who go for employment into the Free State'.⁷⁴ Collins reiterated this, 'Regarding the references to the Free State, we who live on the Border cannot understand what seems to be the bitterness relating to this particular thing. Certainly that is the idea we have got. We are meeting every day in trade and professional duties people who live on the other side of the Border'.⁷⁵ It is significant that these comments came from Nationalist MPs. Unionist MPs appeared to not articulate the same connection to the border. These debates reveal the complex ramifications of

⁷¹ Ibid., col. 1713 (3 Dec. 1929).

⁷² Ibid.

⁷³ Ibid., col. 1723.

⁷⁴ Ibid., col. 1911 (10 Dec. 1929).

⁷⁵ Ibid., col. 1727 (3 Dec. 1929).

partition. While the island was split officially, Irish men and women treated the border as fluid and worked on one side while residing on another.

Importantly, in the appeals made by these men to extend the scheme to workers affected by the border, neither of them linked it back to the widow, instead, the MPs spoke for the worker. As such the widows legislation can be interpreted in part as an act to ease the mind of the worker. Beattie most clearly articulated his argument in terms of workers' rights, not the welfare of the widows and orphans: 'so far as the workers – the organised workers of Ireland – are concerned we know no boundary, and whether we work in the North or South we are going to see maintained our rights and privileges in regard to the social services, under whatever State or whatever class of government they are operated.'⁷⁶ This brings into question the relationship between this policy and gender: while the act provided welfare to women and children it was often described as a measure to provide comfort to conscience of the breadwinner. The small scale of help supports this perception of the scheme, for 10s/wk was little to live on but the idea of it provided ease to the breadwinner. This act would most directly affect the widow but often it was the breadwinner who took centre stage.

IV. London-Belfast relations

The negotiations between London and Belfast regarding the inclusion of Northern Ireland into the widows' pensions scheme provides insight into the relationship between Belfast and London and the perceptions each had of the other. Further, the early drafting process of this legislation further interrogates what Fitzpatrick labels the 'complex and ill-defined' division of power between Westminster and Stormont.⁷⁷ This is most clearly illustrated by the Northern Irish cabinet's discontent at being excluded from the British pensions scheme. Tensions between the governments came after the Chancellor of the Exchequer, Winston Churchill, delivered the 1925 budget speech. He outlined proposals for the new pensions legislation in England and Wales which excluded Northern Ireland from

⁷⁶ Ibid., col. 1700.

⁷⁷ Fitzpatrick, *The Two Irelands*, p. 144.

the scheme. The Northern Irish Minister of Labour took issue with this and in a May 1 cabinet meeting he said: ‘He failed to understand why a matter so closely associated with our interests should have been decided upon without our even being consulted’.⁷⁸ Similarly, Prime Minister Craig expressed dissatisfaction with this development: ‘he was surprised that it had not been mentioned to us even in confidence’.⁷⁹ From these comments it can be gleaned either that the Northern Irish cabinet felt that it deserved a greater presence in the mind of the imperial government and a greater role in the imperial government’s policy-making decisions.

It was in the interests of Northern Ireland to be included in the British widows’ pensions scheme because the Northern Irish contribution to the pension fund could then be covered by the imperial government. Left on its own, there was concern in government and in industry that the Northern Irish scheme would be too costly since the government did not have access to significant funds and did not have the power to raise taxes to support the scheme. The case for Northern Ireland’s inclusion in the bill was difficult, since, as Johnson notes, funding to the province was not a priority for the British government in the early 1920s. Instead economic retrenchment and curtailing of expenses to pay off the war debt was the main focus of British financial policy.⁸⁰ As discussed above, the Colwyn Committee awarded Northern Ireland funds for social services based on population demographics, but there was uncertainty if this would be sufficient. In the above-mentioned cabinet meeting the Minister of Labour suggested ‘he doubted very much if the provision on a population basis would suffice for our probable requirements’ for widows’ pensions.⁸¹ As will be discussed below, this was due to different demographics than England and a higher reliance on social security than the rest of the UK.⁸² As such,

⁷⁸ Cabinet conclusion file, 1 May 1925. (Archives Unbound, Northern Ireland: A Divided Community, 1921-1972 Cabinet Papers of the Stormont Administration, CAB 4-141) (<http://go.galegroup.com/gdsc/i.do?&id=GALE%7CSC5108369632&v=2.1&u=tcd&it=r&p=GDSC&sw=w&viewtype=fullcitation>) (7 Oct. 2014).

⁷⁹ Ibid.

⁸⁰ Johnson, ‘Northern Ireland economy’, p. 204.

⁸¹ Cabinet conclusion file, 1 May 1925 (Archives Unbound, Northern Ireland: A Divided Community, 1921-1972 Cabinet Papers of the Stormont Administration, CAB 4-141) (<http://go.galegroup.com/gdsc/i.do?&id=GALE%7CSC5108369632&v=2.1&u=tcd&it=r&p=GDSC&sw=w&viewtype=fullcitation>) (7 Oct. 2014).

⁸² For instance, Northern Ireland’s unemployment figures were among the highest in the UK, second only to Wales. From 1923 to 1930, 19% of the insured labour force in Northern Ireland was unemployed, rising to 27% between 1931 and 1939. Johnson, ‘The Northern

the Northern Irish cabinet saw inclusion in the British scheme as more desirable and lobbied British officials accordingly.

Following the 1 May cabinet meeting, the Craig administration tapped into a network of Northern Irish and British legislators to make its case. However, it appears this was not reported to the press or discussed in the Commons, as in May 1925 the Minister of Finance said in Commons that the government was writing a separate bill that would be introduced along the same lines as the bill in Britain.⁸³ Similarly, the cabinet's dissatisfaction was not reported to the press, nor did the press independently criticise Westminster for excluding Northern Ireland from the bill. Throughout the debates in Westminster over the pensions bill the *Northern Whig* and the *Belfast Evening Telegraph* did not take issue with the exclusion of Northern Ireland from the scheme. However, by July the *Belfast Newsletter* reported it 'being an open secret for some time past that the matter was under consideration by Sir James Craig and his colleagues'.⁸⁴ While this was not initially acknowledged, that does not mean these papers did not cover the development of this bill. In fact the papers published detailed reports of the announcement of the budget which included the pensions scheme (praising 'Mr Churchill's budget' as the budget that will be known for years after as 'the Budget of the widow and the orphan'⁸⁵), proceedings in the House of Commons, and summaries of the explanatory memorandums of the bill. This detailed coverage however, concerned a scheme which the Northern Irish public believed they would not qualify for because the papers did not discuss where Northern Ireland stood in the bill. This could be reflective of Northern Irish interest in British politics and the wider identification with Britain. It could also be argued that this close attention to British politics was due to the knowledge that parallel legislation was likely to be introduced in Stormont over the following year.

Ireland Economy', p. 191. Johnson notes that Northern Ireland had a higher level of unemployment insurance benefits relative to incomes than in Britain.

⁸³ See address by Hugh M. Pollock in the House of Commons: 'I wish to reassure the House and the country, however, by stating that the Government is hopeful that when the Joint Exchequer Board has interpreted the findings of the Colwyn Committee, we may be in a position to introduce the necessary legislation in the autumn to put us on lines parallel, or as near parallel as our financial resources will permit, with Great Britain in respect of these two ameliorative reforms'. *Hansard NI (Commons)*, vi, col. 477 (7 May 1925).

⁸⁴ *Belfast Newsletter*, 11 July 1925.

⁸⁵ *Northern Whig*, 1 May 1925.

Nevertheless, the efforts to fold Northern Ireland into the British scheme continued. In the days following 1 May cabinet meeting, Northern Irish ministers went to London to meet with British officials. On 8 May the Minister of Labour, John M. Andrews, and Lord Londonderry met with Neville Chamberlain, the British Minister of Health. Reporting back to Craig about the meeting, Andrews' letter echoes the frustration of the cabinet the week before about not being heard by the imperial government: 'we had some difficulty in getting him to appreciate our point of view and he was very non-committal in his replies to the various arguments which we raised. I felt that he scarcely appreciated our position . . .'.⁸⁶ To further clarify the Northern Irish position, Andrews suggested that he write a memorandum 'setting out our position and our claim', a decision Chamberlain 'appeared to be pleased at'.⁸⁷ It is important to note that the frustration here differs from Irish nationalist frustrations toward the imperial government. Here the Northern Irish Unionist MPs were looking for closer legislative relationship with Westminster, not more independence. Walker discusses this point: 'Devolution was not used, contrary to the commonly perceived dynamics of a delegation of power, in order to diverge significantly from Britain. Craigavon's governments, in fact, attempted as much as possible to affirm the Province's British identity through the constitutional arrangements Unionists had been given . . .'.⁸⁸

Andrews' trip was not wholly unsuccessful. In addition to meeting the Minister of Health, he consulted prominent civil servants on the Northern Irish position. This included Sir Walter Kinnear, the adviser to Chamberlain on this pensions scheme, and Sir Alfred Watson, the imperial Government Actuary, who were both in favour of Northern Irish inclusion in the bill.⁸⁹ This initial support from Watson was particularly crucial. Pederson identifies him as the key architect of the final pensions scheme: 'Both the contributory nature of the final pensions bill and the decision to include provision for widows without dependent children were largely the work of permanent officials, and especially of the government actuary, Sir Alfred Watson. Watson played a crucial role in transforming the radical demand

⁸⁶ John M. Andrews to James Craig, 8 May 1925 (PRONI, Cabinet papers, CAB/9/C/11/1).

⁸⁷ Ibid.

⁸⁸ Walker, *A history of the Ulster Unionist Party*, p. 77.

⁸⁹ Ibid.

for endowment into the placid widows' pensions bill'.⁹⁰ This was part of a wider phenomenon in London of permanent civil servants having a stronger role in social policy formation than the government throughout the 1920s. Therefore by getting support from the 'coterie of permanent officials'⁹¹ Andrews' efforts were looking encouraging. For instance, on 13 May after the introduction of the widows' bill to Westminster, he reported to the cabinet: '[the advisor to the Minister of Health] was favourable to Northern Ireland being included in the Bill and was urging this course. The Minister of Education also stated that [Prime Minister] Mr Baldwin had asked during the discussion . . . how the scheme would affect Northern Ireland, which clearly indicated a sympathetic attitude towards us'.⁹² It is unclear whether the Northern Irish ministers misread the British politicians or if circumstances changed, but these predictions ultimately proved incorrect. Only weeks later Andrews reported a change in this support. He said from conversations with Kinnear, Watson, and the Permanent Secretary of the Ministry for Health, Sir Arthur Robinson, the possibility of Northern Ireland joining a common insurance fund was looking increasingly unlikely.⁹³

The memorandum prepared for Chamberlain by Andrews sheds light on the wider motivations for Northern Irish integration in UK-wide insurance schemes. This places the widows' pensions scheme in its wider context of the Belfast-London relationship. Andrews called for a common treasury pensions account to be created and argued that this shared account, rather than a separate Northern Irish scheme, was in the best interest of the UK. The strength of Northern Ireland's claim was rooted in an appeal to the step-by-step policy: '[The government of Northern Ireland] has without hesitation decided that the same advantages must be afforded to the people of Northern Ireland as to their fellow citizens in Great Britain, and that they should commence at the same time. This attitude is in keeping with the policy of maintaining social standards in Northern Ireland on a par with those obtaining in

⁹⁰ Pederson, *Family, Dependence, and the Origins of the Welfare State*, p.169. See chapter three of Pederson's book for an analysis of the endowment of motherhood movement in early 1920s Britain.

⁹¹ Ibid.

⁹² Cabinet conclusion file, 13 May 1925 (Archives Unbound, Northern Ireland: A Divided Community, 1921-1972 Cabinet Papers of the Stormont Administration, CAB 4-142) (<http://go.galegroup.com/gdsc/i.do?&id=GALE%7CSC5108369673&v=2.1&u=tcd&it=r&p=GDSC&sw=w&viewtype=fullcitation>) (2 Oct. 2014).

⁹³ Minute of Cabinet meeting, 23 May 1925 (PRONI, Cabinet papers, CAB/9/C/11/1).

Great Britain'.⁹⁴ The minister also noted that since the pensions were to be incorporated into the existing scheme of the National Health Insurance, of which Northern Ireland was a part, it was logical to incorporate Northern Ireland into a UK-wide pensions scheme and establish reciprocal arrangements instead of writing separate legislation. The memorandum concludes with an appeal to the shared identity across the UK: 'Apart from these problems of administration the inclusion of Northern Ireland in the British scheme would be entirely in harmony with the desire of the government and people of Northern Ireland to remain in the closest possible association with Great Britain'.⁹⁵ Craig attached this to his own memorandum to Churchill, adding that the Northern Irish inclusion was crucial to the continued shared identity between the two islands: 'it will tend to still further knit the ties between the two Countries, which we all so much desire'.⁹⁶ This positioning of the widows' bill as a strategic piece of legislation for Northern Irish-British relations was a common theme throughout the drafting process of the Northern Irish legislation.

Further insight into how the administration saw its relationship to London is evident in the letters from James Craig to UUP MPs in Westminster in which he asked them to introduce amendments for Northern Ireland. In a letter to Herbert Dixon, UUP MP for Belfast East, Craig explained how this move would strengthen his case to Baldwin: 'I am writing to D.D. Reid [MP for Co. Down] telling him to put down amendments to the Pensions Bill bringing Northern Ireland within its scope. This will strengthen my hands in pressuring Stanley Baldwin, to whom I have written asking for an early interview on the subject'.⁹⁷ Craig's letter to Reid reveals more about the strategic use of the widows' pensions beyond this specific piece of legislation. In particular he stresses how success with the pensions scheme could secure a precedent for a UK-wide unemployment insurance scheme, a system that would be more favourable to Stormont than a Northern Irish-specific scheme. Securing a place in the unemployment insurance scheme appeared to be the ultimate goal of the Northern Irish politicians. Inclusion in the pensions scheme was

⁹⁴ Memorandum prepared by John M. Andrews, 'Widows, Orphans and Old Age Contributory Pensions Bill. Reasons why the Government of Northern Ireland desires to be included in the British Scheme', c. 8 May 1925 (PRONI, Cabinet papers, CAB/9/C/11/1).

⁹⁵ Ibid.

⁹⁶ James Craig to Winston Churchill, 8 May 1925 (PRONI, Londonderry papers, D3099/2/10/3/1-6).

⁹⁷ James Craig to Herbert Dixon, 30 June 1925 (PRONI, Cabinet papers, CAB/9/C/11/1).

the first stepping-stone to this success. Craig asked Reid and the other UUP MPs to introduce the amendments in the Committee Stage, highlighting that Prime Minister Baldwin had yet to support Craig's appeal. Craig carried on to stress that securing a joint fund in this case had huge implications for Northern Irish social policy:

This is the settled policy of our Cabinet as much on the merits of the case as because we are most anxious to establish the principle that large Insurance schemes should be spread over the widest possible area, which procedure would save us if applied to Unemployment Insurance . . . By pressing the Government on the present Bill we may secure our desires regarding *the larger and more important matter* ⁹⁸ [emphasis added]

Again, the significance of this legislation to the Stormont cabinet lay in financial and political security, rather than an important piece of welfare legislation. While it was acknowledged as an act of great importance to widows and orphans, much of the talk about the act was on its implications for Belfast-London relations and the future of the unemployment scheme. It is important to note that the latter scheme would also provide far-reaching welfare for women and children in Northern Ireland. Therefore the success of one social insurance scheme was seen as securing success for the other.

However, it appears that part of the British government's reticence to encourage amalgamated social insurance in July 1925 was due to the constitutional implications such a relationship might have had on Belfast-London-Dublin relations. The imperial cabinet subcommittee on the amalgamation of social services between Northern Ireland and England commented on its concerns about incorporating Northern Ireland into a pensions scheme: 'it seems to us clear that any such scheme would raise difficult questions as to the constitutional relationships between Great Britain, Northern Ireland, and the Irish Free State as laid down in the Articles of Agreement scheduled to the Irish Free State (Agreement) Act, 1922 – Article 12 of those Articles . . .' Article 12 allowed Northern Ireland to reject the powers and government of the Free State in its jurisdiction and the Government of Ireland Act, 1920 would remain in force. In a report from the sub-committee, the potential threat that an amalgamated insurance scheme had on this constitutional relationship was explained:

The Irish Free State Government . . . claimed that any extension of the powers of the Government of Northern Ireland would be a blow at the cause

⁹⁸ James Craig to D.D. Reid, 30 June 1925 (PRONI, Cabinet papers, CAB/9/C/11/1).

of reuniting the country and a clear violation of the spirit of the Treaty . . . It seems to us certain that they would equally claim that any diminution of those powers, tending as it would towards the ultimate re-inclusion of Northern Ireland in the political system of Great Britain, was a violation of the Treaty. It is by no means certain that such a claim could be upheld; but we submit that it would be in the highest degree undesirable that, if it can reasonably be avoided, the issue should ever be raised.⁹⁹

Therefore, in addition to financial concerns about incorporating Northern Ireland into a social insurance scheme, issues stemming directly from the political and constitutional consequences of partition played a crucial role in decisions about welfare policy in the UK.

As the minsters petitioned British officials for inclusion into the British scheme, they also made preparations for the terms of the Northern Irish bill should their lobbying efforts fail. In this context, the Minister of Finance, Hugh M. Pollock, drafted a memorandum on social expenditure in Northern Ireland. While this was written in the context of the widows' pensions bill, the memorandum is a crucial source for any study of early social policy in Northern Ireland, for it discusses step-by-step more generally. It is worth noting that Pollock has been identified by historians, including Bew and Walker, as falling on the anti-populist side of the Craig cabinet. Bew *et al.* discuss how the 'anti-populist' section of the cabinet, including Pollock, the Minister of Commerce John Milne Barbour, and the head of the civil service Wilfrid Spender advocated reduced public spending while the 'populists', Craig, Andrews, and Minister of Home Affairs Sir Dawson Bates, strictly supported step-by-step and promoted the spending of public funds to support the population.¹⁰⁰ Bew argues that the populists took a 'great British' attitude to policy, hence the emphasis on step-by-step, whereas the anti-populists pursued a vision of 'little Ulster', that is, allowing for Northern Irish-specific policies.¹⁰¹ This latter attitude is evident in Pollock's memorandum on social expenditure. On this question of applying British social legislation to Northern Ireland, Pollock called for a nuanced approach to the policy of parity. He suggested that the British law be adapted to Northern Irish demographics 'to ensure that an

⁹⁹ Report of the sub-committee on amalgamation of social services, Cabinet Committee on Northern Ireland unemployment insurance fund, 15 July 1925 (TNA, Kew, Government Actuary papers, ACT 1/250).

¹⁰⁰ Bew, Gibbon, and Patterson, *Northern Ireland 1921-2001*, p. 48; also see Walker, *History of Ulster Unionist Party*, p. 64.

¹⁰¹ Bew, Gibbon, and Patterson, *Northern Ireland 1921-2001*, pp 51-2.

unquestioning adoption of British social legislation will not lead Northern Ireland into expenditure which fails to carry out the desired object, or is harmful to the economic well-being of the country'.¹⁰² This is a crucial element of the policy of parity, as it suggests that the government should follow the spirit of the British law instead of the letter. This approach was necessitated by the different demographics of Northern Ireland and Great Britain. As such, the minister suggested 'it is obvious that the people of Northern Ireland can never have social standards identical with those of Great Britain, because their requirements are not the same' [emphasis in original].¹⁰³

These differences were highlighted in a *Northern Whig* editorial in May 1925: 'Our unemployment problem may be altogether different. Our province is predominantly rural'.¹⁰⁴ This demographic issue was not limited to the first pensions bill, as late as 1937, the new Minister of Labour, Major David Graham Shillington, raised the issue:

the rates of mortality both of male and female lives are greater than the corresponding rates in Great Britain. Secondly, a smaller proportion of men marry than in the case of Great Britain, and the average age at marriage is appreciably later. Further, the birth rate is higher in Northern Ireland than in Great Britain with the result that on average the number of children under 16 in a family is larger . . .¹⁰⁵

The British civil service also highlighted demographic differences that had a bearing on widows' pensions, in particular that the remarriage rate in Northern Ireland was 55% that of Great Britain.¹⁰⁶ Despite these demographic differences, Pollock argued in his 1925 memorandum that the social services could still remain at par: 'There is nothing, however, to prevent them from having equivalent social standards in every direction, but the means by which these equivalent standards may be attained need not necessarily, and probably would not be, the same as in

¹⁰² Memorandum by John M. Andrews on Social Expenditure. c. Sept. 1925 (PRONI, Cabinet papers, CAB/9/C/11/1).

¹⁰³ Ibid.

¹⁰⁴ *Northern Whig*, 15 May 1925.

¹⁰⁵ Cabinet conclusion file, 1 Oct. 1937 (Archives Unbound, Northern Ireland: A Divided Community, 1921-1972 Cabinet Papers of the Stormont Administration, CAB 4-383) (<http://go.galegroup.com/gdsc/i.do?&id=GALE%7CSC5108379990&v=2.1&u=tcd&it=r&p=GDSC&sw=w&viewtype=fullcitation>) (7 Oct. 2014).

¹⁰⁶ Contributory pensions review – Northern Ireland, 15 Oct. 1924 (TNA, Kew, Government Actuary papers, ACT 1/281).

Great Britain'.¹⁰⁷ However, this element of the policy of parity was not without its problems. The range in which the government could modify British acts to fit Northern Irish legislation was a source of tension between the cabinet and the House of Commons, as seen in the affiliation orders legislation debates.¹⁰⁸

Crucially, step-by-step was not attached to any UK-wide party politics, as Craig's cabinet implemented social legislation from Conservative and Labour governments. When introducing the 1929 bill, the Minister of Labour addressed the question of whether he took issue with introducing legislation from the Labour government. He said: 'it has always been the policy of this Government . . . to go in parity with Great Britain in connection with these social services . . . [there is] no reason why we should deprive in any way our industrial classes of those privileges and advantages which their fellow countrymen in other parts of the United Kingdom enjoy'.¹⁰⁹ Therefore the step-by-step policy could defy party politics in the Belfast-London relationship.

This question of falling in line with Britain was not limited to the cabinet. Once the Westminster bill was introduced without provision for Northern Ireland, the BWAC wrote an extensive letter to the *Northern Whig* which commented on the provisions of the Westminster bill and concluded with a call for action. The rhetoric employed by the council demonstrates how a section of the public embraced the step-by-step policy and the language of devolved government:

What action does the Government of Northern Ireland propose to take in the matter? They have repeatedly said they wish to place Northern Ireland in a position of equality of privilege and benefit with Great Britain. Some official declaration should be made before Parliament adjourns . . . There is no reason why the widowed mother in Northern Ireland should be left to struggle with privation and hardship while in Great Britain a measure of relief is given.¹¹⁰

While the mother and child were the object of the bill for the Council, the government had the additional goal of securing a precedent of British financial support for future social insurance schemes.

¹⁰⁷ Memorandum by John M. Andrews on Social Expenditure. c. Sept. 1925 (PRONI, Cabinet papers, CAB/9/C/11/1).

¹⁰⁸ See chapter two.

¹⁰⁹ *Hansard NI (Commons)*, xi, col. 1689 (3 Dec. 1929).

¹¹⁰ *Northern Whig*, 30 May 1925.

V. Public reaction to the scheme

By July 1925 the government announced it was no longer seeking incorporation into the British pensions scheme and would instead pursue its own Northern Irish scheme.¹¹¹ To keep in step with Britain, the bill that was introduced in October 1925 was almost identical to the British scheme. While the cabinet was intent on maintaining parity with England so future financial arrangements could be secured, MPs in Stormont criticised the step-by-step policy from a welfare standpoint, as it did not allow for development of the policy in favour of necessitous widows and orphans. The NILP MPs, Jack Beattie and William McMullen, and in particular their leader Sam Kyle, heavily criticised the contributory aspect of the scheme and ultimately voted against it because that system only covered the specific class of widows of employed insured men. A non-contributory bill would have provided for a wider class of necessitous widows, however not only would this have been out of step with the British legislation, it would have required the state to provide the funds for the pensions. In this criticism, the NILP argued that the bill was not a welfare bill but an insurance bill that only supported the small amount of the population who could pay into the insurance fund. Further, these MPs argued that this insurance bill set a precedent for a limited form of state support and did not provide the opportunity to bring in bills for necessitous widows and orphans at a later date. On this point, Beattie argued: 'I certainly do not agree with the Bill being classified as a Pensions Bill, and am in full sympathy with my colleagues that it is an Insurance Bill, and by adopting that we are clearing the way to bring in a real Pensions Bill for the widows and orphans of the class which we on this side of the House represent'.¹¹² In and out of Stormont, the NILP criticised government's bill as inadequate, and Labour positioned itself as the party that had widows best interests at heart.¹¹³

Even before a bill was introduced in Stormont, the NILP was leading the charge against the contributory bill. In July 1925, after the announcement that the imperial government would introduce a contributory pensions scheme, the Central

¹¹¹ See *Belfast Newsletter*, 11 July 1925.

¹¹² *Ibid.*, vi, col. 1407 (21 Oct. 1925).

¹¹³ Throughout the debates over this bill, NILP, Unionist, and Nationalist MPs all claimed a legacy of support for widows' pensions and each claimed to be the most dedicated to widows pensions.

Women's section voted to hold a protest meeting against the contributory scheme and to demand non-contributory mothers' pensions in Northern Ireland.¹¹⁴ In the Section's annual report they noted that 1099 people attended the meeting, adding: 'We will look back with pride to this our first venture'.¹¹⁵ The action against the contributory bill was not limited to Labour. The BWAC also lobbied for a non-contributory scheme. In a letter to the *Northern Whig*, the Advisory Council criticised the decision to introduce a scheme based on the British pensions because it excluded a significant portion of the widows in Northern Ireland and the benefits were deemed insufficient.¹¹⁶ This argument mirrored the debates in the Stormont House of Commons that took issue with the step-by-step policy of the Craig cabinet.

This discussion of the policy also highlighted how different parties saw the role of the government in relation to people's welfare. Lord Londonderry, the Minister of Education and the head of the Senate, articulated the government's opinion when he introduced the 1925 bill to the Senate: 'Let me say here and now that the benefits provided are not sufficient to maintain fully the persons for whom they are intended. We have never laid claim to that. In our opinion it is not the business of the State to provide such full maintenance, but rather to lay the foundation of thrift and to encourage building thereon by the workpeople themselves by their own efforts'.¹¹⁷ Londonderry then suggested that there was a moral reason behind such a position taken by the government: 'A scheme of this kind will encourage, rather than diminish, the self-respect and self-reliance of the people. A scheme on a non-contributory basis would, in our opinion, tend to sap those very qualities of self-reliance which have made our people a great people'.¹¹⁸ This was reiterated by an editorial in the *Belfast Evening Telegraph*: 'they will be able to spend the evening of the days in measure of contentment and with that self-respect that comes to men and women who are receiving that for which they

¹¹⁴ Minutes from the meeting of the Central Women's Section of the Northern Ireland Labour Party, 6 July 1925 (PRONI, Central Women's Section of the Northern Ireland Labour Party records, D3311/1).

¹¹⁵ Annual Report of the Central Women's Section of the Northern Ireland Labour Party, 3 Nov. 1925 (PRONI, Central Women's Section of the Northern Ireland Labour Party records, D3311/1).

¹¹⁶ Belfast Women's Advisory Council to the *Northern Whig*, 30 Sept. 1925 (PRONI, Cabinet papers, CAB/9/C/11/1).

¹¹⁷ *Hansard NI (Senate)*, v, col. 297 (29 Oct. 1925).

¹¹⁸ *Ibid.*

laboured and to which they contributed out of their own earnings'.¹¹⁹ Therefore, while bound by the step-by-step policy to introduce a contributory scheme, the government also maintained that this type of scheme was the best for the Northern Irish people. This adds to this thesis's investigation into what agency the government had in writing social policy within the restrictions of the step-by-step policy. In this case the government suggested that introducing a bill based on the terms of the Westminster act was in the best interests of the people of Northern Ireland. Moreover, Londonderry's point sheds light on the relationship between the government and civil society groups, as it is evident that the government was reliant on these groups to provide support to necessitous widows and orphans.

The role of civil society in supporting widows provides a fuller understanding of how this element of women's welfare was treated. It also provides more insight into what role each government saw itself as having in supporting widows alongside the efforts of civil society. Prior to the introduction of a state scheme in either of the Irish states, charitable groups such as the SVP, which ran on an all-island basis after partition, provided moral and material support to widows.¹²⁰ Private organisations also provided widows' pensions for their members' wives, such as the Church of Ireland Clergy Widows and Orphans Society which provided for families of clergymen and the Irish Benevolent Fund which gave almost all of its aid to 'widows and orphans of the medical men who served in the Irish Poor Law medical services'.¹²¹ In a report about the latter, Belfast was named alongside Dublin as having, 'apart from their advantage in numbers, been the most liberal subscribers to the fund'.¹²² Support was not limited to employment groups: the Southern Irish Loyalists Relief Association provided for widows and dependents of ex-RIC men and received funds from subscribers in Northern Ireland.¹²³ The Presbyterian Orphan Society in Northern Ireland provided for orphaned children and children of widows. In 1926 it reported having 2715 children 'on the Roll',

¹¹⁹ *Belfast Evening Telegraph*, 14 Oct. 1925.

¹²⁰ See annual reports of St Vincent de Paul Society, (DDA, Archbishop Byrne Papers, Lay Organisations, A37 Box 1); for more on SVP see: Máire Brighid Ní Chearbhaill, 'The Society of St Vincent de Paul in Dublin, 1926-75' (PhD thesis, NUI Maynooth, 2008).

¹²¹ *British Medical Journal*, 20 Oct. 1923. This was a cross border fund. The 1923 report discusses the Fund receiving donations from both sides of the border.

¹²² *Ibid.*

¹²³ Letter from the Southern Irish Loyalists Relief Association, 1939 (PRONI, Ulster Women's Unionist Council papers, D2688/1/60).

2455 of whom were ‘fatherless’.¹²⁴ The societies did not provide a huge sum, as they mostly relied on the donations from the public. In fact in 1926 the Presbyterian Orphan Society wrote: ‘the State grant, which is recognised as a minimum, has revealed the inadequacy of our former grants, and if our own orphans are to receive anything approaching the grants made by the State, then the amounts contributed by our subscribers in the past must be increased. The sum needed to meet the needs of the orphans last year was £25 000, which was double the amount needed in pre-war times’.¹²⁵ While the state pension scheme was very welcome by the societies, the issue of destitute widows and children was not solved.

Civil society groups also advocated for the introduction of widows’ pensions legislation. In 1924 the UCCCI, an all-Ireland committee appointed by the General Synod of the Church of Ireland in 1922, communicated with the governments in the new states about the reform of laws relating to widows’ pensions.¹²⁶ After the introduction of the schemes, these groups continued to support necessitous widows. The SVP ensured widows had access to information about pensions. The Conferences of St Canice, Limavady and St. Teresa, Belfast, reported their members helping widows secure pensions and answering questions about the pensions. In fact, the Limavady conference established a special committee of the conference to specifically address these concerns.¹²⁷ These groups provided an essential service to widows and the government relied upon their dedicated work and support. Indeed, the Minister of Labour repeatedly stressed that the reason for low pension rates was because the government based the rates on the belief that charitable associations would continue to support widows in addition to state relief. The Northern Irish politicians’ sentiment about this role echoed that of the Conservative Party in Westminster in May 1925 when Chamberlain explained the bill: ‘It was not the function of any system of State Insurance to supersede any other kind of thrift’.¹²⁸ The Northern Irish government was heavily criticised for the low rates of relief. Thomas Henderson, Independent Unionist MP for Belfast North,

¹²⁴ *Sixty-first annual report of the Presbyterian Orphan Society*, 1926 (PRONI. Presbyterian Church records, CR3/50A/6/544).

¹²⁵ Ibid.

¹²⁶ *Journal of the General Synod of the Church of Ireland* (Dublin, 1924) (RCB, General Synod journals), pp 319-20.

¹²⁷ St. Vincent de Paul Society, *Report of the Council of Ireland* (1930), p.33, p. 38 (DDA, Archbishop Byrne Papers, Lay Organisations, A37 Box 1).

¹²⁸ Chamberlain quoted in *Northern Whig*, 18 May 1925.

said: ‘we know quite well that at the present time in the City of Belfast people are paying anything from 6s to 10d to keep a dog in the home on the Lisburn Road, and how any Government could suggest for one moment that we should ask a mother to keep a child for 5s for seven days in the week is beyond my comprehension’.¹²⁹ It should be noted that these pension rates were not unheard of across the empire at this time. A year later, in 1926, New South Wales passed a pensions scheme that provided £1 a week plus 10 shillings for each child under the age of fourteen.¹³⁰

Outside the House of Commons, the government also faced criticism about the contributory scheme. Industrial business owners protested that the contributory nature of the act would place too large of a burden on industry in a time of economic downturn. Even the Minister of Finance articulated this criticism in September 1925: ‘It was, I think, the opinion not only of the Ulster cabinet but also of the general public in Ulster that Mr Stanley Baldwin would have been well-advised to have postponed the introduction of the Contributory Pensions for a few years and not to place on industry this additional burden . . . it is certainly open to question whether any money available could not be utilised to better purpose in child welfare schemes or in schemes which will improve employment’.¹³¹ Industrial owners wrote to MPs to protest against the introduction of the bill. Their letters took a similar approach of noting how important the legislation was for widows and children, but asked the government to postpone its introduction until the economy improved. T.W. Haughton wrote to Capt. Charles Craig, Unionist MP in Westminster and brother of Prime Minister Craig.¹³² ‘The normal circumstances such a proposition as the Bill in question might be considered reasonable, but to saddle us with it now is really beyond all limits of endurance’ [emphasis in original].¹³³ Captain Craig was in agreement with Haughton’s logic, but the step-by-

¹²⁹ *Hansard NI (Commons)*, vi, col. 1503 (21 Oct. 1925). Jack Beattie agreed, declaring: ‘We find that this sum places a lower estimate on the child than is placed on some of the canine animals that go about our city’. Ibid, col. 1506.

¹³⁰ Damousi, ‘The state and the widow: pension debates in inter-war years Australia’, p. 100.

¹³¹ Memorandum by Hugh M. Pollock on the Proposed Contributory Pensions Bill, 3 Sept. 1925 (PRONI, Cabinet papers, CAB/9/C/11/1).

¹³² “Craig, Capt. Rt Hon. Charles Curtis, (19 Feb. 1869–28 Jan. 1960), PC Ire. 1922; DL Co. Down.” WHO’S WHO & WHO WAS WHO. (<http://www.ukwhoswho.com/view/10.1093/ww/9780199540891.001.0001/ww-9780199540884-e-236134>) (30 Nov. 2017).

¹³³ T.W. Haughton to Capt. Charles Craig, 19 June 1925 (PRONI, Cabinet papers, CAB/9/C/11/1).

step process forced his hand. He replied to Haughton: 'I think it would have been more prudent had the Government aimed at reducing the Income Tax by 1/- in the £ this year, thus assisting businesses generally and creating confidence amongst our Manufacturers, and then subsequently, say in two years' time, bring in the Bill to which Haughton raises objection'.¹³⁴ The government also received correspondence from various industrial and agricultural associations detailing resolutions passed that opposed the legislation. This included the Ulster Farmers Union, the Ulster Agricultural Organisation Society, the County Londonderry Committee of Agriculture, the County Tyrone Committee of Agriculture, and the Belfast Chamber of Commerce.¹³⁵

This criticism about the burden imposed on industry was not unique to Northern Ireland. In early press reports about the British bill, this was one of the first issues raised. Following the Budget speech, the Labour Party in Westminster argued: 'Why should industry be called upon to bear the burden of the pension? This was a charge which should be placed on the whole community. Everyone should share the responsibility and the liability. A non-contributory plan was the only sound one'.¹³⁶ Similarly, the *Belfast Evening Telegraph's* Westminster correspondent wrote: 'it may be said that no doubt is entertaining that the scheme will go through, but with a modification to secure that the incidence of the burden on industry shall not be greater than industry in its present condition can bear'.¹³⁷ Discussing Chamberlain's speech in Westminster about the bill, the *Northern Whig* also reported: 'No doubt 10s was insufficient to keep a grown man or woman with the necessities of life, but financial reasons prevented a higher figure . . . In view of the burden on industry it was impossible to go beyond 10s'.¹³⁸ The *Daily Mail*, reprinted in the *Whig*, commented on public opinion regarding pensions and industry:

The public has now had some days to examine the new insurance scheme . . . That examination has not removed the general anxiety at such immense and expensive commitments . . . The feeling is widespread among responsible men that the scheme ought to be postponed until trade has improved . . . we have little hope that Ministers will respond to public

¹³⁴ James Craig to Capt. Charles Craig, 23 June 1925. (PRONI, Cabinet papers, CAB/9/C/11/1).

¹³⁵ See correspondence in PRONI, Cabinet papers, CAB/9/C/11/1.

¹³⁶ *Northern Whig*, 4 May 1925.

¹³⁷ *Belfast Evening Telegraph*, 8 May 1925.

¹³⁸ *Northern Whig*, 18 May 1925.

opinion and take the right course. The scheme imposes an enormous burden on both capital and labour. The country wanted, not more burdens, but freedom from some of its existing burdens, which are beyond its capacity to support.¹³⁹

From these reports, Northern Irish readers, including industrialists, could have anticipated the criticisms of the Northern Irish bill to come. With the knowledge of how these debates concluded across the water, it is interesting that Northern Irish politicians and industrialists engaged in these same debates knowing that ultimately the Northern Irish legislators had little manoeuvring power to amend the bill away from the British precedent.

Rural and agricultural labourers also opposed the bill. In September 1925 the Ulster Farmers Union and the Ulster Agricultural Organisation met at the Ministry of Agriculture to ‘impress upon the Government that agricultural labourers were in a totally different position from industrial labourers’ and to call for the rejection of the scheme.¹⁴⁰ The organisations highlighted that, unlike the industrial worker, the health insurance contribution from the agricultural worker was often covered by his/her employer. Under the new pensions scheme, it was predicted that the employer would not be able to cover the insurance and the pensions contribution, so the labourer would have to pay their own contribution, a fee they could not cover.¹⁴¹ This dissatisfaction illustrates how the urban/rural divide was not adequately dealt with in the first pensions scheme. Perhaps this was partially a consequence of the more rural Northern Ireland copying legislation from the more industrial England and Wales.

Despite the divide, agriculture and industry provided similar criticisms of the pensions scheme. The conference of the Ulster Farmers’ Union and the Ulster Agricultural Organisation Society passed a resolution to reject the scheme because ‘the present is not an opportune time to put [it] into operation in rural district, as it would entail additional heavy burden on both the agricultural labourer and the farmer’.¹⁴² In fact, almost a month later, the Ulster Farmers’ Union passed a resolution which rejected the pensions scheme and argued that under the current

¹³⁹ Ibid., 11 May 1925.

¹⁴⁰ Ministry of Agriculture to Colonel Spender, 15 Sept. 1925 (PRONI, Cabinet papers, CAB/9/C/11/1).

¹⁴¹ Ibid.

¹⁴² Memorandum attached to above letter from Ministry of Agriculture.

health insurance scheme, farmers and labourers were sufficiently protected: ‘the present insurance contributions from farmers and labourers, having regard to the low incidence of sickness amongst rural workers, are sufficient to secure for the latter and their dependents all the benefits proposed by the new Bill’.¹⁴³ Instead of rejecting the scheme outright, other agricultural societies called for a reduction in the amount that agricultural workers were to contribute. After the first pensions act passed in 1925, the County Londonderry Committee of Agriculture, Coleraine, and the Tyrone Committee of Agriculture passed resolutions in that called for the reduction of contributions by 50%.¹⁴⁴

As seen in the October 1925 resolution by the Ulster Farmers’ Union, an argument was made that farmers should not be compelled to pay into this insurance scheme because they were healthier than industrial workers and rarely used the national health insurance scheme. George Henderson, MP for Antrim and a farmer who represented the agrarian group the Unbought Tenants Association, reiterated this in Stormont: ‘We feel that if the statistics were available they would prove the case I make here, that agricultural labourers are entitled to the benefit of the Bill without paying any more contributions than they are at present’.¹⁴⁵ The Minister of Labour disagreed with this argument and actually cited a Free State commission that investigated matters under the health insurance acts ‘to see if agricultural workers did not get to the same extent the benefits which those Acts brought within the reach of the workers in the cities’.¹⁴⁶ The Free State commission found that while workers in cities suffered from diseases of a short duration, such as pneumonia, rural workers suffered from rheumatism, bronchitis, and asthma.¹⁴⁷

A *Northern Whig* opinion piece by ‘W.A.’ in May 1925 highlighted how social insurance legislation did not take this urban/rural divide into consideration. While the editorial was in relation to unemployment insurance, the same principle applied to the pensions scheme. The editorial noted how the policy of parity had a lot to do with this phenomenon: ‘All we attempt is to follow in the wake of the English liner,

¹⁴³ Motions passed by Ulster Farmers Union, 9 Oct. 1925. (PRONI, Cabinet papers, CAB/9/C/11/1).

¹⁴⁴ County Londonderry Committee of Agriculture, Coleraine, to Sir James Craig from 3 Dec. 1926 and letter to same from Tyrone Committee of Agriculture, 11 Dec. 1926. (PRONI, Cabinet papers, CAB/9/C/11/1).

¹⁴⁵ *Hansard NI (Commons)*, vi, col. 1381 (20 Oct. 1925).

¹⁴⁶ *Ibid.*, col. 1385.

¹⁴⁷ *Ibid.*

whose flag is urban and not rural . . . One would like to see an Ulster policy devised by Ulstermen for Ulster people in the unfortunate circumstances of the time'.¹⁴⁸ Importantly, this editorial was not nationalist in leaning: the author followed with 'It [an Ulster policy] is in accordance, too, with the whole theory of the British Empire, where each portion works out its own problems in its own way and the Crown is the common link'.¹⁴⁹

VI. Step-by-step

Step-by-step became a mark for parties to target their criticism of the UUP cabinet. Following the passing of the 1925 act, there were several calls for reform which the government rejected because Westminster had to change the law first. Since the policy of parity was largely a UUP policy, opposition MPs continued to call for reform of the pensions scheme outside of Westminster's terms. Walker notes how the NILP criticism of the Craig administration's social policy was deflected by the government by saying that their hands were tied by Westminster: 'such were the benefits for the Unionists in reducing much of the parliamentary business to an empty ritual'.¹⁵⁰ The opposition continually voiced its criticism of the restrictive terms of the widows' pensions legislation and called for reform, all the while being aware of the step-by-step policy with Britain. This can be seen in a 1927 debate about extending terms of the legislation when NILP leader Sam Kyle called for legislative reform to allow for widows over age seventy to receive pensions. At that point pensions were limited to women aged sixty-five and under, and the Minister of Labour denied consideration of the reform. The minister replied that the Northern Irish government would not introduce a measure that would differentiate its legislation from the British legislation. When questioned by Nationalist Party leader Joseph Devlin about Stormont ever pursuing social legislation that was out of step with Westminster, the Minister of Labour provided a surprising response:

Mr. ANDREWS: Our legislation in this matter is exactly in step with the legislation in Great Britain, and the Government do not propose to introduce

¹⁴⁸ *Northern Whig*, 15 May 1925.

¹⁴⁹ Ibid.

¹⁵⁰ Walker, *A history of the Ulster Unionist Party*, p. 76.

a Measure which would differentiate as between widows throughout the United Kingdom.

Mr. DEVLIN: Does the right hon. Gentleman on behalf of the Government lay down the principle that we are to have no Measures of social reform in Northern Ireland until Measures are first passed in the British Parliament?

Mr. ANDREWS: I have not said so.

Mr. DEVLIN: Oh yes; you have.¹⁵¹

While Andrews' was valid in his response that, in this specific debate, he did not say reform on all social legislation would not be introduced without a British law first, it is peculiar that he refused to acknowledge the overt, accepted convention of Stormont introducing parallel social legislation to Westminster. This practice had been clearly articulated in previous debates and was undeniably the policy pursued and protected by the cabinet.¹⁵²

In April 1927 this critique of the convention of parallel policy occurred again in relation to widows' pensions. Devlin politicised the discussion of widows' pensions, utilising the issue to comment on the political relationship between Belfast and London, and particularly the step-by-step policy. He argued that the Northern Irish legislation excluded the most desperate widows and children from receiving a pension, and that Stormont should reform this law to include these people. His discussion of the legislation became politicised with his concluding remark: 'I trust I have said sufficient to induce the Government to take steps on their own lines instead of waiting for England, and thus show an example to England in regard to humane legislation'.¹⁵³ Devlin's argument that the step-by-step policy hindered movements for social reform in Stormont illuminate another politicisation of the widows' pensions, for his call for writing the legislation on the government's own terms links to the Nationalist Party's calls for self-determination.

¹⁵¹ *Hansard NI (Commons)*, viii, cols 358-60 (24 Mar. 1927).

¹⁵² See Andrews' remarks in *Ibid.*, vii, cols 72-3 (10 Mar. 1926) regarding unemployment insurance: 'Our struggle for these five years has been to keep in step with Great Britain. We have pledged our credit and we have risked our reputations as administrators in order to keep in step, and the British Government have recognised the justice of our contentions and have come to our help and have relived us from the very serious difficulty into which we were gradually getting'; and similar remarks of Attorney General Richard Best in *Ibid.*, vol. iv, col. 406 (2 Apr. 1924) regarding the Illegitimate Children (Affiliation Orders) Act: 'Great Britain, as I say, has given a lead to all the nations of the world in laying down a proper system of jurisprudence, and I am not ashamed of following Great Britain as far as law is concerned, because I am following the best example in the world'.

¹⁵³ *Ibid.*, viii, cols 783-4 (7 Apr. 1927).

The press responded to the Nationalist Party's criticism of step-by-step by arguing that the policy of parity allowed for the pensions scheme to come to fruition and criticised the Nationalist Party's policy of absentionism. On this the *Belfast Evening Telegraph* wrote: 'this Bill would have been introduced even if Mr Devlin and his colleagues had continued the old policy of disenfranchising their constituents in the Northern Parliament . . . Neither Mr Devlin nor any of his colleagues have in the slightest degree been responsible for the measure. It has come into being as the result of the settled policy of providing the same social standard in Northern Ireland that exists in Great Britain'.¹⁵⁴ A few weeks later the same paper suggested 'Those who are such keen critics of the pensions system adopted by the Ulster Parliament and that of Britain are suspiciously lenient towards the Free State Legislature. We owe no thanks to these people that we are not at present under the Dublin Parliament'.¹⁵⁵ Regarding the Free State, step-by-step was a means by which Northern Ireland could compare itself to its southern neighbour: 'Our ideal is to obtain the full benefits of our members of the British Empire and to proceed step by step abreast with Britain and the great Dominions on the path of social progress. The ideal of the Free State Government is narrow insularity, tempered by subservience to Continental countries, especially Germany, to whom it looks for guidance in industrial matters'.¹⁵⁶ Therefore, the papers discredited Nationalist protests and the Free State in favour of the step-by-step policy.

The discussion of widows' pensions legislation in connection to a critique of the relationship between London and Belfast also came from Labour MPs. This can be seen in Beattie's criticism of the cabinet's insular politics by linking a lack of consultation with the rest of Stormont about funds for widows' pensions with lack of consultation of the Northern Irish people during the Treaty negotiations in 1921. In a debate calling for the liberalisation of widows' pensions, Beattie argued:

You know that as a result of the separation of the North from the South grave hardship prevails in Northern Ireland that does not prevail in Great Britain. You know that. You never consulted one citizen of Northern Ireland when you made that agreement... You did not come to Northern Ireland and say to the people, "Will we have a Six County Parliament? Will we cut ourselves clean, separate, and distinct from the people of the Twenty-Six

¹⁵⁴ *Belfast Evening Telegraph*, 14 Oct. 1925.

¹⁵⁵ *Ibid.*, 30 Oct. 1925.

¹⁵⁶ *Ibid.*

Counties?" You did not make any statement to the people, because I was one of them at the time...you did not tell the people, you did not ask their permission.¹⁵⁷

Again, like Devlin's comments above, Beattie's link of the seemingly politically neutral widows' and orphans' legislation with the politically charged Anglo-Irish discussions demonstrates how this social legislation became a rhetorical tool to criticise the relationship between London and Belfast.¹⁵⁸ Moreover, using this link to illuminate a lack of consultation by the government highlights the frustration of the opposition parties in Stormont with the policy of parity with Westminster. The argument regarding what shape the widows' and orphans' bill would take demonstrates how partition changed social intervention in Northern Ireland, as the unwritten step-by-step policy informed every piece of social legislation that passed through, or was rejected from, Stormont in this period.

VII. Conclusion

The debate over the step-by-step policy raises questions about the power of the Stormont government in the early years of devolution. Does Devlin's cynical remark hold an important truth?: 'I follow with fairly close interest the proceedings of the Imperial Parliament mainly for the reason that I want to know about a month beforehand what is in the minds of the Ministers over here'.¹⁵⁹ Or could the government still work within this narrow context? According to Walker, even the government and civil service were divided on this policy. Craig praised the policy as 'evidence of the government getting what was due for its citizens; while an opposing tendency in government, epitomised by Pollock [the Minister for Finance] and the head of the Northern Ireland civil service, Wilfrid Spender, adopted the "anti-populist" view that "step by step" resulted in an embarrassing "begging bowl"

¹⁵⁷ *Hansard NI (Commons)*, xii, col. 250 (19 Mar. 1930).

¹⁵⁸ It is worth noting that Beattie became more aligned with anti-partitionist groups. See Graham Walker: 'Beattie's job with the Irish National Teachers' Association: 'a Southern-based trade union with a strong anti-partitionist outlook, and in applying for the job Beattie was quite probably seeking to enhance his nationalist credentials within the NILP in opposition to the drift of the party under Midgely away from any kind of association with the united Ireland ideal.' Walker, *The politics of frustration*, p. 74.

¹⁵⁹ *Hansard NI (Commons)*, vii, col. 565 (15 Apr. 1926).

approach to Westminster and a lack of independence'.¹⁶⁰ Fitzpatrick suggests that the policy of parity 'restricted the ideological independence of conservative-hearted ministers who nevertheless felt bound to emulate British social reforms if subsidized by British taxpayers'.¹⁶¹ The several discussions in the House of Commons and the Senate regarding step-by-step, both in favour and against, complicate Buckland's observation that Stormont existed 'largely to endorse government policy'.¹⁶² While the House affirmed the government's bill and ultimately passed an act similar to the British act, it also questioned the cabinet's policy regarding social services and to debate the role of the government in people's lives. Again while step-by-step largely dictated where this debate could conclude, these discussions were crucial to understanding the influences on Northern Irish social policy.

In the case of widows' pensions, it can be argued that step-by-step and the position of Stormont in relation to Westminster informed the drafting of the widows' pensions bill more than concerns about women's welfare. While the records demonstrate a genuine concern to provide for widowed mothers and orphaned children, indeed the Minister for Labour declared in 1925 that '[t]he most important provision in the Bill, of course, is that which gives benefit to the widow',¹⁶³ this chapter has demonstrated that the Northern Irish government was also heavily motivated to pass a pensions act that set the precedent for future financial aid from Westminster. Therefore, while the welfare of the widow was of great importance, the pensions act also played a large role in securing the financial standing of Northern Ireland in the early years following partition. Further, the inability of the government to significantly amend the pensions to meet the requirements of Northern Irish demographics can be linked to a result of partition. The financial aid Stormont received was contingent on maintaining parity with British social services and should they exceed this standard, the Northern Irish government was required to foot the bill. As a result of this policy a non-contributory scheme was off the table, and uninsured widows were left with outdoor relief and charity as their main source of aid. However, without this policy the

¹⁶⁰ Walker, *History of Ulster Unionist Party*, p. 64.

¹⁶¹ Fitzpatrick, *Two Irelands*, p. 146.

¹⁶² Buckland, *Factory of Grievances*, p. 26.

¹⁶³ *Hansard NI (Commons)*, vi, col. 1195 (13 Oct. 1925).

Northern Irish government could not have afforded the scheme and widows would not have received government funding.

The following chapter will scrutinise how the Free State, which was not required to adhere to any British standard, introduced a nearly identical contributory scheme and a new non-contributory scheme in 1935. Under close analysis will be the relationship between civil servants in Dublin and London and what bearing this had on the final form of the pensions scheme. While this scheme had some crucial differences from its Northern Irish counterpart, such as a non-contributory scheme for rural widows, a similar trend as seen in Northern Ireland of restrained financial spending and emphasis on motherhood can be seen across the two new states.

Chapter five: Delayed legislation for the deserving: widows' pensions in the Irish Free State.

'It is quite clear that neither Ministers nor Deputies realise what this delay means to widows who have had nothing to live on but hope'¹

I. Introduction

There was a ten-year gap between the introduction of widows' pensions in Northern Ireland in 1925 and the Free State in 1935. As emphasised by the letter from a widow to the *Irish Independent* which is quoted above, the delay in introducing such a measure had dire implications for widows in the Free State. While the fiscal and political relationship between London and Belfast saw the introduction of pensions in Northern Ireland, the newly independent Free State was not in the same economic position to introduce such a large-scale scheme of social insurance. In fact this period saw a reduction in welfare provision by the Cosgrave government, most notably the cut of the non-contributory old age pension by one shilling in 1924. An examination of Free State widows' pensions allows for an analysis of how the role of the state affected women differently north and south of the new border. While widows in Northern Ireland received state aid from 1925 onwards, widows in the Free State relied on home assistance from local councils and aid from charitable organisations until 1935. Widowed women also worked to support their family. Kennedy notes in 1926 there were 135 000 widows, 40% of whom were gainfully employed.² However, these women often faced unfair workplace practices, such as 'appalling wages' from employers who took advantage of the desperate financial strains of a widow with children.³ Other necessitous widows were street dealers, charwomen or washerwomen.⁴

¹ Letter from 'Widow' to the *Irish Independent*, 26 July 1934.

² Kennedy, *Cottage to crèche: family change in Ireland*, p. 45.

³ Oonagh Walsh, *Anglican Women in Dublin: Philanthropy, Politics and Education in the Early Twentieth Century*, (Dublin, 2005), p. 182. The continuation of this problem can be seen in Eileen Connolly's study of gendered employment policy in 1950s Ireland. Connolly notes that working was still an 'absolutely necessity' for many widows with children, but their specific needs were not recognised in public policy and the women were often employed on a long-term temporary basis. As such, they did not receive the same benefits as permanent employees. See Eileen Connolly, 'Durability and change in state gender systems: Ireland in the 1950s', in *European Journal of Women's Studies*, x, no. 1 (2003), pp 65-86.

⁴ Mary E. Daly, *Dublin: the deposed capital: a social and economic history, 1860-1914* (Dublin, 1984), p. 78.

In the 1932 election Fianna Fáil successfully ran on a platform which included the introduction of widows' and orphans' pensions. However, it would be another three years before widows' pensions legislation was introduced to the Dáil. The scheme that was accepted into law was nearly identical to the British and Northern Irish schemes, with the addition of a limited non-contributory scheme. The new non-contributory scheme covered, as the Minister for Public Health explained in 1935: 'the small working farmer whose level of subsistence is comparable with that of the urban wage-earner . . . [and] the valuation of the holding does not exceed £8'.⁵ In 1937 this scheme was extended to include all necessitous widows who met a stringent means test. The rates payable under this section of the scheme were less than those of the contributory scheme.⁶ They varied depending on the claimant's residency and means. The widow could receive a maximum of 7/6 per week if resident in a county borough, 6/- in an urban area, and 5/- in a rural area. In a county borough the eldest child could receive a maximum of 3/6 per week, with each additional child receiving 1/6 per week. In urban areas this decreased to 2/6 for the eldest and 1/- per each additional child; and in rural areas the eldest received a maximum of 2/- per week and each additional child received 1/- per week.⁷ Just as was seen in the Northern Irish debates, these rates of pay, both contributory and non-contributory, were criticised by legislators in opposition and civil society groups as insufficient and impossible to live on.

A crucial stipulation of the non-contributory scheme was that it only applied to widowed mothers with dependent children under fourteen, or to women whose deceased husbands would have qualified under the scheme but died before the act became law. Earner-Byrne notes this: '[the Act] was careful not to lay down the principle of the widows' rights to support by the State on the basis of their bereavement, i.e. on the basis of their status as wives entitled to continue to live a domestic life. Irish widows qualified on the basis of their husband's contributions or their motherhood and poverty'.⁸ Just as in the Northern Irish debates, the Free State

⁵ Explanatory address to the Dáil by Seán T. O'Kelly, Minister for Local Government and Public Health. *Dáil Éireann debs.* vol. lvi, no. 27, col. 2235 (4 June 1935).

⁶ Under the contributory scheme widows received 10/- per week, with children's allowances paid until the age of fourteen, or sixteen if the child remained in school full time. The eldest child received 5/- per week, with 3/- per week to each additional child. See section 10, 1935/29 [IFS] Widows' and Orphans' Pensions Act, 1935.

⁷ See section 20, Widows' and Orphans' Pensions Act, 1935.

⁸ Earner-Byrne, "Parading their Poverty...", p. 37.

legislators discussed the widows' pensions as mothers' pensions rather than legislation to support the wife of a deceased worker. With the existence of this ideal north and south of the new border, it can be seen that this belief, while in keeping with Catholic social teaching in the Free State, was part of a wider paternalistic belief at work across the island and in the dominions.

Free State policy regarding widows' pensions in this period has been examined by Earner-Byrne and Cullen in discussions of gendered policy in nineteenth- and twentieth-century Ireland.⁹ In larger analyses of social policy in twentieth-century Ireland, widows' pensions have been discussed in their wider legislative context.¹⁰ This chapter adds to these works by closely analysing the development of widows' pensions in the Free State from 1922-39 through the lens of partition. When considering this thesis' main question – how did partition change the role of the state in women's lives? – the disparity in support for widows in the Free State and Northern Ireland dramatically answers the question: Free State widows lived without a state pension for ten years longer than their counterparts across the border. However, once the drafting of the scheme became possible, the Free State had the ability to draft legislation specific to its demographics. That being said, the influence of British precedent remained strong. Free State civil servants consulted British officials for advice on how the British model might fit the Free State. The similarities between the British, Irish, and Northern Irish schemes reveal wider conservative trends working beyond national and religious divides which influenced policy. Just as the previous chapters argued, these comparisons between north and south challenge arguments which place too much emphasis on the influence of the Catholic Church. While it is undeniable that the Catholic Church had an overwhelming influence on social and political life in the Free State, the ideals, debates, and issues presented during the drafting process of this scheme fit with wider patterns of paternalistic social policy at this time.

⁹ See *ibid.*, pp 32 – 46; *Ibid*, *Mother and Child*; Mary Cullen, 'Widows in Ireland, 1830 – 1970' in Angela Bourke, Siobhán Kilfeather, Maria Luddy, Margaret MacCurtain, Gerardine Meany, Máirín Ní Dhonnchadha, Mary O'Dowd, and Clair Wills (eds), *Field Day Anthology of Irish Writing: Irish Women's Writing and Traditions*, volume 5 (Cork, 2002), pp 609 - 10.

¹⁰ Powell, *The Politics of Irish Social Policy*; Cousins. *The Birth of Social Welfare in Ireland, 1922-52*; Kelly, 'Social Security in Independent Ireland'; Kennedy, *Cottage to crèche*.

II. Support and activism from civil society

Civil society played a significant role in the lives of widows and their children before and after the introduction of widows' pensions in 1935. Before the introduction of the scheme, widows and their families relied heavily on charitable organisations for support, while civil society groups played a more active, public role in pushing for legislative reform. Just as in Northern Ireland, the widow was seen as moral and deserving of aid in the Free State. Earner-Byrne writes on this moral association, noting that welfare for 'poor widowed mothers' was rarely objected to because such support was seen as charitable. She observes: 'it facilitated the protection of infant life and alleviated the most visible manifestations of poverty, while conforming to the contemporary assumption that women were essentially needy and dependent'.¹¹ Such ideals translated into practice in the work by civil society groups and government reform.

One of the most prominent societies providing for necessitous widows and orphans was the SVP. Amongst the extensive work of this charitable Catholic lay society was the provision of moral and material support to widows. The charity was composed of mainly middle-class members, all of whom were male.¹² SVP ran a variety of charitable activities and institutions across Dublin, including an orphanage in Glasnevin, the City Labour Yard in Vicar St which provided labour to disabled men, and Ozanam House, which Dunne describes as 'a centre of social and spiritual work among the poor'.¹³ Dunne notes that the activities of the society were heavily motivated by religious missionary work. As Ní Chearbhaill raises the important point that before the professionalization of social work, clerics associated with SVP acted as liaisons between families and civil agencies. Regarding widows' pensions, the SVP were equipped with copies of the 1935 and 1937 widows' pensions acts for reference in their work.¹⁴ Examples of the social work the society did in this sphere can be seen in a 1930 report for the 46 Middle Abbey Street, Dublin, branch:

A widow whose husband had been employed in Constantinople, where he died as the result of an accident, appealed to us for help. We dealt with the letters from Consul and solicitors in Constantinople, prepared the case, and secured a

¹¹ Earner-Byrne, *Mother and child*, p. 72.

¹² Ní Chearbhaill, 'The Society of St Vincent de Paul in Dublin', p. vi.

¹³ Eamonn Dunne, 'Action and reaction: Catholic lay organisations in Dublin in the 1920s and 1930s' in *Archivium Hibernicum*, xlviii (1994), p. 112.

¹⁴ For discussion of social work by the Society, see Ní Chearbhaill, 'Society of St Vincent de Paul in Dublin', p. 125.

solicitor to carry out all the legal work necessary. A lady who had held a good position was left destitute with her two children. A post was obtained for her in London, and the children were sent to her mother.¹⁵

Evidently much of the work provided by the society could not be legislated for and SVP remained an active provider to widows after the 1935 act.

The Society of Friends also provided support for necessitous mothers in inner-city Dublin. The Quaker Sick Poor Institution and Liberty Crèche in the Coombe area of south Dublin provided day-care for children of ‘respectable poor women who industriously strive to support themselves and their children by going out to work . . . who are wholly dependent on their own exertions for support’.¹⁶ Undoubtedly such a group would be largely made up of widows. The crèche also employed a nurse who could provide medical care to the children. The idea of respectability was also strong in the Free State. In this light the crèche emphasised that its service was not charity:

The mothers, when on their way to work in the morning, leave the little ones there, and call for them again, when returning in the evening. They pay twopence (a good deal out of small earnings) for each child for the day. This payment tends to preserve independence and self-respect. The mothers are *paying* to have their children minded – and are not lowered by that acceptance of charity which so frequently demoralises. They are also discharging, and no shirking, their natural duties as parents.¹⁷ [emphasis in original]

This programme of providing support to working mothers in return for a small fee, whether it was through her husband’s payment into a pension fund or her payment to a childcare service, was an important factor in determining social provision schemes from private and public sources. This contributory type of service was seen to be a respectable means of receiving aid. This respectability, however, could be exclusive. Unmarried mothers could not obtain support from the crèche. In her history of the Liberty Crèche, Cremin writes: ‘Children of unmarried mothers were not accepted . . . [In 1943] The committee was concerned that children of unmarried mothers were not admitted . . . but the then matron . . . said the mothers [who use the crèche at present] would not like this and would not let their children come’.¹⁸ However, by 1953 this was reformed and children of unmarried mothers were accepted into the crèche.

¹⁵ St. Vincent de Paul Society, *Report of the Council of Ireland* (1930), p.146 (DDA, Archbishop Byrne Papers, Lay Organisations, A37 Box 1).

¹⁶ Annual report of the managing committee of the Sick Poor Institution and Liberty Crèche, 1928 (Society of Friends Archive, Liberty Crèche, Shelf 30 E Box C/10 Folder 1 A – L).

¹⁷ Ibid.

¹⁸ Vicky Cremin, *The Liberty Crèche, 1893 – 1993* (Dublin, 1993), p. 5.

Civil society groups also involved themselves in the family life of widows beyond providing monetary and material support. For instance, in 1930 the SVP Conference of St Gabriel, Dublin reported working with seven to eight widowed mothers and their children. In its annual report it highlighted the case of a widow with four children, one of whom had developmental issues and difficulty speaking: ‘ . . . the visitors suggested a Novena in honor of Frederick Ozanam, supplying the mother at the same time with the prayer for his beatification. The Novena was made, and since the time the visitors have noticed a marked improvement in her appearance and development. We are in hopes that she may become completely normal through the intervention of our believed Founder’.¹⁹ While this was not material support, the involvement and moral support to the widowed mother was characteristic of the society.

Concerns about proselytism informed much of the work by religious lay societies. Earner-Byrne discusses how this fear actually empowered mothers: ‘there is ample evidence that poor mothers were well aware of the Catholic horror of proselytisers threatening to steal their children for the Protestant faith . . . Faith was hard to maintain if one lived in rat-infested slums but essential if one wanted bread and boots. It was a system that poor Irish mothers understood; religion was the only currency most of them had with which to bargain’.²⁰ This supports her view that ‘Catholic mothers were not merely passive recipients of assistance and advice, but were frequently active agents securing charity in exchange for allegiance’.²¹ Therefore while these women were in desperate need of support, they did not lose their agency. Their power to choose to receive funds from a Protestant or Catholic charity was an important currency with which they could approach their receipt of aid.

However, some of the records of lay groups reveal how concerns about proselytism informed a culture of surveillance which accompanied with the provision of aid. The Catholic Protection and Rescue Society of Ireland (CPRSI), established in 1913 as an anti-proselytising group, worked with the poor to ‘counter the efforts of those who work on the weakness, the poverty, or the desperation of Catholics in order

¹⁹ Ibid., p. 58.

²⁰ Earner-Byrne, *Mother and Child*, pp 76-7.

²¹ Ibid., p.5.

to seduce them from their faith”.²² Widowed mothers in need of support were seen as potentially vulnerable to proselytising groups, so the CPRSI was quick to help them. In 1927 the society reported helping a widowed mother and her four children. The mother came from a Protestant family but converted to Catholicism upon marrying her Catholic husband. After her husband’s death the family fell into ‘great straits’. From the CPRSI’s report it could be interpreted that the society was motivated to help the family on account of the risk that the mother’s Protestant family might take the children:

The family was in great straits, hampered by debts incurred during the father's illness. Some of the children are delicate; the mother's people are Protestants willing to look after the children on condition that they go to Protestant schools, etc. The mother is a staunch Catholic, and would not agree to this. She struggled along as best she could with the help of Outdoor Relief. The case was brought to the society's notice and visited without delay.²³

The society provided the family with food, bed linens, and clothing, as well as helping the mother until she found employment.

In addition to lay societies keeping an eye on the families headed by widows, clerics also made interventions. The Bishop of Kilmore wrote to Archbishop Byrne in 1924 to seek help securing accommodation for the child of a widow. The Bishop wrote: ‘His mother, who was a Protestant up to the time of her marriage is now a nurse. When engaged at her work there is no one to look after the boy. There is just a possibility that if the boy be not admitted to some Catholic Home, he might be given over to Protestants by the mother’.²⁴ This intervention into families’ lives was not limited to Catholic charities. Walsh’s examination of Protestant philanthropic groups in early twentieth-century Dublin found that the Protestant Orphan Society (POS) ‘until 1895 had a strict policy of removing children from their mothers and placing them in the Society’s orphanages’. The motivation behind establishing the POS came after a Protestant man’s children were taken to a Catholic orphanage after his death because a Protestant society did not exist.²⁵

²² Catholic Social Workers’ Handbook (Dublin, 1943), p. 109, in Dunne, ‘Catholic lay organisations in Dublin’, pp 110-1.

²³ *Annual Report of the Catholic Protection and Rescue Society of Ireland* (1927) (DDA, Archbishop Byrne Papers, Lay Organisations, A37 Box 1).

²⁴ Bishop of Kilmore, to Archbishop Byrne, 18 May 1924 (DDA, Archbishop Byrne Papers, Irish Bishops 1921-40).

²⁵ Walsh, *Anglican Women in Dublin*, pp 157, 160-1.

Underscoring these concerns about proselytism was a distrust of the widow's decision making, and at some time, her morality. Buckley notes how in the Free State NSPCC inspectors held reservations about some widows. As single mothers, widows raised suspicion if they had or were suspected to have relationships with men. Buckley provides an example of an investigation into a widow and her four children. The society was concerned about a widow who had a man that 'frequents the place and gets his meals there'. One of her sons left for the British Army while another was sent to an industrial school. The society noted 'The mother seems infatuated with the man and is neglecting her children'.²⁶

Widowers received aid and attention from civil society groups as well. However, not to the same extent since widows outnumbered widowers by a ratio of 2:1,²⁷ partly because widowers remarried more than widows.²⁸ The SVP Conference of Our Lady of the Rosary, Dublin, reported intervention into the family of a widower and his children: 'a special case may be cited which illustrates the value of perseverance in pursuit of spiritual gain'.²⁹ The conference took interest in the family after the mother died and the two children were left with the father. He was planning to give custody of one child to his 'non-Catholic' sister. The conference report noted: 'this course did not commend itself to the Conference, who saw in it danger to the child's faith.' As such, the society looked to move the child to the Sacred Heart Home, but 'although the father had previously agreed, he now showed great reluctance to consent'. Reporting the father to have fallen to 'evil ways' and identifying this as 'a critical situation', the society and members of the local clergy intervened and secured a place for one child in the Sacred Heart Home and another in an unnamed Catholic institution. As for the rest of the family, the conference reported: 'The father and remainder of the family are still being assisted, and the special attention of a zealous priest has been secured for the case'.³⁰ This case demonstrates the role and the power that the society exercised in the lives of necessitous single-parent families.

Civil society groups also advocated for the introduction of widows' pensions legislation. As mentioned in the previous chapter, the UCCCI lobbied the

²⁶ National Society for the Prevention of Cruelty to Children quoted in Buckley, *The cruelty man*, p. 91.

²⁷ Kennedy, *Cottage to crèche*, p. 45.

²⁸ Cullen, 'Widows in Ireland, 1830 – 1970', p. 609.

²⁹ St. Vincent de Paul Society, *Report of the Council of Ireland* (1927), p.42 (DDA, Archbishop Byrne Papers, Lay Organisations, A37 Box 1).

³⁰ *Ibid.*, 40.

governments north and south of the border to implement widows' pensions.³¹ Again in 1928 the committee urged the Free State government to accept the report of the Irish Poor Law Commission and introduce widows' and orphans' pensions.³² Catholic groups also called for reform. For instance, at a conference of the Catholic Truth Society (CTS) in 1928, a Fr O'Kelleher delivered a speech 'A Catholic Nation: Its Destitute, Dependent and Helpless Classes'. In this speech he called for widows' pensions. O'Kelleher mused on the role of the government and lay organisations. While calling for the community to provide for necessitous individuals, he noted: 'No doubt this obligation attached to the entire community rather than to the Government', and further, 'Where individual benevolence and generosity fell short, the State should come to the rescue, providing the necessary funds and securing through efficiency, and in the ultimate resort setting up distinct State institutions'. Therefore while O'Kelleher believed the state should intervene; providing for the necessitous part of society was a community goal. However, he was careful to note regarding state power: 'family life should be interfered with as little as possible'.³³

O'Kelleher's idea of the role of the state was in step with the apprehension that other religious groups had towards an increased role of the state in families' lives, which was not an exclusively Catholic concern. After the introduction of the 1935 act, Reverend Day spoke to the Kilkenny POS and, after praising the act, warned: 'It would be a very bad thing when the orphan children came under State control. It might provide more in the shape of pounds, shillings, and pence, but the loss on the other side would be great indeed . . . *When the State, he said, took control of such social and philanthropic work it was not for the good of the country; the children lost the personal touch which meant so much to them*' [emphasis in original]. In the same report, the *Independent* reported that Reverend Charles Tyndall of Enniscorthy called for an amalgamation of all the POS' across Ireland. The paper reported: 'More and more the State was beginning to take over functions which were formerly the prerogative of the Christian Church. It would be a sad day for Irishmen and Ireland if they allowed the Ministry of Public Health to take the place of Christian social

³¹ *Journal of the General Synod of the Church of Ireland* (Dublin, 1924) (RCB, General Synod journals), pp 319-20.

³² *Ibid.*, (1928), p. 348.

³³ *Irish Independent*, 20 Oct. 1928.

conscience'.³⁴ This argument stemmed from the Protestant churches' anxiety that an overtly Catholic government was legislating for the family.

O'Kelleher skipped over any discussion of the mother and focused only on the effect of the pension to allow for children to be raised in the home. As seen in the previous chapter's discussion of widows' pensions in Northern Ireland, this sentiment was shared across party and religious lines. Similarly, as will be demonstrated below, the legislators in the Oireachtas argued for pensions on the basis of motherhood. While motherhood was put forth as the characteristic necessary for the pension, the real object of the bill was the child. The main purpose for widows' pensions was to provide the mother with enough support to keep her child in the home, rather than sending them to industrial schools. Interestingly, a *Church of Ireland Gazette* article heavily criticised this conceptualisation of the widow. The *Gazette* took issue with the elite Clergy Widows and Orphans Society,³⁵ but the same principle applies to the state pensions in 1935:

It is a strange phenomenon that hitherto the Church of Ireland has given no recognition to widows as widows; she has merely regarded them as mothers of orphans . . . Grants are given to widows because they are in charge of the orphans for whom the allowances are made. As soon as the orphans have passed off the books of the particular society concerned, the widows may pass into oblivion. Their status has gone.³⁶

The editorial went on to take issue with the provision of funds for widows of clergymen, but not widows of laymen. The article concluded with a call for 'the Protestant Orphan Societies widened in their powers so as to consider the needs of widows also'.³⁷ Written the same year that the widows' pensions legislation passed through the Oireachtas, this article highlights how, even though the government introduced state pensions, there was still much work to be done.

The most active lobby group in the Free State was the IMPS. The head of the society, John Patrick Dunne, published pamphlets, delivered lectures, and petitioned the government on this matter. The society was founded in 1917 and based its idea of pensions on the system in the United States that provided for widows and orphans

³⁴ Ibid., 18 June 1936.

³⁵ See Walsh, *Anglican Women in Dublin*, pp 155-79 for a discussion of the Clergy Widows and Orphans Society.

³⁶ *Church of Ireland Gazette*, 24 May 1935.

³⁷ Ibid.

using state funds.³⁸ It does not appear that the IMPS provided welfare support to the mothers, but it was composed of various members of charitable societies and political groups. The society predated partition but after 1922 it only continued to pressure the Free State government, and the BWAC took the role of lobbying the northern government.³⁹ Initially independence gave hope to the society that legislative freedom would give way to progressive welfare laws. In an April 1922 speech entitled 'Poverty problems for a patriot parliament', Dunne presented the Free State as a legislative blank slate and recommended legislative reforms that would be 'guided by Christian and patriotic principles'.⁴⁰ As the society's name indicates, the IMPS lobbied for a pension based on motherhood. Childless widows were not included in the society's plan. In his 1922 speech, Dunne stressed the importance of these pensions for children, not women: 'by preserving under the fostering care of the mother and midst the sanctities of home the children of the nation, and thus enabling them to receive such training and care as will mould them into self-respecting citizens'.⁴¹ Similarly in the 1930 leaflet, "'Waiting the Verdict" Pensions or Pauperism. Necessitous Widows and Orphans in the Free State', the society defined the pension system it sought as 'Mothers' Pensions, by which is understood maintenance grants in respect of children under a fixed age to a widowed or deserted mother who has not the means to feed, clothe, and house her children adequately . .

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In addition to this public campaign, the IMPS lobbied the government privately. A deputation met with the Department of Local Government and Public Health in 1924 and pushed for a separate welfare scheme for widows. It is significant that the society called for a Special District Committee to oversee this, and noted the committee should be made up of 'ladies for preference' and called for female relieving officers to deal solely with widows' pensions cases.⁴³ It publicised this meeting by providing newspapers with details. The IMPS also held public annual

³⁸ Letter to the *Irish Independent*, from J.P. Dunne, Hon. Sec. Irish Mothers' Pensions Society. *Irish Independent*, 2 Dec. 1930.

³⁹ Irish Mothers' Pensions Society report, 1928 (NAI, Department of Finance papers, F/46/9/25).

⁴⁰ John Patrick Dunne, 'Poverty problems for a patriot parliament', *Journal of the Statistical and Social Inquiry Society of Ireland*, xiv no. 2 (Apr.1922), p.189.

⁴¹ *Ibid.*, p. 195.

⁴² J.P. Dunne, "'Waiting the verdict". Pensions or Pauperism. Necessitous widows and orphans in the Free State.' (Dublin, 1930), p. 3.

⁴³ *Freeman's Journal*, 14 Apr. 1924.

general meetings and publicised these in papers. Dunne sent clippings of these newspaper reports to President Cosgrave and Finance Minister Ernest Blythe throughout their time in office.⁴⁴ He was a frequent contributor to the letters to the editor section of the various newspapers, providing commentary on the introduction of widows' pensions in Northern Ireland and Great Britain, and on the harsh life of widows in the Free State.

Interestingly, the IMPS dissolved after the introduction of pensions in 1935. It did not carry on advocating for more benefits to widows and orphans. This differs from the BWAC in Northern Ireland which continued to call for reforms to the pensions scheme after the first act was passed in 1925. Instead in 1935 Dunne wrote to the *Irish Independent*: 'in reply to many enquiries as to claims etc., under the provisions of the New Widows' and Orphans' Pensions Act, I would inform all applicants that the task of the voluntary workers composing this Association has ended with the securing of the new legislation'.⁴⁵ This is not to say that the pensions scheme was immune to criticism, in fact after the introduction of the scheme letters to the editor by private citizens continued, but J.P. Dunne and the IMPS did not continue in their lobbying.

Just as in Northern Ireland, labour groups in the Free State played a large role in lobbying for widows' pensions. Workers councils and in particular the Irish Women Workers' Union (IWWU) passed several resolutions calling for widows' pensions. Interestingly, the IWWU, a feminist and socialist union, also called for pensions based on motherhood instead of on the basis of the worker's right to industrial social insurance. In November 1929, the *Irish Independent* quoted a letter from Louie Bennett, the Secretary of the IWWU, to President Cosgrave urging the introduction of widows' pensions. Bennett wrote: 'it is deplorable to find the Free State lagging behind other nations in attention to their distress – more especially as we in Ireland boast so loudly of our attachment to home ties. It is an empty boast so long as we fail to assist widowed mothers to maintain a home for their children.'⁴⁶ Therefore Bennett, on behalf of the IWWU, argued for a pension based on motherhood, not on an industrial right to the worker's family. This is surprising given her feminist,

⁴⁴ See collection of clippings in Department of Finance file: Irish Mothers' Pensions Society Resolution urging that question of Mothers Pensions be dealt with by immediate legislation. (NAI, Department of Finance papers, F/46/9/25).

⁴⁵ *Irish Independent*, 7 Sept. 1935.

⁴⁶ *Ibid.*, 16 Nov. 1929.

industrialist politics. It could have been argued that the wife of an industrial worker was entitled to a pension because of her deceased husband's role in industry, regardless of dependent children. Again in 1929 Bennett and the IWWU wrote to the government urging it to 'take such steps as will ensure the introduction of a measure to give effect to our demand for the provision of pensions for widows and dependent children in the present session of Dáil Éireann'.⁴⁷ This was inspired by the motion accepted in the Dáil in 1928 that the government would enquire into a scheme of widows' pensions. Therefore it was clear that the IWWU took an interest in government actions on this matter. In fact, Bennett was greatly involved in the advocacy for widows' pensions and as will be examined later in this chapter, she was a member of the 1932-3 committee of inquiry into widows' pensions. However, her advocacy of pensions only for widows with dependent children is surprising.

Other labour groups lobbied for reform. In 1932 the Waterford Workers' Council, with delegates from the Irish Transport and General Workers Union, Post Office workers and so forth, argued that a pension scheme for widows and orphans was 'essential' and asked for rates similar to those in Northern Ireland and Great Britain: 'while wishing for a non-contributory scheme, the workers are not opposed to a contributory scheme for widows and orphans'.⁴⁸ This differs from the stance taken by the NILP and labour groups in Northern Ireland which rejected the 1925 pensions act on the basis that it was a contributory insurance scheme, not a non-contributory scheme. Similarly, the Dublin Typographical Benevolent Fund and Printers' Pension Society lobbied the government for reform. Like the Worker's Council in Waterford, the Dublin society spoke of pensions in terms of workers rights: 'we demand that immediate action be taken by the Government of Saorstát Éireann to establish Old Age and Widows' and Orphans' Pensions in the Free State on at least equal standards to that now existing in Great Britain and Northern Ireland, and thus remove the invidious distinction now made between the workers of Northern Ireland and Southern Ireland'.⁴⁹ This appeal for reform based on Northern Ireland's advancement

⁴⁷ Louie Bennett, Secretary of the Irish Women Workers' Union, to President Cosgrave, 13 May 1925. (NAI, Department of Finance papers, F/46/9/25).

⁴⁸ *Cork Examiner*, 5 Nov. 1932.

⁴⁹ Dublin Typographical Benevolent Fund and Printers' Pension Society to President Cosgrave, Mar. 1924 (post dated 24 Mar. 1924). (NAI, Department of Finance papers, F/46/9/25).

of legislation was a common rhetorical tool used by advocates, legislators, and widows themselves in asking for reform.

III. Early efforts towards widows' pensions legislation

Turning now to an examination of the official responses to the welfare of necessitous widows, a direct effect of partition can be seen in the ten-year gap between the introduction of widows' pensions in Northern Ireland in 1925 and the introduction of a pensions scheme in the Free State in 1935. The Cumann na nGaedheal government has been described as having a policy of economic 'retrenchment' which made spending on social services impractical.⁵⁰ Kelly finds that the Cumann na nGaedheal government did not ignore issues, but took a static approach of 'inquiry rather than action'. He continues: 'this lack of practical innovation was to become symptomatic of the Cumann na nGaedheal period in office. Happy to talk about change, it dared not institute any'.⁵¹ While the government fought a civil war and established a new state, it was not focussed on welfare policy. The administration's approach to widows' and orphans' pensions fits this policy exactly. After ten years in office, a commission of inquiry into poor relief, and extensive Dáil debates about widows' welfare, the government still did not produce any legislation regarding widows' pensions. With the emergence of Fianna Fáil into the Dáil as the opposition party, widows' pensions were used as a key pillar of the opposition's programme. When Fianna Fáil took power in 1932, the new government took action and began a three-year long process of planning and implementing the pensions scheme.

i. Cumann na nGaedheal, 1922 – 32.

Despite Cumann na nGaedheal's failure to implement legislation to protect the vulnerable demographic of necessitous widows and orphans, the government did in fact take steps towards drafting a bill. Other analyses of widows' pensions or social policy under Cumann na nGaedheal overlook the few areas of inquiry that the government actually took on this policy. Even though these actions did not materialise into a bill, an analysis of these steps adds to the scholarship on Cumann na

⁵⁰ Cousins, *The Birth of Social Welfare in Ireland*, pp 30-1.

⁵¹ Kelly, 'Social Security in Independent Ireland', p. 76.

nGaedheal's social policy about women. In comparison to Northern Ireland, the Free State was not in a financial position to establish a new social insurance scheme. Due to the step-by-step policy, Northern Ireland had financial support from London, whereas the Free State was reliant on its own coffers. In this economic climate, Cumann na nGaedheal did not prioritise welfare policy, instead the focus of the first decade of governance was peace and stability. It was active in this goal, as Meehan highlights: 'In 1924 alone, the government guided 63 measures through the Oireachtas, a record unrivalled by its successors. Focus was placed on introducing legislation that not only sought to strengthen the structures of the state, but also aimed at increasing efficiency'.⁵² This goal for efficiency transferred into reform of the administration of welfare services, but not the introduction of new progressive services. The 1923 and 1925 Local Government Acts reformed the poor law institutions, replacing them with boards of health and public assistance and vesting more power in the central government over local authorities. Lucey links this with wider centralisation from the national government: 'such reform has been viewed as the successful rationalisation of an inefficient, expensive British local government system . . . it has also been posited that these reforms represented the centralisation of power in the hands of a new parliamentary elite'.⁵³

While this overhaul of welfare administration was hugely significant, the Cosgrave government introduced few pieces of social welfare legislation. Of the few, some of the most significant were the Military Service Pensions Act, 1924, and Army Service Pensions acts in 1923 and 1927. Foster argues that the introduction of these was motivated more by political strategising rather than a need to provide welfare: ' . . . the introduction of the first Military Service Pensions Act in 1924 appears to have been chiefly motivated by the government's desire to "placate and ensure the loyalty of pro-treaty soldiers", especially IRB and Old IRA elements in the Army whose displeasure with demobilization had been expressed in the abortive 'Army Mutiny' of that year . . . ' ⁵⁴ Military service pensions only provided for the individual who participated in the conflict, whereas army service pensions provided for the individual and, should they die, their dependents. Only in 1971 were military service pensions

⁵² Ciara Meehan, *The Cosgrave Party: A history of Cumann na nGaedheal, 1923-33* (Dublin, 2010), p. 29.

⁵³ Lucey, *The end of the Irish Poor Law?*, p. 5.

⁵⁴ Gavin Foster, *Irish civil war and society* (New York, 2015), p. 177.

extended to dependents after the death of the serviceman.⁵⁵ While these pensions provided for many people, the government faced some criticism over the amount it cost the state. The November 1929 Cumann na nGaedheal party minutes note that ‘considerable capital was being made in the country by the opponents of the Government with regard to the amount of money expended on Army Pensions and Gratuities’.⁵⁶ Therefore, large insurance schemes were potentially politically dangerous in the economic environment of the 1920s.

When considering welfare legislation in this era of the Free State, it is important to keep in mind that the cradle-to-grave approach of government welfare spending was not a concept yet, so Cumann na nGaedheal was not completely out of touch with policies of other comparable states. As O’Halpin contends: ‘there is no point in applying the yardstick of a welfare state to the social policies of the 1920s, when expectations were so much lower and money was so scarce’.⁵⁷ However, even in the pre-welfare state era, the Free State did fall behind its neighbours regarding old age pensions. Pensions in particular were a contentious topic for the Cosgrave administration. This problem can be seen as a consequence of partition: as a part of the UK, Ireland had the same pension rate as England and Wales, and after partition the Free State maintained these pension rates. However, Ó Gráda found that GDP was two-thirds higher in the UK and ‘as a consequence the pension absorbed a bigger slice of the [Free State] government revenue’.⁵⁸ In other words, the pre-partition rates were unsustainable in post-partition Ireland. Consequently, in 1924 the Minister for Finance, Ernest Blythe, passed a measure which reduced the pension by one shilling per week. With this reduction in old age pensions the possibility of the introduction of new pensions seemed unlikely, although not impossible.

⁵⁵ Marie Coleman, ‘Military service pensions for veterans of the Irish Revolution, 1916-23 in *War in history*, xx no. 2 (2013), p. 203. See s. 1 of Army Services Pensions Act, 1971. [26/1971]. (1 Sept. 1971): ‘1.—(1) The Minister may grant to the widow (provided she has not remarried) of a person who was granted a pension under the Military Service Pensions Act, 1924 , or the Military Service Pensions Act, 1934 , or a service pension under the Connaught Rangers (Pensions) Act, 1936 . . .’

⁵⁶ Minutes of the meeting of the party, 28 Nov. 1929. (UCDA, Cumann na nGaedheal papers, P39/MIN/3/8).

⁵⁷ Eunan O’Halpin, ‘Politics and the State, 1922-32’ in F.J. Byrne, W.E. Vaughan et al (eds), *A New History of Ireland*, vii: *Ireland, 1921-84* (Oxford, 2003), p. 116.

⁵⁸ See Ó Gráda: ‘The pension accounted for the bulk of what would today be deemed welfare spending in the Irish Free State. AT £3.3 million in 1922/3 it dwarfed the outlays on relief schemes (£340 000) national health insurance (£317 000), unemployment insurance (£284 000) and hospitals and infirmaries (£17 000)’. Ó Gráda, “‘The Greatest Blessing of All’: the old age pension in Ireland’, pp 150-1.

Despite this reduction in pensions, the Cosgrave administration kept an eye on the development of pensions across the UK. This was part of a wider pattern to look to UK trends. Holohan discusses how after partition:

expansion of the British welfare state was debated, and had significant influence on developments in Ireland. State-sponsored welfare in both jurisdictions was based on the concepts of minimum subsistence and less eligibility, underscoring the idea that assistance should be considered a last resort. In Ireland this complemented Catholic social teaching, as central to both ideologies was the fear that state intervention would stifle individual initiative, undermine ideas of personal responsibility, and encourage dependency.⁵⁹

Therefore, while this idea of limited intervention appealed to Catholic social teaching, it was also a part of a wider conservatism. This similarity in approach is seen clearly in the Cosgrave administration's investigation into a widows' pensions scheme to the Free State. When the British widows' and orphans' pensions bill was being debated in Westminster in May 1925, Sir Joseph Glynn, as chair of the National Health Insurance Commission, wrote to Sir Alfred Watson in the GAO in London: 'It has occurred to us here that the projected legislation in England with regard to Widows, Orphans, and Old Age Contributory Pensions may give rise to a demand for somewhat similar legislation in the Free State and I think it well . . . to have as much information on the subject prepared in advance in case it may be needed by the Government'. Glynn asked Watson to send heads under which the Free State should gather information and from which sources it should be obtained.⁶⁰ Other officials corresponded with England and Wales. For instance, that same month, the Governor General to the Free State, T.M. Healy, received a copy of the act and the official report of the parliamentary proceedings.⁶¹ However, according to the Minister for Local Government and Public Health, General Richard Mulcahy, the Irish government and the GAO concluded at the time that there was not enough information available from the 1911 census, the source they used to gather information for the pensions scheme, and discussions of any scheme was put off until

⁵⁹ Holohan, 'Conceptualising and responding to poverty', p. 38.

⁶⁰ Joseph Glynn to Sir Alfred Watson, 20 May 1925 (TNA, Kew, Government Actuary papers, ACT 1/249).

⁶¹ J.S. Amery to Governor General His Excellency T.M. Healy, 12 May 1925 (NAI, Department of the Taoiseach papers, TSCH/S/4426).

December 1927. Again in 1927 the government and GAO concluded that necessary information from the census was still missing.⁶²

The correspondence between London and Dublin sheds light on wider post-partition relationship between the two states. Dublin still turned to London for advice and precedent, and still utilised the British civil service for Irish needs. This correspondence between Dublin and Whitehall demonstrates the existence of an Anglo-Irish civil service network after 1922. Indeed, Fanning notes of Anglo-Irish relations between the Treasury and the Department of Finance: '[were] characterised by a remarkable mutual understanding between officials concerned . . . The practice of getting Treasury officials on loan from London for key posts in the Department of Finance . . . are but some of the factors which testify to the continuing closeness and cordiality of the relationship'.⁶³ However, this relationship was not always so successful. In 1929 a memorandum about reciprocity of social services between dominions and the UK noted that negotiations about unemployment insurance reciprocity between the Free State and the UK fell through in 1923 but the National Health Insurance reciprocity agreement was successful.⁶⁴ Therefore the relationship can be seen as complex but often successful.

Again in 1927 with the publication of the report of the poor law reform commission, the Cosgrave government appeared to take interest in taking an active role in securing relief for widows. However the inaction that followed the report's publication reinforces Kelly's claim that the Cosgrave administration was more inquisitive than active. The 1927 report found: 'It is urged that the present system of Poor Relief for widows even when administered sympathetically is altogether inadequate . . . that it is hurtful to the self-respect of these women who have been reduced to destitution through the death of their husbands to be compelled to parade their poverty every week at the office of the Assistance Officer'.⁶⁵ The report favoured government intervention in women's lives like that of American mothers' pensions. These were non-contributory pensions rather than the social insurance scheme in the UK. Regarding the latter type of scheme, the report read: 'very few of

⁶² *Dáil Éireann deb.*, xxvi, no. 15, cols 1884-7 (9 Nov. 1928).

⁶³ Fanning, *The Irish Department of Finance*, p.123.

⁶⁴ Reciprocity between dominions, 20 Sept. 1929 (TNA, Kew, Ministry of Pensions papers, PIN/4/113).

⁶⁵ *Report on the Commission on the relief of the sick and destitute poor, including the insane poor*. (Dublin, 1927), §175, p. 57.

the witnesses questioned on the subject had considered the question of a contributory scheme such as exists in Great Britain . . . Strictly speaking, a contributory scheme is an insurance rather than a Poor Law problem, and for that reason we did not take detailed evidence on it'.⁶⁶ It does not appear that the Cosgrave government took steps to implement a non-contributory scheme, however it did inquire into the feasibility of a scheme of social insurance in the Free State.

Cooperation on this question between Dublin and London slowed from 1925 because, as Glynn informed Watson: 'We endeavoured to collect a certain amount of information which was then asked for but in the end had to abandon the enquiry as the preliminary work for our 1926 census was in hand'.⁶⁷ When the Free State civil service expressed interest in this issue again, the work picked up where it left off. The GAO advised Glynn in 1928 on the suitability of the British model to the Free State. The issues highlighted by the actuary, particularly the urban/rural divide and the debate over contributory or non-contributory schemes, foreshadowed future debates about widows pensions. The actuary noted that the Free State had a higher proportion of agricultural workers and those working within their family who were not covered under the National Health Insurance. On this the GAO continued: 'it might not be either wise or acceptable to extend the scope of Health Insurance to include this class, but on the other hand if they are to be included in the pension scheme they must be brought in compulsorily . . .'.⁶⁸ To this, Glynn wrote: 'we have never contemplated that the suggested scheme of Widows etc. pensions should include the agricultural population of small holders and persons employed by their parents who are outside the Health Insurance Acts'.⁶⁹ Glynn went on to explain that it would be too difficult to make that scheme compulsory for that part of the population, and 'the Scheme to be considered is one which would be coextensive with Health Insurance'.⁷⁰ Therefore, it appears that the type of scheme *Cumann na nGaedheal* had in mind was limited to industrial workers and would not cover those working outside the system. Based upon Glynn's reply, it appears this was due to the practicalities of installing a contributory

⁶⁶ Ibid., §177, p. 57.

⁶⁷ Glynn to Watson, 2 Dec. 1927 (TNA, Kew, Government Actuary papers, ACT 1/249).

⁶⁸ Excerpt from a letter from the Government Actuary to Sir Joseph Glynn, 18 Jan. 1928, on the subject of Contributory Pensions. Pensions for widows and orphans in the Saorstát. (NAI, Department of Foreign Affairs papers, DFA/2/36/41).

⁶⁹ Ibid, Excerpt from reply dated 16 Feb. 1928. (NAI, Department of Foreign Affairs papers, DFA/2/36/41).

⁷⁰ Ibid.

scheme. However, this contradicts the report of the Poor Law Commission, of which Glynn was a member, which called for a non-contributory scheme.

The correspondence between London and Dublin reveals even more about the Free State's approach to the pensions issue. A 1931 letter from McElligott to Watson ran:

You are quite right in assuming that we do not regard the matter as one of pressing urgency. We fully appreciate the fact that the investigation is difficult and complicated and that you must have ample time for the preparation of your report. . . The minister has consistently taken the line that the matter is one which requires adequate investigation before the Executive Council can arrive at a decision and that, accordingly, no decision need be expected until the Actuary's report is received . . . while I do not at all desire to press you in connection with the preparation of your report, it would be helpful to us if you could give some very approximate idea of the amount of time it is likely to take.⁷¹

McElligott's letter conforms to the consensus that Cumann na nGaedheal's approach to social policy was neither a priority nor radical. This correspondence also reveals the continued partnership between London and Dublin. The GAO was willing to provide detailed advice to Dublin about the implementation of a widows scheme. Indeed in December 1930 the GAO suggested: 'It might be convenient before the terms of reference are finally drawn, for us to have an opportunity of considering the draft and possibly discussing the matter with you'.⁷² To this Glynn replied: 'At this stage it is difficult to indicate precisely the lines which the Scheme might follow and we shall no doubt have to avail of your offer of verbal discussion before the Terms are finally drawn up'.⁷³ In 1931 the Department of Finance in Dublin wrote to the GAO to arrange for an official to come to Dublin to advise on such a scheme.⁷⁴ This coordination continued into the Fianna Fáil administration and was instrumental in the committee of inquiry into widows' and orphans' pensions in 1932-3.

It does not appear that Dublin and Belfast officially corresponded regarding widows' pensions schemes. This is interesting as the Northern Irish legislators may have had a better understanding of the demographics in the Free State than British

⁷¹ McElligott to Watson, GAO, 13 June 1931. (TNA, Kew, Government Actuary papers, ACT 1/249).

⁷² G.S.W. Epps, Government Actuary's Office, London, to Glynn, 1 Dec. 1930 (TNA, Kew, Government Actuary papers, ACT 1/249).

⁷³ Glynn to Epps, 23 Dec. 1930 (TNA, Kew, Government Actuary papers, ACT 1/249).

⁷⁴ Letter from McElligott, Department of Finance, to British Government actuary, 11 June 1931. (NAI, Department of Foreign Affairs papers, DFA/2/36/41).

civil servants. However, that is not to say that Northern Ireland did not play a large role in debates concerning widows' pensions. Northern Ireland was employed as a rhetorical device to add urgency to Free State calls for pensions. In particular in the 1928 and 1929 Dáil debates regarding widows' pensions, references to Northern Ireland largely took two forms: the first was constructive ways to model the Irish widows' pensions after the Northern Irish system, and the second was a competitive desire to surpass Northern Ireland in social provision.

Free State politicians looked north for an example of how pensions worked in 1928 and 1929. In 1928 Tadhg Murphy, Labour TD for Cork West, put forward a motion for the Executive Council to present a report on the cost of a scheme of insurance for widows and orphans.⁷⁵ In the initial debates on this motion the Minister for Finance suggested looking to a system as in Northern Ireland and Great Britain, 'and to examine what modifications, if any, would be necessary to make that scheme properly applicable here, having regard to the fact, for instance, that the proportion of people in health insurance is less here than in the north.'⁷⁶ While Blythe was in favour of modifying Northern Irish legislation to fit the Free State, Hugh Law, Cumann na nGaedheal TD for Donegal, disagreed. He argued that such a scheme could not be adopted to Free State conditions, as they differed 'enormously' from Northern Ireland, as many of the necessitous widows came from 'the wage-earning class . . . I cannot see how you can bring the bulk of people, say, in Donegal or any of the Western countries, into any such scheme . . .'⁷⁷ As such, Law proposed an amended motion, which was ultimately accepted, to have the Executive Council inquire into the practicality and cost of a welfare scheme for widows.⁷⁸ While the motion was accepted, an inquiry never materialised under the Cumann na nGaedheal administration. However, as discussed above, it is clear that the government did take the initial steps of consulting the British civil service on the practicalities of a pension scheme.

⁷⁵ See *Dáil Éireann deb.*, xxvi, no. 4, col. 480 (17 Oct. 1928): That this House is of opinion, having regard to the inadequacy of the provision at present made for widows and for orphans bereft of their breadwinners, and to the desirability of removing all stigma of pauperism in such cases, that the establishment of a scheme of insurance to provide pensions and allowances for widows and orphans would be desirable, and accordingly requests the Executive Council to prepare and present to the House a report upon such schemes of insurance and estimates of the cost.

⁷⁶ *Ibid.*, col. 493.

⁷⁷ *Ibid.*, xxvi, no. 15, cols 1870-2 (9 Nov. 1928).

⁷⁸ *Ibid.*, col. 1879.

The second category of references to Northern Ireland took the competitive form of TDs arguing for urgent social reform because the Free State was falling behind Northern Irish legislation. This competitive nature was framed in terms of partition. For instance, Richard Corish, Labour TD for Wexford, criticised the government in 1927 using this trope: ‘In Northern Ireland, at our very door, such a system prevails, and it is very poor compensation for some widows and orphans in the Free State to know that though they have a kind of freedom they are in an infinitely worse position than people who are still under English control’.⁷⁹ As seen in the previous chapter, the northern press argued a similar point regarding old age pensions, saying the 1925 Widows, Orphans, and Old Age Contributory Pensions Act would make ‘every Ulster old age pensioner rejoice that he is on the right side of the border’.⁸⁰ This competitiveness was a common rhetorical device used by Free State politicians to criticise the government for not implementing social legislation and falling behind Northern Ireland. Seán MacEntee, Fianna Fáil TD for County Dublin, argued this point when calling for widows’ pensions in 1928: ‘The standard of living in this State must equal—and it should be our pride and our first duty, if we can, to make it surpass—the standard of living reached by the commonalty in other States. For reasons of the highest policy social conditions here should not be permitted to compare unfavourably with social conditions in the North of Ireland . . .’⁸¹ Archie Cassidy, Labour TD for Donegal, reiterated this. He explained the specific issue of providing welfare after partition: ‘Picture a widow with a family in Donegal living on the border of the Six Counties but not entitled to any pension as there is no such scheme in operation in the Saorstát. She and her children are in a state of starvation . . . If she and her children were living 100 yards across the Border she would be entitled to a pension’.⁸² Therefore, the widow on the Donegal side of the border would be acutely aware that were it not for partition, or should she live a short distance further in one direction, she and her children would be in receipt of state support.

Cassidy also highlighted how inequality in social services hindered efforts for the reunification of the two Irish states: ‘We hear a lot of talk about unity. We, of the Labour Party, want to bring about unity and believe that one of the ways of doing so

⁷⁹ Ibid., no. 4, col. 499 (17 Oct. 1928).

⁸⁰ *Northern Whig*, 16 Oct. 1925.

⁸¹ *Dáil Éireann deb.*, xxvi, no. 4, col. 487 (17 Oct. 1928).

⁸² Ibid., xxvi, no. 4, col. 502 (17 Oct. 1928).

is to improve our social services. Do you expect that you can bring about unity by having those services in the Free State on a lower level than those in the Six Counties?’⁸³ This competitive rhetoric of Free State politicians with regard to the North creates Free State’s own unofficial, haphazard step-by-step policy, that is, a desire to be on par with or exceeding the standards of social services of the UK.

Civil society groups also made this argument. After the introduction of the 1925 pensions act in Northern Ireland the IMPS passed a resolution: ‘in view of the recent legislation in Great Britain and Northern Ireland, by which pensions are conferred on all necessitous widows and orphans, “we consider the time has arrived for the establishment of pensions for similar persons in the Free State” and “this reform should not be delayed but should be put into immediate operation on the non-contributory basis of the American system of Mothers’ Pensions”’.⁸⁴ The IMPS argued this line repeatedly. In their 1928 annual report, the society notes how widows in Northern Ireland and Great Britain were covered but the Free State remained: ‘Cinderella, deprived of . . . happiness . . .’⁸⁵ The *Irish Times* reported on this meeting and cited Thomas O’Donnell, TD⁸⁶, who noted: ‘What Northern Ireland does in humanely providing pensions for widows we in the Free State should most certainly strive to do’, and John D. Nugent⁸⁷ who wrote: ‘Surely now in the third year since this beneficent provision for the widowed mother and the orphan was brought into operation in Northern Ireland it is but fitting that the Free State should no longer lag

⁸³ Ibid. This reference to a future unified Ireland was not uncommon and will be examined again in chapter six’s discussion of divorce law.

⁸⁴ Irish Mothers’ Pensions Society as quoted in *Irish Independent*, 30 Oct. 1925.

⁸⁵ Irish Mothers Pensions Society Report, 1928. (NAI, Department of Finance papers, F/46/9/25).

⁸⁶ It is unclear if this Thomas O’Donnell was a former or incumbent TD. There is no listed Thomas O’Donnell for the 6th session of the Dáil. However there is a Thomas O’Connell, Labour TD, Mayo South. See ‘Dáil Éireann member’s directory. 11 Oct. 1927 – 29 Jan. 1932. (<http://www.oireachtas.ie/members-hist/default.asp?housetype=0&HouseNum=6&disp=mem>) (31 Dec. 2016). There is also a Thomas O’Donnell, Sinn Féin (Pro-Treaty) TD, who sat in the 2nd and 3rd Dáil sessions (1921-3) for Sligo-Mayo East. (<http://www.oireachtas.ie/members-hist/default.asp?MemberName=Thomas+O%27Donnell&disp=src&housetype=0&HouseNum=6&ConstID=6&ac=1>) (31 Dec. 2016).

⁸⁷ Nationalist politician turned insurance manager. See Marie Coleman, ‘Nugent, John Dillon’, in James McGuire and James Quinn (eds), *Dictionary of Irish Biography*. (Cambridge, 2013). (<http://dib.cambridge.org/viewReadPage.do?articleId=a6252>) (31 Dec. 2016)

so painfully in the rear in this field of social reform'.⁸⁸ In terms of worker's rights, labour groups suggested that incongruities between north and south of the border was an injustice to the worker: 'we demand that immediate action be taken by the Government of Saorstát Éireann to establish Old Age and Widows' and Orphans' Pensions in the Free State on at least equal standards to that now existing in Great Britain and Northern Ireland, and thus remove the individulous distinction now made between the workers of Northern Ireland and Southern Ireland'.⁸⁹

In 1932 Cumann na nGaedheal was defeated by Fianna Fáil and became the opposition party. Previous studies of the Cumann na nGaedheal government highlight its minimalistic approach to social policy. However, this thesis' analysis demonstrates that the government was not completely ignorant of social issues. While the government did not write legislation for widows' pensions, its actions did lay significant groundwork for Fianna Fáil to carry out widows' pensions legislation once taking office.

II. Fianna Fáil in power, 1932 - 1948

Cousins notes that while Cumann na nGaedheal did not prioritise social welfare policy: 'key civil servants were committed to an expansion of existing services. The incoming Fianna Fáil government was to provide the political support for this approach'.⁹⁰ Fianna Fáil of the 1930s was seen as much more progressive in terms of social spending than Cumann na nGaedheal. This programme was carried out with the help of the Labour Party. William Norton, newly elected leader of the Labour Party, pledged Labour's support to Fianna Fáil in the Dáil. In return for this support, Fianna Fáil promised several social welfare initiatives, including widows' and orphans' pensions.⁹¹ Daly calculates that by 1939 the state was spending £12.6 million, 40% of the government's budget, on social spending such as education and social services. This was up from £8 million in 1929.⁹² Barrington suggests that Fianna Fáil's social policy was motivated by 'the ideal of creating a society in which there would be neither poverty nor great wealth and in which the poorest would enjoy

⁸⁸ *Irish Times*, c. Feb. 1928. Clipping in letter sent to Ernest Blythe (NAI, Department of Finance papers, F/46/9/25).

⁸⁹ Dublin Typographical Benevolent Fund and Printers' Pension Society to President Cosgrave, Mar. 1927. (NAI, Department of Finance papers, F/46/9/25).

⁹⁰ Cousins, *Birth of Social Welfare*, p. 55.

⁹¹ Emmet O'Connor, *A Labour History of Ireland* (Dublin, 1992), p. 128.

⁹² Mary E. Daly, *Social and economic history of Ireland since 1800* (Dublin, 1981), p. 179.

the dignity of a good house, clean water, a hospital bed when ill, a job or at least a minimum income'.⁹³ Whether the government was successful in realising this vision is for another thesis, but it is undeniable that this vision ran through Fianna Fáil's social policy in this period. As Dunphy highlights 'Fianna Fáil quickly realised the political value of a programme of social reforms; pensions and social-welfare assistance were a relatively small price to pay to ensure the adherence of the most desperate social strata (numerically, and therefore electorally, important) to its strategy for economic development.'⁹⁴ As such, the party had been campaigning for widows' pensions since the early years of its formation. The IMPS successfully lobbied Fianna Fáil in 1928, then in opposition, to push for widows' pensions legislation.⁹⁵ The party took action by consulting with IMPS on the cost of the scheme and instructing the party's Local Government Committee and the Finance Committee to investigate the details of the scheme.⁹⁶ In April 1928 the Parliamentary Party decided to support the Cumann na nGaedheal motion by Hugh Law that the Party 'Request the Executive Council to prepare and present to the House a report upon Widows' and Orphans' Pensions'.⁹⁷

When the party took power in 1932, the Department of Finance drafted a memorandum comparing social services in Great Britain and the Free State. The department identified widows' and orphans' pensions as an area in which 'the provision of Health Insurance [is] less beneficial to insured persons in the Saorstát than in Great Britain . . . '⁹⁸ While the memo offered no commentary other than highlighting that widows in Great Britain were better protected, it did walk through the main points of the pensions scheme. An additional document, 'Confidential: Pension Schemes in the Irish Free State compared with those in Great Britain for the years 1922-32', was prepared by the Revenue Commissioners. Again this document

⁹³ Ruth Barrington, *Health, medicine and politics in Ireland, 1900 – 70* (Dublin, 1997), p. 113.

⁹⁴ Richard Dunphy, *The making of Fianna Fáil power in Ireland* (Oxford, 1995), p. 99.

⁹⁵ Minutes of the Fianna Fáil National Executive, 5 Jan. 1928 (UCDA, De Valera Papers, P150/2117).

⁹⁶ Minutes of Meeting of the Standing Committee, 17 Jan. 1928 (UCDA, Fianna Fáil Papers, P176/452); Minutes of Meeting of the General Committee, 2 Mar. 1928 and Minutes of meeting of Parliamentary Party, 6 Mar. 1928 (UCDA, Fianna Fáil Papers P176/443).

⁹⁷ The efforts of Fianna Fáil regarding widows' pensions will be discussed in a later section of this chapter. Minutes of meeting of Parliamentary Party, 17 Apr. 1928 (UCDA, Fianna Fáil Papers, P176/443).

⁹⁸ List of memoranda prepared by the department of finance, (N) Comparison of Social Services, 1932 (UCDA, De Valera Papers, P150/2194).

does not offer any opinion or commentary, but highlights the main points of the scheme, particularly that the British acts did not have any means tests.⁹⁹ It is clear that the government was modelling its scheme on the British acts, as there is little record of memorandums investigating American or other European social schemes. However, it is important to note that despite this interest in British social schemes, Northern Irish schemes were not mentioned in these memorandums.

IV. 1932-3 commission of inquiry into widows' and orphans' pensions

On 15 March 1932, the new Fianna Fáil Minister for Local Government and Public Health, Seán T. O'Kelly, announced in the Dáil a plan to appoint a commission of inquiry into widows' pensions. The provisional terms were to make recommendations about a pensions scheme based on ones at work in other countries.¹⁰⁰ In light of the false start for an inquiry in 1928, this announcement was greeted with some hesitancy. Daniel Morrissey, Independent Labour TD for Tipperary, asked the minister: 'are we to take it that the Committee now proposed to be set up will be expected to cover the same ground which we are told has been under consideration for the last three years? Are we to expect that it will take at least a further three years. . . ?'¹⁰¹ In response, the minister assured the House: 'Deputy Morrissey is well aware of the fate that befell the Government which took three years to consider this question. We have no intention of following their example'.¹⁰² However, it was not until three years later that the government passed the widows' pensions bill into law.

The 1932 commission is overshadowed by the 1927 poor law commission in the historiography of this period. An analysis of this commission offers insight into how those in and out of government saw the responsibility of the state for the welfare of its people, as well as how widows were conceptualised and categorized according to perceived morality and necessity. It also acts as a point of comparison to Northern Ireland and foreshadows many of the same issues in the 1935 Oireachtas debates on the scheme.

⁹⁹ Confidential: Pension Schemes in the Irish Free State compared with those in Great Britain for the years 1922-32. 1932. (UCDA, De Valera Papers, P150/2194).

¹⁰⁰ *Dáil Éireann deb.*, xli, no. 2, col. 55 (15 Mar. 1932).

¹⁰¹ *Ibid.*, cols 55-6.

¹⁰² *Ibid.*, col. 56.

The committee was composed of fifteen members. Justice Creed Meredith, a high court judge and chairman of several commissions,¹⁰³ was the chairman initially, but due to his appointment to another commission, Sir Joseph Glynn replaced him. Glynn was a 'Catholic social activist', president of the SVP, and chairman of the Irish Insurance Commissions.¹⁰⁴ Other prominent committee members included J.P. Dunne of the IMPS; trade unionists Louie Bennett and Eamon Lynch; officials of local health boards; and civil servants from the Department of Local Government and Public Health and the Department of Posts and Telegraphs.¹⁰⁵

The main objective of the commission was to determine how to provide pensions to the largest number of widows and orphans. While this was phrased in terms that seem to suit industrial discourse, 'the protection of workers against risks endangering their livelihood or that of their dependents', the commission looked to include widows and orphans of all necessitous cases.¹⁰⁶ In the absence of any step-by-step policy, the commission had free rein to discuss a variety of schemes to address the complexities of Free State demographics. In particular the main question was whether the scheme should be contributory or non-contributory. This was not an issue unique to the Free State at this time. Thane notes how until the Pensions Act of 1908 the comparative benefits of a contributory or non-contributory scheme were debated extensively in Westminster. She explains: 'The central problem on which the debate focused was the difficulty of helping the poorest, while providing the incentives widely thought necessary for the encouragement of self-help and independence of the state'.¹⁰⁷ This debate carried through to the 1932 commission and even to the 1935 Oireachtas debates, with those against the non-contributory scheme suggesting that such a system of state relief could lead to idleness and immorality.

Contributory pensions, non-contributory pensions, and the urban/rural divide

¹⁰³ Including chief judicial commissioner (1924), the army inquiry committee (1924), and the town tenants' commission. Tadhg Foley, 'Meredith, James Creed', in James McGuire and James Quinn (eds), *Dictionary of Irish Biography*. (Cambridge, 2009). (<http://dib.cambridge.org/viewReadPage.do?articleId=a5798>) (16 Nov. 2016).

¹⁰⁴ Diarmaid Ferriter, 'Glynn, Sir Joseph', in James McGuire and James Quinn (eds), *Dictionary of Irish Biography*. (Cambridge, 2009). (<http://dib.cambridge.org/viewReadPage.do?articleId=a3499>) (16 Nov. 2016).

¹⁰⁵ For full list of committee members see *Report of the Committee of Inquiry into Widows' and Orphans' Pensions* (1933), p. 4.

¹⁰⁶ *Ibid.*, p. 6.

¹⁰⁷ Pat Thane, 'Non-contributory versus insurance pensions, 1878-1908' in Pat Thane (ed), *The origins of British social policy* (London, 1978), p. 88.

With respect to the 1932 commission, the urban/rural divide lay at the crux of the debate over contributory and non-contributory pensions. In particular, the committee needed to determine how to provide pensions to widows not covered under pre-existing social insurance, that is, mainly rural widows not in the industrial class covered under the national health insurance. This was a key issue, as the majority report cited the statistic that only 32% of the male population in the Free State were at an ‘insurable age’, whereas Northern Ireland and Great Britain had 59% and 74%, respectively.¹⁰⁸ As such, it was imperative that the committee investigate how to include the non-insured class, particularly agricultural smallholders, into a scheme. The committee coordinated with the National Health Insurance Commission on this question, and the commission found that it was impractical to bring the smallholder class into a contributory scheme. The administration of extending the national health insurance to this class would be too costly, and the rate of contribution that the smallholder would have to make would be ‘intolerable’.¹⁰⁹ Inspectors from the Land Commission and the Department of Agriculture confirmed this same sentiment. Since it was deemed impractical to bring agricultural smallholders into the scheme, the committee found: ‘the only practical alternative is, in our opinion, a scheme of non-contributory pensions’.¹¹⁰ Therefore the committee did not show the same hesitancy to a non-contributory scheme as the legislators in 1935 would. While the Free State had a larger scope for writing legislation specific to its demographics, it is seen that the influence of the UK precedent loomed large and was ultimately enforced.

The urban/rural divide weaved through much of the debates in the commission, including questions about the cost of living and whether urban widows should receive higher rates than their rural counterparts. The committee argued that rural widows had a lower cost of living, with urban people paying high rents and expensive retail prices, although the report noted: ‘though we have no statistical information on the point, that, also, is our opinion’.¹¹¹ A representative from the Department of Land and Fisheries expressed a similar opinion, reported the *Cork Examiner*: Sean Collins, resident inspector of the department, testified that ‘his experience was that the widow and orphans of a small farmer readily received the

¹⁰⁸ *Committee of Inquiry into Widows’ and Orphans’ Pensions*, p. 19.

¹⁰⁹ *Ibid.*, p.21.

¹¹⁰ *Ibid.*

¹¹¹ *Ibid.*, p. 28.

assistance of their neighbours in working the farm until such time as the children were to work it themselves'.¹¹² This point was also expressed later in the 1935 debates and was accepted as a justification for different rates for the rural population. This was just accepted wisdom with no empirical evidence included to support it. However the committee did not eschew empirical discussions completely. It articulated the need to establish how, in fact, 'urban' and 'rural' were defined. This presented a problem as the census defined urban as 'towns of a population of 1500 and upwards and smaller towns possessing local government', while the National Health Insurance acts paid medical certifiers at an urban capitation rate for towns of 10 000 people or more.¹¹³

While the majority report called for a system of non-contributory pensions, the two minority reports disagreed with the recommendation. The first report called for contributory pensions while the second report called for a non-contributory scheme which differed from the structure suggested by the majority report. The second minority report, by John Herlihy, argued for a 'discretionary model' of non-contributory pensions. This was a scheme of weekly fixed rates decided upon on a local basis by a committee which 'fix the weekly amount to be given to each claimant in light of the claimant's circumstances . . . and having regard to the funds available'.¹¹⁴ Herlihy believed inequality existed in the majority report's scheme, particularly that rural widows would benefit more than urban widows.¹¹⁵ The latter point about the inequality in benefits between urban and rural widows became a prominent question in the 1935 debates over the terms of the pensions legislation. The urban/rural divide was the defining issue of the Free State debates. In the absence of a step-by-step policy, the legislators had the manoeuvrability to legislate specifically for its own demographics. However, this was a highly complicated question and consequently created extensive debate.

Looking to Great Britain and Northern Ireland

The consequences of partition and a newly independent state were not lost on the committee, particularly the Free State's schemes of social insurance which were inherited from the UK, such as the national health insurance and old age pensions.

¹¹² *Cork Examiner*, 9 Sept. 1932.

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*, p. 62.

¹¹⁵ Herlihy broke down the cost of living in rural Ireland, particularly the high prices for urban accommodation as well as the cost of and access to food. See pp 52-3.

When discussing what form a widows' and orphans' pensions scheme should take, the commission identified this historical context. The majority report notes: 'we have not, however, overlooked the fact that the principal enactments governing these schemes are all inherited from the former association of this country with Great Britain, and that the particular forms they have taken were not necessarily governed by the suitability to conditions existing here'.¹¹⁶ Asserting its independence from the UK and the ability to write legislation to suit its own demographics, the Free State commission had more creativity and independence in forming a pensions scheme than lawmakers in Northern Ireland - another inheritor of pre-partition social insurance. The commission notes clearly that it was not compelled to implement similar schemes should they not suit the Free State: 'in considering a scheme suitable for Saorstát Éireann we are not restricted by a definition of the problem that, under the conditions subsisting in Saorstát Éireann corresponds to the problem for the solution of which what are called "Widows and Orphans" Pensions have been established elsewhere. It is left to us to examine the scope of the problem as it exists in Saorstát Éireann'.¹¹⁷ The Free State had the authority to inquire into social problems and attempt to remedy them on a national scale. Unlike Northern Ireland, it did not follow a step-by-step process. However, even though the Free State legislation was written in the absence of a step-by-step policy, Britain came up again and again.

While mothers' pensions schemes in several of the American states were cited, too, the only detailed examination occurred in relation to the scheme at work in the UK. In fact, the British GAO played a large role in advising the committee of inquiry. The Secretary of the committee, P.J. Keady, sent copies of 'Verbatim Report of Evidence taken at sittings' relevant to the Actuary.¹¹⁸ In October 1932 members of the committee held a conference with J.G. Kyd, principal actuary in the GAO, and J.M. Hendrie, Deputy Controller, Pensions, Ministry of Health.¹¹⁹ With the help of the GAO, the commission applied the UK rates and terms to the Free State.¹²⁰ Similarly, a

¹¹⁶ Ibid., p. 9.

¹¹⁷ Ibid., p. 10.

¹¹⁸ Keady to Kyd, Government Actuary's Office, 4 Oct. 1932 (TNA, Kew, Government Actuary's Office papers, ACT 1/249).

¹¹⁹ Report of the conference between members of the subcommittee and J.G. Kyd and J.M. Hendrie, c. 18 Oct. 1932 (TNA, Kew, Government Actuary's Office papers, ACT 1/249).

¹²⁰ The British government actuary and the Deputy Controller of the Pensions through the Ministry of Health advised the Committee on this matter, at the Committee's request. See Éamon de Valera to the British Minister for External Affairs, 17 Aug. 1932; and Secretary of

detailed explanation of these schemes was included in the appendix to the report. At times the UK model was used uncritically. For instance, after noting the importance of legislating for the Free State to its own standard, the committee agreed to use the rates decided upon in Northern Ireland and Britain in 1925: ‘these rates were decided on, not by any reference to a standard of living or a level of subsistence, but merely because they were the rates payable under the contributory schemes in existence in Great Britain and Northern Ireland. No reason is seen, however, under present conditions, for assuming higher or lower maximum rates under a non-contributory scheme’.¹²¹ Undeniably the influence of the UK schemes was strong enough to overlook the importance of agreeing upon an amount in line with ‘a standard of living or a level of subsistence’. This seems to contradict the above statement that UK schemes did not fit Irish demographics.

Morality and the deserving poor

The majority report hardly discussed any aspect of moral welfare regarding widows and orphans, with the exception of the recommendation that ‘the welfare of the children [as] a matter of prime importance’, so the mother should be ‘a fit and proper person to bring up her children’. That is, ‘of sober habits and of good moral character’.¹²² This emphasis on the morality of the mother was not limited to the Free State. Canadian mothers’ pensions also included ‘moral criterion’ that a mother ‘be a fit and proper person to have care and/or custody of her children.’¹²³ In contrast to the majority report, the minority reports deal with aspects of morality in greater detail. Regarding the moral effect that the pension schemes would have on the family, the first minority report argued against non-contributory pensions, warning that it would ruin the morals of the family. Under the non-contributory scheme, it posited: ‘not only is thrift not encouraged, but it is directly discouraged; not only is responsibility not insisted upon – it is removed; not only are self-respect and self-reliance not safeguarded – they are sapped and destroyed’ whereas the contributory scheme ‘encourages thrift, forethought and prudence; it recognises the responsibilities of the

the Committee of Inquiry to the Department of External Affairs, 15 Aug. 1932. (NAI, Department of Foreign Affairs papers, DFA/2/36/41).

¹²¹ With the exception of rural widows, *Committee of Inquiry into Widows’ and Orphans’ Pensions*, p. 23.

¹²² *Ibid.*, p. 28.

¹²³ Gavigon and Chunn, ‘Mothers need not apply’, p. 745.

workers themselves and the duty of employers towards employees'.¹²⁴ This echoes the debates in the Stormont Senate in which Lord Londonderry rejected Labour's calls for non-contributory schemes and pushed for a contributory scheme: 'A scheme of this kind will encourage, rather than diminish, the self-respect and self-reliance of the people. A scheme on a non-contributory basis would, in our opinion, tend to sap those very qualities of self-reliance which have made our people a great people'.¹²⁵

In addition to the threat to the productivity of the family, the first minority report argued that the non-contributory scheme threatened the family's moral fabric. The authors maintained that the non-contributory scheme 'would transfer conjugal and parental responsibility from individual husbands and fathers to the abstract State. Such a conception of the relative duties of individuals and the State strikes at the very foundations of Christian philosophy'.¹²⁶ Earner-Byrne's analysis sheds light on the motivations behind the intrusion of the state into widows and orphans lives: 'the breadwinner was dead, therefore his role could not be infringed by state assistance rather it was validated by the state stepping into the breach in his honour'. This was rooted in the desire for the government to protect fatherless children. In this context, the mother was a means through which welfare was provided to the child, not an entity in herself: 'the state was not eager to become a surrogate husband only a surrogate father'.¹²⁷ Concerns over the secular state intruding in the sanctity of the family were not uncommon. These concerns stem from competing ideas about what role the state should have in families' lives. In the nature of a non-contributory scheme, the state would play a large role in the family's life. However, the scheme was imagined with the help of charitable organisations in mind. The widows excluded from the scheme would need to turn to charitable organisations for help, and, if the commission used the UK rates, it would be expected that all widows receiving funds would also use the charitable groups in their community. The committee did not look to replace these organisations, but to ease the pressure off these groups. For instance, regarding orphans' pensions, the majority report stated: 'one of the objects of the

¹²⁴ *Committee of Inquiry into Widows' and Orphans' Pensions*, p. 43.

¹²⁵ *Hansard NI (Senate)*, v, col. 297 (29 Oct. 1925).

¹²⁶ *Committee of Inquiry into Widows' and Orphans' Pensions*, p. 45.

¹²⁷ Earner-Byrne, 'Reinforcing the family: The role of gender, morality and sexuality in Irish welfare policy', p. 365.

payments of pensions to orphans is to reduce the extent to which necessitous orphans are forced to depend on the charity of individuals or organisations.¹²⁸

In a similar vein to discussions of morality, each report put value on which category of widow it saw as most deserving. The majority report identified ‘one of the most important questions to be decided in a non-contributory scheme’ was whether pensions should be given to widows without children in addition to widows with children.¹²⁹ The commission’s decision to limit this relief only to widows with children was not a strictly Irish decision. As noted by the report, at the time of its writing only one state out of the fifty-five examined gave non-contributory pensions to widows without children. Of this decision, Earner-Byrne notes: ‘The Committee reflected the tendency to limit the State’s liability to infant protection rather than the welfare of widows *per se* as a right of citizenship’.¹³⁰ Alternatively, in 1929 an amending act to the British scheme provided non-contributory pensions to all widows aged fifty-five and older, with dependent children or not, who would have qualified for a pension but for their husband dying before 1925.¹³¹ The 1929 amending qualification can be interpreted as a continuation of the contract between the industrial worker and the state, rather than a desire to protect children of the deceased father.

While the majority report envisaged that the scheme could be expanded to one day include all necessitous widows and children, it saw the need to be discerning in its provision of welfare. As such, while recognising the difficult state of the widow without child, only widows with dependent children under the age of fourteen, or sixteen if still in school, could qualify for a non-contributory pension. The second minority report took issue with this latter point and called for pensions to be given to widows without children. Herlihy argued that a widow with dependent children likely had the support of her own family and her late husband’s family, whereas ‘a widow without dependents is likely to be too old to earn much and is apt to be alone in the world’. Citing the lack of money to childless widows as ‘a very great injustice’, Herlihy advocated for the right of the widow without children.¹³² As discussed in the

¹²⁸ *Committee of Inquiry into Widows’ and Orphans’ Pensions*, p. 31.

¹²⁹ *Ibid.*, p. 25.

¹³⁰ Earner-Byrne, ‘Parading their poverty’, p. 37.

¹³¹ See 20 & 21 Geo 5 c. 10 [UK], *Widows’, Orphans’, and Old Age Contributory Pensions Act, 1929*.

¹³² *Committee of Inquiry into Widows’ and Orphans’ Pensions*, p. 66.

previous chapter, the position of illegitimate children received sympathy and attention in the 1925 widows' pensions debates in Northern Ireland. The report of this commission only noted 'it would be desirable to exclude illegitimate children', with the exception of those legitimised before the death of the father.¹³³

Press and political reception

The committee held its final session in May 1933 and notified the press on the general recommendations of their report. The final printed report was published in September 1933.¹³⁴ Since the announcement of the formation of the commission in 1932 to the announcement of their findings in May 1933, some letters to the newspapers were written complaining that it was taking too long. For instance the *Irish Independent* received a letter from 'A long suffering widow' in April 1933 stating 'I am afraid the Government are forgetting their promise to give pensions to the widows . . . Before the election they stated it would be the second item on their programme if returned to power [but nothing has been done] . . . Is it because we have no deputation to send to the Minister, or is Mr Norton [leader of the Labour Party] too busy fighting for bigger wages for the men? What about those who have no one to earn for them...?'¹³⁵ And again a week later 'another long suffering widow' wrote the paper: 'Where is the Commission . . . We were promised a pension after twelve months . . . England and the North take good care that their widows and orphans are not hungry.'¹³⁶ The public's use of this rhetorical device of employing the Northern Irish example to highlight inadequacies in Free State policy compliments the earlier usage of the same rhetoric by legislators in the late 1920s.

Once the recommendations were announced in May 1933, the press generally accepted the scheme. However, in a letter to the *Irish Independent* on 15 May, the National Council of the Catholic Young Men's Society of Ireland (CYMS) cautioned against a non-contributory scheme. The society warned that a non-contributory scheme could lead to socialism by the government having exhausted its direct taxation resources to pay for the scheme and 'it might then be necessary to the economic conditions of the country . . . to take over the productive and distributive

¹³³ Ibid., p. 27.

¹³⁴ This was announced in newspapers. See *Irish Press*, 25 Sept. 1933.

¹³⁵ *Irish Independent*, 3 Apr. 1933.

¹³⁶ Ibid., 10 Apr. 1933

arrangements presently existing . . .¹³⁷ The letter's conclusion echoed the second minority report, saying: 'The Council desire to afford every assistance to the widows and orphans, but are concerned that this should be provided for in such a manner as to not interfere with the system of Christian form of Government, where private property is safeguarded in accordance with the teaching of the successive Holy Fathers'.¹³⁸ It should be noted that of the 1933 annual conference of the CYMS, the *Catholic Directory* wrote: 'the [CYMS] held its second convention in Dublin and passed a resolution calling on Parliament to declare communism and communist propaganda illegal'.¹³⁹ Indeed, a speaker at the 1936 annual CYMS society meeting, Monsignor Waters, identified 'the communist and the socialist' as adversaries of Catholic lay organisations.¹⁴⁰ This concern places Ireland in the wider context of global affairs in the 1930s which feared socialism and an expanding government.

This examination of the 1933 commission is essential in painting the picture of the lengthy, drawn out, complex process of creating a pensions scheme in the Free State. The commission illuminates issues which remained unsolved going into the 1935 debates: who was 'deserving'? How to legislate for the urban/rural divide in the Free State? To what extent will the UK models be adopted?

V. The 1935 Widows' and Orphans' Pensions Act

While the commission's findings were published in 1933, the government did not introduce a pensions bill until 1935. When the legislation was introduced it looked very different from the scheme suggested by the committee in 1933. As discussed in the introduction to this chapter, the Free State scheme provided contributory pensions along the same lines as Northern Ireland and Britain. This challenges previous scholarship which suggests that the government distanced itself from its inheritance of British welfare policies in favour of Catholic social teaching, middle-class hesitancy regarding taxes, and laissez-faire economics.¹⁴¹ This was not always the case. In fact,

¹³⁷ Ibid., 15 May 1933.

¹³⁸ Ibid.

¹³⁹ *Irish Catholic Directory*, 1934, p. 608 quoted in Dunne, 'Catholic lay organisations', p. 110.

¹⁴⁰ Ibid.

¹⁴¹ See Eugene McLaughlin, 'Ireland: From Catholic Corporatism to Social Partnership' in Allan Cochrane, John Clarke, and Sharon Gewirtz (eds), *Comparing Social Policy*, 2nd edition (London, 2001), pp 228 – 9: The Free State inherited several British welfare policies (i.e.

the Free State scheme provided more state welfare provision than the Northern Irish and British pensions acts by adding a non-contributory pension for a certain demographic of necessitous widows. The latter part of the pensions scheme was highly controversial, as opposition TDs criticised the strict terms of the scheme and the strict means test. TDs also criticised the de Valera administration for ignoring the recommendations of the 1927 and 1933 inquiry reports. No detailed answer was provided by the government as to why it strayed from the reports, though the Minister for Local Government and Public Health did thank the 1933 commission for its reports, and throughout the debates the TDs referenced the recommendations of the majority report and the various statistics provided by the commission. The 1935 act will be examined through the interrogation of three main issues which are comparable to the analysis of the 1933 commission and debates in Northern Ireland: debates about the role of the state, ideas of perceived necessity, and morality.

The role of the state

The Fianna Fáil government took a similar approach to the Ulster Unionist government ten years earlier regarding the responsibility of the state in the life of the family. In response to criticism about the low rate of pensions, the Free State Minister for Local Government and Public Health argued that the entire community needed to help those in need, not just the state. He continued: 'In looking to the State alone for protection against all the contingencies of life, the tendency is to weaken personal and family responsibility and to strengthen correspondingly the conception of the overriding authority and responsibility of an abstract State . . . in this country at any rate, such a tendency is not in accord with the type of social philosophy predominately held'.¹⁴² Not all members of the Dáil adhered to this ideology. Labour TD William Norton criticised this appeal to ideology and said 'to talk about ideology to people who are getting 4/-, 5/-, 6/- [...] per week, and expected to maintain

Poor Law, public health, pensions) ' . . . there was also considerable opposition in the 'new' Ireland to the whole idea of state involvement in social policy. First, middle-class nationalists had consistently complained about excessive taxation under the British and argued that they could run a more efficient administration. Second, there was a shift supported by the Department of Finance towards laissez-faire economic policies and sound public finances with the result that severe restrictions were imposed on public expenditure and taxes were lowered. Third, there was the emergence of the powerful Catholic Social Movement in the 1920s and 1930s which argued that the state should limit itself to overseeing the activities of the various subsidiary welfare organisations'.

¹⁴² *Dáil Éireann deb.*, lvi, no. 17, col. 2277 (4 June 1935).

themselves and their families is, I think, nothing short of humorous'.¹⁴³ These comments were in relation to the question of the agricultural worker making a contribution under this act. Norton argued that the employer should pay instead of the worker. While the contributory pension fit with the state ideology, sometimes ideology did not fit with the harsh realities of living.

The appeal to this ideology echoes the arguments of Lord Londonderry in the Stormont Senate during the debates on the 1925 widows' pensions bill: it was not for the state alone to provide welfare to necessitous widows, that charitable groups would also provide support.¹⁴⁴ Such similarity casts light on the shared conservative trends in policy which transcended borders and religious divides. Previous analyses of Irish social policy attribute the tradition of small state governance to Catholic social teaching, however, the similarities between the policies of the government north and south of the border reveal wider conservative waves of social policy at work, and that social policy generation in the Free State was more nuanced, not simply towing the line of Catholic social teaching. However, that is not to dismiss the influence of Catholic ideology: it is to instead argue that it was not the sole influence and that this way of thinking and this policy was not a specific Irish phenomenon.

Legislators justified the small pensions that widows received with the belief that charitable institutions should help these widows. However, the act actually contradicted this ideal. In order to qualify for a non-contributory pension widows had to submit to a means test. The income from charity had to be declared and as a result some widows were disqualified from a pension. In fact, the argument was made that widows and their families were actually worse off under the non-contributory scheme than they were on home assistance. Norton noted how outdoor relief in Dublin was often higher than the rate of pay of the pensions.¹⁴⁵ Morrissey raised the issue in the Dáil that boards of health stopped giving home assistance to widows in receipt of pensions, but the widows were only receiving pensions of 3/- to 5/- a week which was not enough to live on. This was not the case for every board of health but it was certainly practiced by some.¹⁴⁶ The 1937 amending act eased the means test, allowing

¹⁴³ Ibid., lvii, no. 1. col. 81 (12 June 1935).

¹⁴⁴ See *Hansard N.I. (Senate)*, v, col. 297 (29 Oct. 1925).

¹⁴⁵ *Dáil Éireann deb.*, lvi, no. 17, col. 2260 (4 June 1935).

¹⁴⁶ See Morrissey's comments, Ibid., lx, no. 6, col. 779 (19 Feb. 1936).

charitable donations under £6 10s 0d a year and home assistance to be exempted from the means test, as well government grants to residents of the Gaeltacht.¹⁴⁷

Evaluating the 'deserving poor'

As seen in the reports from the 1933 commission, questions about who should qualify for a pension generated significant debate. Under the non-contributory section of the bill, a widow lost her pension once her youngest or only child passed the age of dependence (age fourteen). If the widow had several children, each child lost their children's allowance upon reaching age fourteen, but the widow kept her pension and other children's allowances until all the children reached fourteen. Once the children reached this age, they were no longer considered dependents and the widow lost her pension. Debates over who should qualify for a pension were prominent in the Free State drafting process, but were absent in Stormont even though the Northern Irish scheme had a non-contributory pension for women who were made widows before the Act. It is not clear why these questions did not come to the fore in Stormont, but perhaps it is a result of the policy of parity. In the Oireachtas, these debates shed light on how the government saw its responsibility to these families, how they saw the role of the mother and the needs of the children.

Regarding the age at which the children and widow lost their benefit, Norton expressed concern in the Dáil about the issues that such a measure would cause. In particular he highlighted that a child over fourteen still required the necessities of life such as food, clothing and shelter. However, the child and the widow would have to bear it alone. Norton's comments were not limited to pleading for the welfare of the child: 'It is bad enough to cut off the child of a widow at 14½ years of age, but, when that child is the only title to the widow's pension, to cut off the widow as well if she is not 60 years of age is going to impose a very serious hardship'.¹⁴⁸ This concern for the welfare of the widow was not expressed by all TDs, because, just like their Northern Irish counterparts, many of the Free State legislators expressed praise for the bill only in terms of providing enough means for the mother to care for her child.

The Minister for Public Health and Local Government's defence of this provision highlights the urban/rural divide which was so prominent in Ireland. It also

¹⁴⁷ Ibid., lxxv, no. 8, col. 1144 (3 Mar. 1937).

¹⁴⁸ Ibid., lvi, no. 17, col. 2258 (4 June 1935).

highlights how this divide complicated prospective legislation, as seen in the 1933 commission. He noted that widows in the towns might ‘be considerably embarrassed by losing the pension at that time, and there is the possibility of the child not being able to get employment’.¹⁴⁹ It is worth noting that the minister discussed the widow’s embarrassment instead of her welfare needs. This links to the bill’s philosophy of ‘the provision of welfare in a dignified fashion’¹⁵⁰ but, in this case, glaringly neglected the dire welfare needs of the widow and her family. Moving on to the needs of rural families, the minister noted: ‘In rural areas, however, I think it is a fact that children go to work on the farm and help their mothers, if they happen to be small holders or agriculturists in a small way. Even the sons of agricultural labourers go to work at a very early age . . .’¹⁵¹ Therefore in this case the agricultural widow would not be as harshly effected as the urban widow. However, the minister suggested nothing to fix this discrepancy, even though he acknowledged that the child might face issues gaining work. Michael Brennan, Cumann na nGaedheal TD for Roscommon, picked up on the urban widow’s issue where the minister left off. He argued: ‘In the case of towns and cities [fourteen years old] is really the dangerous age and the age when the widow most requires assistance. If the minister, when the child is 14 years of age, withdraws from the widow the assistance she is accustomed to get, it will have a very bad and a very evil effect. The Minister ought to make some provision to meet at least the town cases’.¹⁵² The debate on this subject reflects a wider pattern in the widows’ pensions debating process about whether urban or rural widows suffered more and were more deserving.

Childless widows and widows under age sixty with no dependent children did not qualify for a non-contributory pension. They would have to wait to age seventy to apply for an old age pension. The logic behind this was that until that age the widow could find work. While true in theory, this ignored the complexities of obtaining work as a woman in this period. For instance, in many fields of employment women were required to retire upon marriage. Therefore, these widows looking for work were often out of the workforce for an extended period of time and as such, not as appealing to employers. Interestingly problems with this legal issue did not come up

¹⁴⁹ Ibid., lvii, no. 1, col. 42 (12 June 1935).

¹⁵⁰ Kelly, ‘Social security in Independent Ireland’, p.140.

¹⁵¹ *Dáil Éireann deb.*, lvii, no. 1, col. 42 (12 June 1935).

¹⁵² Ibid., col. 43 (12 June 1935).

in any of the debates surrounding widows' pensions. The absence of this strand of argument sheds light on reactions to the marriage bar at the time. Senator Thomas Farren raised the issue of women facing problems returning to work, though he did not criticise the wider systematic issue of the marriage bar:

[a married] woman has been divorced from employment for a number of years. Owing to the present tendency, only a girl over 16 years of age can get employment in the new factories. The authorities at these factories say that they want only young people to train. It is difficult enough for unmarried women who are a little over 25 years to get employment, but what would be said to a woman who had been away from employment for 20 years and was the mother of a family if she went in search of a job? Who would give her employment? There is no possibility of her getting employment. For that reason, I suggest that the Minister substitute the age of 55 for that of 60 in the Bill . . .¹⁵³

Farren's comments raise the important methodological point of studying legislation: legislation is not always representative of the reality of the time. For instance, from reading the widows pensions' act of 1935, one might assume a widow could obtain a job quite easily and quickly. This does not take account of the high unemployment rates of the time, the limited access of women to paid work, and the complications following the marriage bar. While the scheme was expanded to a large degree in 1937, this condition remained. In the drafting memorandum of the 1935 bill the minister noted that 'it may be found necessary to go down to age 55, but it is thought that it would be wise to reserve this until some experience of actual cost has been obtained'. Furthermore, he compared the bill to Britain and Northern Ireland, noting that the Free State would not be expected to 'go further than has been found possible in Great Britain and Northern Ireland'.¹⁵⁴

In the drafting notes for the 1935 act, a detailed explanation was given for excluding 'childless' widows from the non-contributory scheme. The reasons were that none of the non-contributory schemes in other countries gave pensions to childless widows and in particular:

that in the British scheme of 1925, which at the outset was mainly contributory and will eventually be wholly contributory, pre-Act childless widows were excluded from benefit. The extension to include non-contributory childless widows aged 55-70 came in 1929. It was to some extent

¹⁵³ *Seanad Éireann, debs*, xx, no. 6, cols 448-9 (11 July 1935).

¹⁵⁴ Department of Local Government and Public Health, National Health Insurance Section, Widows and Orphans Pensions notes. 8 Oct. 1934. (NAI, Department of the Taoiseach papers, TSCH/S/6612/A).

forced on the Government and the argument used was that in the 1925 Act a non-contributory class was already included, i.e. widows with dependent children. It is understood that if the pressure extension had been foreseen, no non-contributory classes would have been included in the original Act.¹⁵⁵

Interestingly, when Norton raised the issue of the ‘childless widow’, the minister suggested: ‘If childless widows under 60 are to be entitled to pensions, one could, in the same way, argued that spinsters of certain ages would be equally entitled to pension . . . It is very difficult to know where to draw the line’.¹⁵⁶ This is highly revealing of the attitude of the state towards widows at the time: the widow’s individual welfare and needs were not considered, so much so that when it was suggested childless widow receive pensions, the widow’s experience as a wife did not come into the equation at all.

The non-contributory scheme only applied to widows of certain backgrounds. When introducing the bill the minister said there were 134 000 widows in the Free State. Norton, however, noted how many of these widows were disqualified from the bill:

the Minister, presented with the problem of providing pensions for 134,000 widows, promptly proceeds to eliminate 21,000 because they are childless widows under 60 years of age. Not apparently satisfied with this sufficiently large deduction from that number, the Minister proceeds to take away 55,000 widows who are 70 years of age and over . . . [now] we find that 58,000 widows are left in the Bill . . . So far as dealing with the existing problem is concerned, the problem of providing pensions for widows and orphans, the Minister is going to make it possible for 58,000 widows as a maximum—and that is a generous maximum—to get pensions, while 76,000 existing widows, so far as this table can be regarded as reliable to-day, are not going to get any pensions under the Bill.¹⁵⁷

Widows of husbands who were uninsured did not qualify for the non-contributory scheme. In particular widows of self-employed tradesmen could not qualify. In 1937 the new bill allowed these women to apply for a pension, but prior to the amending bill these widows had to fend for themselves, either seeking home assistance or work outside of the home. This provision goes against the maternal ideal of the widow upheld by the state. Some legislators took great exception to the mother looking for work. For instance in 1936 James Dillon, Centre Party TD for Donegal, called for an

¹⁵⁵ Ibid.

¹⁵⁶ *Dáil Éireann deb.*, lvi, no. 17, col. 2275 (4 June 1935).

¹⁵⁷ Ibid., col. 2252.

extension of the period under which a widowed mother could receive a pension: ‘I think it is the duty of the State to facilitate that. I think we ought to avoid, in so far as our resources will permit, bringing pressure to bear on a woman so circumstanced to go out and work. I think she is doing better work for the country if she holds her family together and rears her children well.’¹⁵⁸ Similarly, Senator Kathleen Clarke, a widow herself, argued: ‘I think it is a national duty in any country to see that the mothers of the children are enabled to remain in their homes which they would be able to do were their husbands living, and to rear their children as good citizens’. Further, Clarke suggested that if the mother searched for work, the children could become neglected and fall to bad ways: ‘when she is at work the children are on the streets where they do not learn the things that I consider necessary to make them good citizens. The result is that many of them reach reformatories. Some of them may come out of reformatories all right, but many of them only leave the reformatories to pursue their course of wrong-doing until they reach the gaols . . .’¹⁵⁹ Clarke only highlights the needs of the widow as a mother, not as a bereaved woman.

Dillon’s and Clarke’s comments emphasise a belief in the role that the state should take in allowing women to stay in the home to raise their children. Rephrased, these comments foreshadow the controversial article 41.2 of the 1937 Constitution: ‘the State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home’.¹⁶⁰ Much historiographical debate has occurred regarding the motivations behind article 41.2 in the constitution.¹⁶¹ The foreshadowing of the article’s essence years before its writing is significant, as this demonstrates that this drive to legislate to allow the mother to stay in the home and raise her child existed both north and south of the border. This similarity in motivations to the north again calls into question the sole emphasis put on the influence of the Catholic Church in purporting the domestic thought, as well as presenting a challenge to this idea of Free State/Irish exceptionalism. Valiulis’ observation that the relationship between Church and state in the Free State created women only as mothers and wives can also be applied to the

¹⁵⁸ Ibid., lxiv, no. 3, cols 444-5 (12 Nov. 1936).

¹⁵⁹ *Seanad Éireann deb.*, xx, no. 6, col. 453 (11 July 1935).

¹⁶⁰ Article 41.2.2, *Bunreacht na hÉireann* (1937).

¹⁶¹ See Clear, *Women in de Valera’s Ireland, 1922–48: A reappraisal*, pp. 104-114; Yvonne Scannell, ‘The constitution and the role of women’ in Brian Farrell (ed) *De Valera’s Constitution and Ours* (Dublin, 1988), pp 123-36; Gerard Hogan, *Origins of the Irish Constitution, 1928-41* (Dublin, 2012), pp 520-1, 526-33.

Northern Irish debate regarding widows' pensions.¹⁶² However, in Northern Ireland the Catholic Church did not have nearly the same influence, but similar depictions of women as mothers and wives were articulated in parliament. Therefore, this observation places the Free State in a larger context of conservative legislation relating to women in this period.

Morality: anti-fraud measure

As seen in the Northern Irish debates, the widow was traditionally depicted as a pious, suffering figure to be pitied and protected. The Free State debates generally supported this idealised vision of the widow, however section 28 in the bill also suggested a more menacing widow whom men needed to be protected from. This section stipulated that 'the widow of a man who married after the Bill was introduced and was over the age of 60 at the date of marriage will not be entitled to a pension'.¹⁶³ The idea of an immoral class and the suspicion of the single working-class female rears its head here once again. As seen in the debate over *in camera* court sessions in the 1930 Illegitimate Children (Affiliation Orders) Act, there was a fear that a single woman might deceive a wealthy man into marriage or financial support. The *in camera* clause was debated both north and south of the border, but only accepted by the Free State government. Similarly, the age upon marriage provision only appears in the Free State legislation. Arguably the lack of such a provision in the Northern Irish legislation fits with the more paternalistic view of women that did not attribute much weight to this discussion of the blackmailing female.¹⁶⁴ However, it should be noted that the provision in Northern Ireland was not possible to change because of the policy of parity. In both the affiliation orders act and the widows' pensions acts the Free State legislators demonstrate and codify distrust and perhaps fear of the working-class, single woman where their northern counterparts did not. Whether or not the northern legislators would have legislated for this fear if they could is a different question that cannot be answered without delving into conjecture.

¹⁶² Maryann Valiulis, 'Neither feminist nor flapper: The ecclesiastical construction of the ideal Irish woman' in Mary O'Dowd & Sabine Wichert (eds.) *Chattel, servant, citizen: Women's status in church, state and society* (Belfast, 1995), p. 169., quoted in Smith, 'The Politics of Sexual Knowledge', p. 210.

¹⁶³ See section 28 of Widows' and Orphans' Pensions Act, 1935.

¹⁶⁴ See chapter three.

As discussed above, legislation is not always a reflection of reality. It can be a delayed response to a problem or a response to a fear that is not rooted in reality: a moral panic. The Minister for Local Government and Public Health suggested that the person to be legislated against was the young woman: ‘it might happen that there would be a number of cases of young women marrying very old men whose prospect of life would not be very long’.¹⁶⁵ However, the minister did not present any hard evidence of such possibility, this was only a codification of fear. Such a clause fits with Earner-Byrne’s finding that the single working-class woman in the Free State was seen by the government as ‘a figure to be watched’.¹⁶⁶ Furthermore, there was a pattern in rural Ireland of older men marrying younger women. Brennan raised this point: ‘I do not think the abuses which the Minister apparently is afraid of, will exist. We have in the country cases of men over 60 getting married to quite young girls’.¹⁶⁷ Indeed in a draft of the 1940 Commission on Emigration, statistician Roy Geary noted how late marriages were a common pattern in Ireland and led to a higher number of widows and orphans.¹⁶⁸ Further, Daly notes that children of parents who married late would most likely marry at a later age themselves because they might have had familial obligations to care for a widowed mother or their siblings.¹⁶⁹ Therefore, it was a societal pattern that women married late and therefore risked becoming widowed mothers. So in addition to legislating for a nearly nonexistent threat, this fear of marriage fraud was prioritised over consideration of marriage patterns in rural Ireland.

As noted by opposition TDs, this scam would be too costly for the small pension that the successful fraudster would receive. Firstly she would have to marry, which Brennan suggests ‘is a costly experiment . . . I cannot imagine any girl tying herself up to an old man for the purpose of getting the pension which the Minister suggests . . . I cannot imagine anybody trying that experiment.’¹⁷⁰ Then in order to qualify for the non-contributory section of the bill, she would have to have a child before the death of her husband. Further, should she have children, the government

¹⁶⁵ *Dáil Éireann deb.*, lvii, no. 1, col. 43 (12 June 1935).

¹⁶⁶ Earner-Byrne, ‘Reinforcing the family’, p. 362.

¹⁶⁷ *Dáil Éireann deb.*, lvii, no. 1, col. 44 (12 June 1935).

¹⁶⁸ Mary E. Daly, ‘Marriage, Fertility and Married Women’s Lives in Twentieth-Century Ireland (c. 1900 – c. 1970)’ in *Women’s History Review* vol. xv no. 4 (September 2006), pp 579, 581.

¹⁶⁹ Daly, *The slow failure*, p. 118.

¹⁷⁰ *Dáil Éireann deb.*, lvii, no. 1, col. 45 - 6 (12 June 1935).

barred her and the children from a pension, thus compromising the principle of supporting the children of the deceased breadwinner. Norton gave the example of a widow with two children: the most she would receive in total would be 8/-. His comments sum up the implausibility of the threat that this clause protects against: ‘one would imagine from the section in the Bill that the woman was going to have Paradise. The Minister may rest assured that there will be no conspiracy to secure that 8/-’.¹⁷¹ On this point the minister said he would look into the matter, but when the bill reached the Seanad the section remained.

This drive to overlook significant demographic patterns in favour of legislating against an unlikely female threat relates to the historiographical debate about the culture of containment in Ireland. As discussed in previous chapters, the culture of containment, as described by James Smith, was a reaction to the state’s attitude of sexual immorality in the Free State. The architecture of containment was composed of numerous institutions including magdalen laundries, industrial schools, mother and baby homes, as well as legislation.¹⁷² It can be argued that the main purpose of the pensions legislation was to avoid the culture of containment as legislators wanted to keep children in particular away from institutionalisation. Therefore, in this sense the widows’ pensions legislation acts as a foil to the architecture of containment.

The wider treatment of the widow in the 1920s and 1930s can be tested under the lens of analysis of the culture of containment. Smith refers to a series of inquiries which led to legislation that regulated social and moral issues and arguably cemented the architecture of containment. In this discussion he did not, however, mention the 1933 inquiry into widows’ and orphans’ pensions.¹⁷³ Smith focuses on the 1930-1 Carrigan Committee.¹⁷⁴ The widows’ and orphans’ pensions committee sat two years after the Carrigan Committee was formed. While the pension issue was not related to sexual morality, if Smith’s thesis follows that this was an era in which ‘the discourse of “sexual immortality” enabled, even as it was perceived to threaten, post-

¹⁷¹ Ibid., col. 46.

¹⁷² Smith, ‘The Politics of Sexual Knowledge: the Origins of Ireland’s Containment Culture and the Carrigan Report’, p. 209.

¹⁷³ Ibid.

¹⁷⁴ A committee established by President Cosgrave in 1930 to inquire into the problem of juvenile prostitution. What followed was a report that ‘pointed to a general moral degeneration . . . [which] starkly contradicted the prevailing language of identity formation with its emphasis on Catholicism, moral purity and rural ideals’ Ibid., pp 213-4.

independent Ireland's national imaginary',¹⁷⁵ it is surprising that the widow as a sexual being was not discussed. Why was this fear regarding sexual immorality not reflected in the widows and orphans inquiry? Members of the same organisations were consulted in both inquiries, such as the IWWU. Even concerns about a widow being so driven to poverty that she would resort to prostitution, like those suggestions put forth about unmarried mothers, were not suggested or articulated. Why was this the case? The widow was a single woman who had likely engaged in a sexual relationship and she was facing severe economic hardship. Earner-Byrne observes hesitation regarding the single working woman, but again, this was hardly attributed to the widow. Was the widow seen as an asexual being and not required to be 'contained' as such? In fact, as Earner-Byrne argues, the widow was not a sexual threat, she was 'a married lone mother with no moral case to answer'.¹⁷⁶

However, the conceptualisation of the scheming bride and the punitive measure to catch her fits with this suspicion of female morality and it sexualises the widow-to-be. It isolates her from receiving state support after the death of her husband, perhaps driving her to some form of institutionalisation in a county home. This section's fixation on the threat of the welfare-seeking woman using marriage as a means to get money gives weight to an issue that did not exist while overlooking other important social issues.

While the public articulations by politicians paint the picture of a reverence for the widow, others called for more caution regarding welfare provision to widows. Lucey's analysis of the minutes of the 1927 poor law commission revealed this concern: '[Br.] O'Ryan also believed that in many cases children whose father had died should be institutionalised. The commissioner Glynn put it to O'Ryan that the "decent class" of widowed mother who financially struggled should be maintained with enough means to look after her children. O'Ryan contended that many of these widows subsequently became alcoholics'.¹⁷⁷ Similarly, the POS was weary that working-class widows would commit fraud. Walsh likened this distrust to the suspicion of wives of Irish soldiers who received separation allowances during the

¹⁷⁵ Ibid., p. 209.

¹⁷⁶ Earner-Byrne, 'Reinforcing the family', p. 362.

¹⁷⁷ Lucey, *The end of the Irish poor law?*, p. 125. Br. O'Ryan was the manager of the Artane Industrial School and the secretary of the Industrial Schools Association. Ibid, p. 124.

First World War.¹⁷⁸ These concerns were not codified into law. It was only the potential of the woman to dupe the older bachelor into marriage who was feared.

VI. Conclusion

The ideologies and conceptualisations about welfare, women, and the role of the state, north and south, demonstrate more similarities than differences in many areas of welfare distribution. This raises the question, what wider influences were at work in the writing of social policy in this period than Catholic social teaching? The prominent place of the Catholic Church in the Free State is undeniable, but it is important to highlight wider patriarchal trends that also influenced social policy generation.

What differences occur between north and south and what does this tell us about the effect of partition? Then ten-year gap between acts was due to the financial support to Northern Ireland as a result of the Colwyn Committee and the step-by-step policy. However, the scheme may not have matched Northern Ireland's demographics as well as the Free State scheme ultimately attempted to provide for its population. The similarity in debates about the terms of legislation demonstrate a comparable mentality at work at this time north and south of the border, but the step-by-step policy kept the northern debate limited, while the economic conditions of the Free State kept the legislation delayed.

The next two chapters will depart from this structure of parallel comparison of acts north and south of the border, and instead focus on two policies in Northern Ireland, divorce and the marriage bar, whose Free State counterparts have often been attributed to Catholic social teaching and not considered in their wider international context. The next two chapters will demonstrate the benefits of an all-Ireland approach, as it places the policies in their wider contexts and reveals a wider social conservatism underlying these issues. The first to be examined will be divorce. As seen in the previous chapters, the Northern Irish government's decisions and efforts were rooted in a paternalistic, conservatism which was often at odds with more progressive measures across the water. The reluctance to reform divorce law strongly illustrates this pattern.

¹⁷⁸ Walsh, *Anglican women in Dublin*, p. 183.

Chapter six: Partitioned marriages: divorce law reform in the two Irelands after partition.

‘ . . . it is a bitter and evil fruit of partition that this Bill should be brought in here applying this system of divorce in any part of Irish territory’¹

I. Introduction

Divorce law in the two Irelands provides one of the clearest examples of how women’s welfare differed as a result of partition. In the Free State the new government dismantled the legal and administrative machinery for divorce proceedings after 1925. However, while the Free State legislated for this conservatism, concerns about divorce law were not strictly a Free State sentiment. The northern government was deeply reticent to liberalise divorce law and consequently was out of step with British laws. In Northern Ireland divorce was legal but inaccessible to many as a bill of parliament was needed for each divorce and many people could not afford this costly process. This differed from England and Wales as that jurisdiction moved divorce proceedings to the courts with the Divorce and Matrimonial Causes Act of 1857.² Ireland was excluded from this act and as such, following partition both states could only pass divorces through parliament. In this legal context women were at a legal disadvantage, as Diane Urquhart explains:

The sexual double standard also was apparent in the grounds for divorce which were not based on equality. Rather, adultery on the part of the wife, raising fears of spurious issue, and the bogus transmittal of property provided adequate evidence for a husband’s need to end the martial union. For wives, however, aggravated adultery on the part of the husband was required: incestuous adultery; adultery coupled with bigamy or cruelty to the extent that it would entitle the wife to divorce *a mensa et thoro*. Rape and unnatural offences (such as sodomy and bestiality), as Cretney remarks, provided “sufficient evidence of a man’s depravity” to constitute grounds for divorce.³

Following 1857, the English law had been reformed and divorce could be granted through the courts on more legal grounds than Northern Ireland. In particular, the English reforms in 1923 allowed men and women to divorce on equal grounds. The

¹ Thomas Campbell, Nationalist Party MP for Belfast, Central, *Hansard NI (Commons)* xxii, col. 1254 (2 May 1939).

² Diane Urquhart interrogates the exclusion of Ireland from the 1857 Matrimonial Causes Act in ‘Ireland and the Divorce and Matrimonial Causes Act of 1857’, in *Journal of Family History*, xxxviii no. 3 (2013), pp 301-20.

³ *Ibid.*, p. 302.

calls for reform of the Northern Irish law highlighted this inequality between genders and called for the modernisation of Northern Irish law along English lines. Legislative reform was not, however, introduced by the government until 1939.

This chapter will mainly focus on divorce law in Northern Ireland. It will examine how the law functioned in the 1920s and 1930s, and why efforts to reform the law failed until 1939. It addresses the questions of why was Stormont so hesitant to reform its laws? To what extent did religious teaching influence this delay? How did this legal standing fit with the step-by-step policy? To what extent does Leanne McCormick's finding that the Northern Irish state saw itself as morally superior to Britain apply to delayed divorce law reform?⁴ This chapter argues that divorce reform in Northern Ireland offers another example of the wider conservatism at work in the two Irelands. The Free State dismantled the legal machinery for divorce and the Northern Irish officials were hesitant to engage with such a divisive topic as divorce reform. As such calls for reform elicited a wary response from the government who opted to hold on to the system of divorce it inherited before partition. This reveals the complexities of conforming to the step-by-step policy, as the law in England reformed after 1922. This reticence to follow the policy of parity on the divorce question fits with the wider pattern that the thesis tracks of ideas of a superior Northern Irish morality at odds with the step-by-step policy. This is particularly relevant to this study as English laws in 1923 and 1931 allowed women to bring forward divorce proceedings on the same level as men.

II. Divorce in the Free State

Before analysing Northern Irish matrimonial law, it is necessary to consider how partition affected divorce in the Free State. This section examines the Free State's decision to prohibit divorce proceedings. This analysis will establish parallels between the two state's approach to divorce law. This adds to existing scholarship on divorce in Ireland and gives crucial context and comparison to the northern law. Divorce law was unpopular with officials in the Free State. Indeed in the drafting

⁴ McCormick argues of the existence of: '... a wider view shared by Catholics and Protestants in the North and South of a Christian Ireland with higher moral standards of behaviour than its more secular English neighbour'. McCormick, *Regulating sexuality*, p. 8. See discussion of this in chapter one of this thesis.

process of the 1922 Free State constitution, Alfred O’Rahilly - an academic and a Catholic priest - ⁵ prepared a draft constitution which in part suggested that the constitution incorporate official recognition of the ‘inviolable sanctity of the marriage bond’.⁶ While this was ultimately rejected, it foreshadowed the short life of divorce law in the Free State and it’s barring under the 1937 Constitution. In the early years of the state there was no specific law relating to divorce, and partition caused judicial and jurisdictional confusion about divorce and consequently left important questions about procedure unanswered. For instance, in May 1924 the *Freeman’s Journal* reported a case in which the judge advised the petitioner to move the case to Northern Ireland because the law was clearer there: ‘Mr Justice Dodd said that there were obvious reasons why he should transfer petitioner to Northern Ireland. He had not the faintest idea what was now his jurisdiction in regard to the law of divorce, but in Northern Ireland the petitioner would be in direct touch with the House of Lords, and he could get his complete divorce if he so desired’. The report also quoted Justice Dodd’s instructions: ‘Transfer the proceedings. The Northern Court will deal with the costs’.⁷

An attempt to clarify the law on divorce in 1924-5 led to the unofficial end to divorce proceedings in the Free State. Fitzpatrick examines this episode in part of his article, ‘Divorce and separation in Modern Ireland’.⁸ The government was vested with the power to declare separation decrees, but it was unclear what the procedure was to declare these decrees. When the first three divorce petitions came before the Joint Committee on Standing Orders (Private Business), the body that would decide divorce cases in the Seanad, the committee looked to the government for direction on whether it should rule on divorce. The government took over a year to provide the Committee with its answer: in February 1925 President Cosgrave introduced a resolution to the Dáil to amend the standing orders to ban further introduction of divorce bills. The motion passed in the Dáil but in the Seanad the chairman, Lord Glenavy, judged Cosgrave’s motion to be out of order. The Seanad sought instead to propose new legislation to stop divorce bills. Glenavy was an experienced legal

⁵ John A. Murphy, 'O'Rahilly, Alfred', in James McGuire and James Quinn (ed), *Dictionary of Irish Biography* (Cambridge, 2009).
<http://dib.cambridge.org/viewReadPage.do?articleId=a6973> (10 Oct. 2017).

⁶ O’Rahilly quoted in David Fitzpatrick, ‘Divorce and separation in modern Irish history’ in *Past & Present* no. 114 (Feb. 1987), p. 187.

⁷ *Freeman’s Journal*, 10 May 1924.

⁸ Fitzpatrick, ‘Divorce and separation in modern Irish history’ p. 187.

advocate and practiced in the divorce division in England in the early twentieth century before becoming Attorney General in England in 1905 and Attorney General in Ireland in 1916, later lord chief justice that same year, and lord chancellor of Ireland from 1918 to 1921.⁹

The subsequent debate over the government's efforts to restrict divorce indicates how divorce fits into the wider discussion of the consequences of partition. Mainly, it brought to the fore the influence of conservative thought, particularly Catholic social teaching, the place of the Protestant minority, and discussions of an end to partition. A *Church of Ireland Gazette* editorial in 1924 highlighted these issues. In particular it discussed the threat which the eradication of divorce procedure posed to the Protestant minority in Ireland and it reminded readers that the Protestant churches had deep aversions to divorce, too. The *Gazette* highlighted its abhorrence of divorce: 'The Church of Ireland like the Church of Rome dislikes Divorce intensely.' But the editorial called for a separation of church and state on the matter: '... this is not a religious question at all; it is a matter of civil rights. The minority in Ireland hitherto has enjoyed the right under British law of being able to secure a divorce, and under the Free State Constitution that minority is given complete civil and religious liberty'.¹⁰ Therefore, this issue was about more than divorce: it concerned minority rights, new Irish identity, and the separation of church and state. The article's point about the Church of Ireland's dislike of divorce is significant, as it recalls the point that concerns about divorce were not exceptional to Catholicism nor the Free State. This concern to liberalise access to divorce was articulated in legislatures north and south of the border.

Attorney General Hugh Kennedy's papers hold correspondence on this matter between the government and the Catholic hierarchy. For instance, in 1923 President Cosgrave requested that the bishops' meeting in Maynooth comment on the status of divorce law. Morrissey writes on the significance of the personal motivations behind Cosgrave's approaching of Archbishop and the Catholic hierarchy: 'It was a comment on President Cosgrave's approach to the teaching of the Catholic Church that, before dealing with the issue of divorce, he sought an interview with Archbishop Byrne to

⁹ Patrick Maume, 'Campbell, James Henry Mussen 1st Baron Glenavy', in James McGuire and James Quinn (ed), *Dictionary of Irish Biography* (Cambridge, 2009).

(<http://dib.cambridge.org/viewReadPage.do?articleId=a1422>). (10 Oct. 2017).

¹⁰ *Church of Ireland Gazette*, 8 Aug. 1924.

familiarise himself with the church's position'.¹¹ The bishops wrote back to Cosgrave: 'Hitherto, in obedience to the divine law, no divorce with right to re-marry has even been granted in this country. The Bishops of Ireland have to say that it would be altogether unworthy of an Irish legislative body to sanction the concession of such divorce, no matter who the petitioners may be'.¹² The following March, Archbishop Byrne submitted a lengthy memorandum, 'Catholic Teaching on Marriage', to the Attorney General. Kennedy's papers do not note how this memorandum was received, but the paper came only months after the president requested the bishops to comment on the divorce debate.¹³

Kennedy's papers also reveal the extent to which some Catholic lay groups advocated against divorce proceedings. The CTS's leaflet about an upcoming meeting put the divorce question front and centre:¹⁴

THE DÁIL AND DIVORCE

The Dáil is YOUR SERVANT. It will shortly be called upon to decide for or against Divorces. Do YOU want Divorce? If not make your wishes known to our legislators by attending . . .¹⁵

In September 1925 the CTS again publicly denounced the divorce debates in an article published ahead of 1925 Seanad elections: 'the Society owes to the Catholic masses, who are generally without any reliable means of measuring the claim of candidates to Catholic support, the duty of supplying information likely to help with in their choice'.¹⁶ While praising those in the Dáil as 'sound in their Catholicism', the Seanad 'is the monopoly of such clever, appeasing non-Catholics . . .'.¹⁷ It went further to publish the names of senators who voted in favour of divorce. It lists thirteen Catholic senators who voted against the motion, two Catholic senators in favour of the motion, and six Catholic senators who were in the Seanad chamber abstained from the vote. The society had strong words regarding these six men:

¹¹ Thomas Morrissey, S.J., *Edward Byrne, 1872 – 1941: the forgotten Archbishop of Dublin* (Dublin, 2010), p. 124.

¹² Edward Byrne to E. Duggan, enclosing Bishops minutes, 10 Oct. 1923 (UCDA, Kennedy papers, P4/974(2)).

¹³ Memorandum: Catholic Teaching on Marriage. Prepared by Archbishop Edward Byrne, Mar. 1924 (UCDA, Kennedy papers, P4/838).

¹⁴ It is unclear whether Christie or Hayes attached the leaflet, as the letter was then sent to the Cabinet and it is unclear at what time the leaflet was added.

¹⁵ Catholic Truth Society leaflet, c. Oct. 1924 (UCDA, Blythe Papers, P24/93/4).

¹⁶ Extract from *Carlow Nationalist*, 5 Sept. 1925 (UCDA, Mulcahy Papers, P7/C/82).

¹⁷ Ibid.

In the first place Messrs J.T. O'Farrell and Thomas Foran are found in the division list in the company of Mr W.B. Yeats [in favour of divorce]. In the second place, Messrs R.A. Butler, J.C. Counihan, Peter de Loughrey, Edward McEvoy, and Edward MacLysaght did not vote at all. There are few Catholics who will be able to make distinctions between these obstentionists and those who boldly ranged themselves on the side of divorce facilities. Action speaks louder than advertisements guaranteeing devotion to Catholic interests.¹⁸

Therefore, politicians faced public degradation and the threat of further criticism if they did not vote in defence of Catholic principle. Kennedy's papers reveal a strong Catholic influence, but consultation of other papers demonstrate that the aversion to divorce crossed religious boundaries.

The MU, a predominantly Church of Ireland lay group, was vehemently against divorce. Caitriona Beaumont discusses how the MU and the Catholic Women's League found common ground on these issues in England. This alignment of issues between Protestant and Catholic groups was not unique, thus challenging preconceptions of persistent rivalries between lay groups of different faiths.¹⁹ In May 1925, as the Oireachtas grappled with the divorce question, the *Irish Times* reported a visit by the president of the MU, Mrs Barclay. In her speech Barclay emphasised: 'The first object of the Mothers' Union was to uphold the sanctity of marriage. There never was a time in Christian civilisation when that was assailed more than in recent years . . . If the law made divorce easier, the hard cases would not be reduced; they would be increased. The future of the nation rested on the home . . .'²⁰ The MU campaigned to have reports about divorce removed from the press. In a speech by the president of the union to its Irish members, attention of the Council was called to 'the efforts on foot to prevent the publication in the Press of demoralising details of Divorce cases etc. and of demoralising advertisements'.²¹ This fits with wider concerns at the time about the effect of 'immorality' being reported in the press. The MU's and the CTS' campaigning demonstrate that the perceived 'threat' of divorce crossed religious boundaries. Likewise, it will be seen this idea of a threat crossed the newly-partitioned Ireland.

¹⁸ Ibid.

¹⁹ See Caitriona Beaumont, 'Moral dilemmas and women's rights: the attitudes of the Mothers' Union and Catholic Women's League to divorce, birth control, and abortion in England, 1928-39' in *Women's History Review*, xvi no. 4 (2007) pp 463-85.

²⁰ *Irish Times*, 23 May 1925.

²¹ Minutes of the meeting of the general council of the Mothers' Union Ireland, 16 Nov. 1922 (RCB, Mothers' Union papers, MS 749/1.1.2).

In government, some arguments in favour of divorce in the 1925 debates were presented through the lens of partition. In particular the argument was put forth that barring divorce would harm efforts for a united Ireland. This was put forward by Professor William Edward Thrift, TD for Dublin University: ‘The passing of this motion will raise up one more barrier against a possible union between the north of Ireland and the south of Ireland’.²² Most famously, however, was the speech in the Seanad by W.B. Yeats in which he spoke out strongly against the barring of divorce. On the question of partition Yeats argued:

It is perhaps the deepest political passion with this nation that North and South be united into one nation. If it ever comes that North and South unite the North will not give up any liberty which she already possesses under her constitution. You will then have to grant to another people what you refuse to grant to those within your borders. If you show that this country, Southern Ireland, is going to be governed by Catholic ideas and by Catholic ideas alone, you will never get the North. You will create an impassable barrier between South and North, and you will pass more and more Catholic laws, while the North will, gradually, assimilate its divorce and other laws to those of England. You will put a wedge into the midst of this nation. I do not think this House has ever made a more serious decision than the decision which, I believe, it is about to make on this question. You will not get the North if you impose on the minority what the minority consider to be oppressive legislation.²³

Yeats’ speech made the papers in Northern Ireland. The *Belfast Newsletter* highlighted his contention that unity between north and south would be further hindered with the introduction of divorce legislation in the Free State. The paper did not provide further commentary on the point of partition. It is important, however, that the question of partition was the first point highlighted. As seen in the previous chapter, this concern about inequality with Northern Irish social policy as a barrier to a united Ireland was not irregular. However, Yeats’ opinion was in the minority. Senator Thomas Westropp Bennett took issue, scoffing at the suggestion that ‘North and the South are to be united on the basis of the upheaval of the home. Apparently on no other basis will the North and South ever be united’.²⁴ Cosgrave was reported as saying: ‘It is said if we refuse facilities for divorce we are keeping back union with the North. Well, if that is so, it’s worth it’.²⁵ Yeats and Thrift appear to be alone on

²² *Dáil Éireann deb.*, x, no. 2, col. 163 (11 Feb. 1925).

²³ *Seanad Éireann deb.*, v, no. 7, cols 435-6 (1 June 1925).

²⁴ *Ibid.*, col. 452.

²⁵ *Belfast Newsletter*, 30 June 1925.

their articulation of their argument regarding north and south. Nowhere in Kennedy's papers do we see any mention of a united Ireland and divorce. The effects of partition were only mentioned in the Joint Committee's report on Standing Orders with the suggestion that the government legislate for the case of a couple living in different jurisdictions. The report advised, for example, in the event of a Free State ban divorce proceedings, the government should ensure that the wife of a man living in Northern Ireland or England 'cannot, of her own accord, change her domicile and therefore will not be able to obtain a divorce *a vinculo matrimonii* (full divorce with ability to remarry) under any circumstances'.²⁶

Northern press coverage of the Free State's decision to put a stop to proceedings was not very extensive. The newspapers typically reported on the proceedings without additional commentary. However, the English *Evening Standard* called the Free State's decision 'a monstrous infringement of the ordinary privileges of any subject of the King that it should be taken away in this manner'.²⁷ In fact, the *Standard* called for the consideration of intervention by the imperial government: 'Any interference with the discretion of the Irish Free State to control its own affairs is obviously a delicate matter, and under the "Treaty" it might be difficult for the Imperial Parliament to act. On the other hand, the civil rights of many men and women who have never been interested in politics are gravely affected by the astonishing proposal of Mr Cosgrave . . .'.²⁸

The Seanad resolved the 1925 debate by concluding to suspend any divorce proceedings introduced to the House. The bar on divorce was not formally codified until the 1937 constitution.²⁹ In the wake of the 1925 debates the government did, however, continue to examine the question. In 1926 the new Attorney General, John A. Costello, received a detailed memorandum from W.G. Shannon on divorce.³⁰ Shannon outlined causes for divorce *a mensa et thoro* (separation) as well as regulations for alimony, property rights, and the custody of children. It is unclear

²⁶ James G Douglas *Cathaoirleach us Chó-Choiste*, Report of the Joint Committee on Standing Orders (Private Business) on the Position in Saorstát Éireann of Bills relating to Matrimonial Matters, 11 July 1924 (UCDA, Blythe papers, P24/93/7).

²⁷ 'Evening Standard diarist' in *Belfast Newsletter*, 13 Feb. 1925.

²⁸ Ibid.

²⁹ Fitzpatrick, 'Divorce and separation in modern Irish history', pp 187-91.

³⁰ Shannon was recorded as a Judge in the Chancery Circuit Court in 1945. It is unclear if he was a judge in 1926. Ray Kavanagh, *Mamie Cadden: Backstreet abortionist* (Cork, 2005), p. 104.

what the specific request was for this memorandum and what was done with it. Nevertheless, inquiries into the divorce question did not completely cease after 1925.³¹ Of the fate of the three divorce bills introduced in 1924, Fitzpatrick writes: ‘the three bills awaiting consideration were withdrawn, and no other petitioners had the temerity to wander into procedural no man’s land during the last twelve years of legal divorce in the twenty-six counties’.³²

III. The practice of divorce in Northern Ireland, 1922-39

In 1925 standing orders relating to divorce were also discussed in Northern Ireland. This was partly inspired by the constitutional changes following partition. As Lord Londonderry articulated in the Senate: ‘When the Government of Ireland Act of 1920 established the Parliament of Northern Ireland, a two-fold problem arose in relation to Divorce Bills from persons domiciled in Northern Ireland’.³³ Firstly it had to be decided if divorce cases would continue to be heard in Westminster, and secondly, should the procedure change, the Northern Irish parliament needed to ensure that the administration of justice was the same in Northern Ireland as in Britain.³⁴ Prior to partition divorce *a vinculo matrimonii* (full divorce with ability to remarry) could only be granted to Irish citizens through an act of parliament through the House of Lords. However, the House of Lords decided that Northern Ireland should be given jurisdiction over its own divorces.³⁵ As such, in 1925 the House of Commons in Northern Ireland changed the standing orders so divorce *a vinculo matrimonii* could be granted by a committee in the Senate. Such a ruling for divorce could only be made once the courts granted a divorce *a mensa et thoro* (literally translating as divorce from bed and board, which is a judicial separation – the couple remains legally married). Once appearing in front of the Senate committee on divorce, the petition could pass and divorce *a vinculo matrimonii* was granted through an act

³¹ Query prepared by W.G. Shannon, Claremont House, Sandymount, Co. Dublin on marriage and divorce, 29 Nov. 1926 (UCDA, Costello Papers, P190/52(53)).

³² Fitzpatrick, ‘Divorce and separation in modern Irish history’, p. 174.

³³ *Hansard NI (Senate)* vi, col. 119 (14 May 1925).

³⁴ *Ibid.*

³⁵ See comments on amendment to standing orders, Thomas Moles, Chairman of Ways and Means, *Hansard NI (Commons)*, vi, col. 498 (16 May 1925).

of parliament.³⁶ While the change was greeted by the press as ‘less expensive and more convenient’ than travelling to the House of Lords, divorce procedure in Northern Ireland remained largely, but as will be discussed below, not exclusively, a privilege of the rich.³⁷

The change in jurisdiction was accepted by MPs and senators, but several hoped it would be a temporary measure. Barrister and former civil servant, Senator James Graham Leslie, who was also active in the affiliation orders debates, praised the amendment but urged that this only be a temporary fix. He called for the jurisdiction to be transferred to the courts ‘just exactly as they do in England’ as soon as possible.³⁸ This invocation of parity with English law was also articulated by Senator Thomas MacGregor Greer, a solicitor,³⁹ who hoped: ‘when the Government comes to consider the question fully they will bring forward a Bill to confer on His Majesty’s judges in Northern Ireland the right to grant a divorce in the same way as the judges do in England’.⁴⁰ This old system of parliamentary divorce had been amended with the 1857 Divorce and Matrimonial Causes Act in England but remained law in Northern Ireland. Although Lord Londonderry addressed this issue in his introduction of the amendments to the Standing Orders, he stressed that divorce law was not up for debate: ‘It is not for me here and now to pass judgement upon a system which kept the method of dealing with matrimonial causes in Ireland in a fashion so antiquated and comparatively so costly, a fashion which had long been abandoned elsewhere through the British Empire. That is not a subject for argument to-day’.⁴¹

Many within the government and the houses of parliament did not support this out of date practice. Indeed, an internal memorandum by the Ministry of Finance highlighted this issue: ‘whether it is desirable to continue under a new Parliament a system which has now come to be considered as antiquated and cumbrous, which in the case of England, India, and of various parts of the British Dominions the Imperial Parliament has relinquished in favour of proceedings in a Court of Law, and which, because of the expenses entailed, makes divorce possible only for persons of means . .

³⁶ Arthur S. Quekett, Parliamentary Draftsman, Memorandum on divorce procedure in Northern Ireland, 4 May 1931 (PRONI, Ministry of Home Affairs papers, HA/8/160).

³⁷ *Belfast Newsletter*, 8 May 1925.

³⁸ *Hansard NI (Senate)*, vi, col. 121 (14 May 1925).

³⁹ Obituary for Mr T.M. Greer *The Times*, 22 Feb. 1928.

⁴⁰ *Hansard NI (Senate)*, vi, col. 122 (14 May 1925).

⁴¹ *Ibid.*, col. 119.

.⁴² Urquhart states the 1925 Northern Irish amendment was ‘only intended as a stopgap measure’.⁴³ However that became an extended stopgap as the law regarding divorce remained unchanged and out of step with the rest of the UK until 1939. Several failed attempts to reform the laws relating to marriage occurred in this fourteen-year period. Senator Leslie was behind most of the legislative efforts, and the civil service also deliberated on the practicalities of changing the law.

Northern Irish divorce law was finally reformed in 1939 to match modern English practices. Since the early 1930s the government had developed an interest in the question of reforming divorce in Northern Ireland, but problems stemming from devolution and fear of a religious backlash stunted any real movement towards reform. Before examining how the law changed, we will examine how divorce functioned from 1925 to 1939. It will be seen that while divorce laws were out of date, the practice of divorce was actually determined more by modern English legal precedents than the older Northern Irish legal grounds for divorce. Legal precedent in Northern Ireland worked outside of step-by-step. Even though the administration of divorce was different between Northern Ireland and England, legal precedent regarding divorce was equal across the UK. This was due to the legal precedent of the 1886 Louisa Westropp case which allowed for the law in parliamentary divorces to be practiced along the same line as divorce law in the courts. Urquhart discusses the case and its implications so it will only be briefly described here.⁴⁴ This was a case in which an Irish woman divorced her husband citing adultery and cruelty. However, because Ireland was excluded from the 1857, the parliamentary grounds for divorce would not have deemed the cruelty experienced by Westropp as sufficient for divorce. However, divorce courts under the reformed 1857 law would have deemed such cruelty as sufficient for divorce. As such, Westminster allowed for her divorce, thus setting legal precedent for future parliamentary divorce cases to be granted on the same grounds as those in court. Following partition, this complicates the Northern Irish practice of divorce: while parliamentarians were weary to reform the structure of divorce proceedings, legal precedent meant the practice of law was more progressive

⁴² Memorandum ‘written by the speaker’ attached to letter from A. O’N Chichester to Duggan. It is unclear if he means speaker of the House of Lords or the Northern Irish Senate, Apr. 1925 (PRONI, Ministry of Finance papers, FIN/6/53).

⁴³ Urquhart, ‘Ireland and the Divorce and Matrimonial Causes Act of 1857’, p. 314.

⁴⁴ See *ibid.*, p. 313; *ibid.*, ‘Irish divorce and domestic violence’, pp 828 – 32.

than the official legislation in Northern Ireland decreed. Such a paradoxical legal practice will be explored in the following section.

In this period 63 divorces were passed by parliament.⁴⁵ 34 cases were brought forward by women and 29 cases were brought by men. Therefore, despite the sexual double standard, women still formed the majority of petitioners in divorce cases: the demand for divorce was there, but the equality in access was not. Women in Northern Ireland remained at a legal disadvantage. Further, women of lower economic means faced even more difficulty accessing divorce as it was an expensive process. As will be seen below, divorce proceedings were not exclusive to an elite class, but the rich formed the majority of petitioners.

The cruelty borne by women was severe in many cases. Women reported being regularly beaten, hit in the face, assaulted when pregnant, verbally abused, fleeing because of the husband's violence, and so forth. Substance abuse linked with violence was referenced in four out of the 30 cases which cited cruelty. Only when coupled with adultery could these women leave their abusive marriages. Violent assault alone was not grounds for female divorce. Urquhart writes that the definition of 'cruelty' widened in the nineteenth century, allowing more cases to be passed through the House of Lords than before. This pattern continued in the Northern Irish parliament, allowing more female petitioners to bring forth cases based on adultery and cruelty.⁴⁶ Snell discusses how difficult cruelty was to prove in court. In Nova Scotia in cases involving both cruelty and adultery as grounds for divorce, Snell found that: 'the legal profession, both solicitors and jurists, generally preferred to concentrate on adultery . . . implicit in this approach was, of course, the apparent message that cruelty was not as significant or as serious as adultery'.⁴⁷

Even though the law in Northern Ireland did not officially reform with the English acts, the law in Northern Ireland was practiced along the lines of the more updated English legislation due to the legal precedent of the Westropp case. English law changed in 1923 and 1931 to allow the wife to bring forward divorce on the grounds of adultery alone. The Attorney General of Northern Ireland recommended that Northern Irish law follow this legal practice: 'the Bill of Divorce has always been

⁴⁵ The following data comes from PRONI LIB/1185, Divorces in Northern Ireland 1925-39. This is a collection of all the divorces bills in this period.

⁴⁶ Urquhart, 'Irish divorce and domestic violence', p. 830.

⁴⁷ James Snell, 'Marital cruelty: women and the Nova Scotia divorce court, 1900-39', in *Acadiensis* xviii no. 1 (Autumn, 1988), p. 9.

given for the same reasons that a decree is granted in the English Courts, and as a wife can now obtain a divorce *a vinculo* in the English Courts for the adultery of her husband alone I think in Northern Ireland a wife should be entitled to obtain a divorce by Bill on this ground . . .⁴⁸ However only a few divorce bills following 1931 reflect this. Four of the 28 cases brought by women from 1931 onwards cite adultery as the sole grounds. While this may appear to be a small number of women utilising the common law connection, this use of English law ahead of Northern Irish reforms demonstrates the powerful consequences of partition and devolved government on women's lives. The connections within the UK allowed for more progressive practice even if Northern Ireland had yet to reform its own laws.

In all cases the adulterer had to be named in the act and if known, his/her lover had to be named as well. Some bills cite multiple dates and locations of the affair with the same person, while others provide vague locations with unknown names: 'the said John Wright at a field between Belfast and Lisburn . . . committed adultery with a female whose name is unknown to your subject'.⁴⁹ Venereal disease was noted in two cases, in one of which the husband was reported as contracting 'loathsome venereal disease'.⁵⁰ This public naming functioned as public shaming, and was particularly damaging to divorced women. Urquhart notes this: 'as the sole ground that the sexes shared was adultery, the procedure was underpinned by proof of sexual infidelity. It was also a public and well-publicised process . . . the fate that met divorced women was also often difficult . . .'⁵¹ Part of the divorce process was a case for criminal conversation to be brought against the male partner of the wife who committed adultery. The Westropp legal precedent meant that the criminal conversation process in Northern Irish divorce cases was not essential because the divorce courts created by the 1857 act abolished criminal conversation. However the practice was still legal, so it was still practice in some suits leading to parliamentary divorce. Only three cases of criminal conversation were reported in the private divorce acts, one with damages of

⁴⁸ Divorce *a vinculo* in Northern Ireland, Law Department. Ministry of Home Affairs. 7 May 1931 (PRONI, Ministry of Home Affairs papers, HA/8/160).

⁴⁹ Wright's Divorce Act (Northern Ireland), 1925. 15 & 16 Geo 5 [N.I.] (10 Nov. 1925) (PRONI LIB/1185).

⁵⁰ Macartney's Divorce Act (Northern Ireland), 1931. 21 & 22 Geo 5 [N.I.] (26 May 1931). (PRONI LIB/1185).

⁵¹ Urquhart, 'Ireland and the Divorce and Matrimonial Causes Act', p. 302.

£350, one of £250, and one of £50.⁵² Other bills specified that a case for criminal conversation was not brought because the man involved did not have the means to pay damages.

The data about divorce in this period shows that 33 of the 63 causes involved adultery outside of Northern Ireland. Only 31 cases involved residence, cohabitation, and adultery in Northern Ireland. Rankin's divorce in 1929 encapsulates the legal complexities following partition. The couple married in Drogheda, Ireland, in 1912 and lived in Canada, Liverpool and London until 1919. However, there was no evidence that the couple lived in Northern Ireland following partition, so the Lord Chief Justice did not make a decree of divorce *a mensa et thoro*. Instead he adjourned the case to allow the parliament of Northern Ireland to annul the marriage. In the parliamentary bill the petitioner, Edith Winifred Rankin, was recorded as taking residence in Northern Ireland. It is not explained why the government passed the divorce when the court did not, but possibly it was on the grounds of her residency.⁵³ There were several cases where couples had married in Dublin, or cohabitated in Dublin, but had Northern Ireland as their residency and as such could divorce there. The international and imperial engagement of residents of Northern Ireland is also evident in this divorce data. One woman deserted her husband and emigrated to Australia; a man left his wife and moved to Nairobi; several couples either lived in Canada or one party moved to Canada; and one couple married in Ceylon and another in India.

Other details from this data reveal the divorces of religious minorities: one Roman Catholic couple, one Jewish couple, and one Russian Orthodox couple. Further, it becomes evident that divorce was not exclusive to the upper class. While the wealthy formed the majority in these cases, class and occupations ranged from the Rt Hon Earl of Enniskillen of Florence Court Enniskillen in the county of Fermanagh Peer of the Realm, to a plumber and a housekeeper. A journalist petitioner cited the delay in bringing divorce proceedings to 'ill-health, unemployment, and poverty'.⁵⁴

⁵² Dobbs' Divorce Act, 1931 21 Geo. 5 [N.I.] (5 May 1931); Clarke's Divorce Act, 1932. 22 Geo. 5 [N.I.] (27 Apr. 1932); and Trew's Divorce Act (Northern Ireland), 1936. 26 Geo. 5 & Edw. 8. [N.I.] (23 June 1936). (PRONI LIB/1185).

⁵³ Rankin's Divorce Act, (Northern Ireland), 1929. 20 Geo. 5 [N.I.] (19 Dec. 1929). (PRONI LIB/1185).

⁵⁴ Anderson's Divorce Act (Northern Ireland), 1934. 24 Geo 5 [N.I.] (24 Apr. 1934). (PRONI LIB/1185).

Therefore there appears to be more range in divorce proceedings than initially anticipated for something that was seen as a privilege of the rich.

As discussed above, many of those who divorced had ties outside of Northern Ireland. Because their residency remained in Northern Ireland and the divorce was granted in that jurisdiction, these divorces were recognised as legitimate. The question of the recognition of divorce outside of Northern Ireland should not be overlooked. In particular, how legal divorces were transferred between jurisdictions was a complicated matter. In 1869 an act was passed in the Indian legislature that allowed courts the powers to decree judicial separation and divorce. In 1921 a ruling by the Divorce Court in Britain determined that divorces made by the Indian court were not recognised in Britain. To resolve this discrepancy, the Indian Divorce Act was passed by Westminster which recognised the Indian divorces of British nationals. In the debates of the bill it was reasoned that Northern Ireland would not fall under the terms of the bill because ‘persons in Northern Ireland are not able to obtain divorce in their own country’.⁵⁵ This was disputed by Mr Moles, MP for Belfast South, who pointed out that while divorce through the courts did not exist in Northern Ireland, it did in parliament. Earl Winterton said he had not realised this, and that perhaps when the bill was written divorce in Northern Ireland did not exist. Again, Moles said that was not the case.⁵⁶ This misunderstanding about Northern Irish legal status fits into the wider pattern that Ollrenshaw observed of the 1930s: ‘the political tension between the Irish Free State and the United Kingdom demonstrated that the status of Northern Ireland in the eyes of British firms, consumers and tourists was still uncertain. This in turn led to considerable exasperation with Northern Ireland regarding British ignorance of the region’ and again ‘Ignorance of Irish political geography on the part of British residents, including Post Office employees, was a recurrent theme after partition. The outbreak of the Economic War [in 1932] led “uneducated people” in Britain being “afraid” to book holidays in Northern Ireland’.⁵⁷ While this law predates the economic war, the distance between London and Belfast was marked by errors such as those of Winterton. Northern Ireland was not included in the final act because divorce was procured by an act of parliament, whereas in India, England, Scotland,

⁵⁵ *The parliamentary debates (Hansard)*, fifth series, *House of Commons*, vol. 200, no. 141, col. 1217 (1 Dec. 1926).

⁵⁶ *Ibid.*, cols 1233-5.

⁵⁷ Philip Ollrenshaw, ‘Northern Ireland and the British Empire – Commonwealth, 1923-61’, in *Irish Historical Studies*, xxxvi, no. 142 (Nov. 2008), pp. 232, 234.

and Wales, divorce was obtainable without such an act of parliament.⁵⁸ As such, divorces granted to Irish persons living in India were not recognised as valid in the UK. Any divorces granted before 1921 were recognised, but with the new law the jurisdiction was restricted to Great Britain.⁵⁹

Divorces in this period reveal more than just marital problems in Northern Ireland. Women outnumbered men in divorce petitions, and reported domestic violence was severe in many cases. These patterns suggest a need for legal reform that would allow for more equal access to divorce for women. The use English precedent by some women confirmed this need for reform. Finally, this analysis demonstrates that while divorce was expensive, it was not exclusively the domain of the upper classes. The number of women petitioners and the few middle-class petitioners reveal the need for legal reform to enable more women and people of lesser means to use their legal rights. However, the risk of liberalising divorce posed a threat to perceived ideas of superior Irish morality and as such the government was slow to reform divorce law.

IV. Unsuccessful attempts at reform

The following section will examine proposals for reform and the ways in which the government rejected these efforts. The restricted legal position of women throughout this period will also be highlighted. The section will also look at the failed attempts by Senator James Leslie in 1925 and 1926, and then the limited efforts of the government to address the problem in the 1930s. It will be seen that the Northern Irish government looked to maintain the status quo on the divorce laws it inherited before 1922 and to not stir up any controversy by attempting to reform the law. This fits with the wider pattern that this thesis tracks in Northern Irish social policy which reveals that in cases involving laws about morality the Northern Irish government was slow to follow the step-by-step policy and chose to stick to laws which appealed to the legislators' senses of a superior Northern Irish morality instead of conforming to more liberal English laws.

While formal divorce reform did not occur until 1939, it was a question that the Northern Irish state grappled with from its early years. Pressure to reform the law

⁵⁸ Markbreithier to Blackmore, 3 Dec. 1926 (PRONI, Cabinet papers, CAB 9/I/4/1).

⁵⁹ Quekett to Blackmore, 24 May 1927 (PRONI, Cabinet papers, CAB 9/I/4/1).

intensified with changes in English law. For instance, in 1923 England changed the law to allow a petition for divorce on the basis of adultery alone for both sexes. In 1924 when considering whether Northern Ireland would introduce a similar measure, the Ministry of Home Affairs expressed reticence to engage with such a divisive legal topic: ‘I think we have trouble enough without stirring up any this question and I think we . . . let it rest until some one calls attention to the difference between English and Irish law on the subject’.⁶⁰ However, even when someone did call attention to this difference, the government was not persuaded to reform the law. For instance, in 1925 William Locke, the same Belfast solicitor who wrote to the government in 1921 calling for the reform of affiliation orders legislation, wrote the Ministry of Home Affairs calling for divorce reform.⁶¹ Locke raised the issue that many people could not access divorce and were forced to live in unhappy unions because divorce in the province was expensive. Locke suggested this was creating opportunity for adultery: ‘Surely this is a very bad arrangement. Sexual passion is a natural instinct of the human anatomy. Whenever either of the partners in wedlock are living apart from their soul’s affinity, they seek pleasure elsewhere. This sort of carry on only makes confusion worse confounded. Stolen fruit may taste sweet but it often [ripped page] out to be unwholesome’. In addition to creating moral unrest, Locke raises the point that the government had not fulfilled its promise to its constituents: ‘Legislators for the six counties promised to make the laws of Ulster the same as in Great Britain. Perhaps this anomaly has failed to attract their attention. If so, then the Government should start immediately to atone for the past neglect . . . Equal rights must always be granted for equal taxation’, and if the government did not follow the policy of parity there ‘will always be good ground for grumbling’. He concluded: ‘discontent often burns to bitterness, and then statesmen are held up for public reproach, because they refused (metaphorically), “to set the captive free”’.⁶² Despite this pressure from learned members of the public, the government remained hesitant to reform divorce laws. Divorce was an inherited legal practice which predated partition, so the devolved government did not have to claim any responsibility for its existence.

⁶⁰ Magill to Minister of Home Affairs, 16 Feb. 1924 (PRONI, Ministry of Home Affairs papers, HA/8/160).

⁶¹ For Locke’s letter about affiliation orders see chapter two.

⁶² William Locke to the Ministry of Home Affairs, 26 Jan. 1925 (PRONI, Ministry of Home Affairs papers, HA/8/160).

However, the government was hesitant to reform matrimonial law on its own terms, so it avoided the divisive issue as long as possible.

Summary Jurisdiction (Married Persons) Bill

In 1912 a royal commission on divorce was held in Britain and general legislation slowly followed to implement the commission's recommendations. Redmayne writes that the 1912 commission was successfully put into law through a slow 'piecemeal' approach.⁶³ The recommendations from the 1912 commission remained absent from Northern Irish legislation until the 1939 Matrimonial Causes Act. However, throughout the 1920s and 1930s, Senator Leslie introduced legislation and parliamentary questions which called for reform along the lines of the 1912 commission. One particular instance of this was his proposed Summary Jurisdiction (Married Persons) Bill, 1925. The Northern Irish government's simultaneous praise and rejection of the bill was representative of its long term approach to divorce reform in the state: it recognised the need to modernise the law but did not want to engage such a conflict-ridden topic.

The summary jurisdiction bill called for the reform of the law relating to 'ill-treated married women' looking for judicial separation. As seen with other laws regulating women's welfare, this bill highlighted how it was 'intended for the protection of the child'.⁶⁴ This bill was also justified using the step-by-step policy: 'It is to afford to ill-treated wives and their children the same statutory protection in Northern Ireland which they could obtained were they resident in England'.⁶⁵ As it stood at the time, women had little legal rights to leave their marriage. There were only two grounds on which women could obtain a judicial separation with maintenance: if a woman's husband was convicted of aggravated assault against her and if the judge was 'satisfied that the future safety of the wife is imperilled';⁶⁶ and, if the husband wilfully neglected the wife and deserted her. Should the wife commit adultery, the order for judicial separation and maintenance could be rejected or if already ruled for, revoked. Conversely, in England and Wales there were six grounds

⁶³ Sharon Redmayne, 'The Matrimonial Causes Act 1937: A lesson in the art of compromise' in *Oxford Journal of Legal Studies* vol xiii, no 2 (Summer 1993), p. 184.

⁶⁴ *Hansard NI (Senate)* vi, col. 78 (6 May 1925).

⁶⁵ *Ibid.*, vi, col. 76 (6 May 1925).

⁶⁶ Memorandum prepared by D.L. Clarke, Ministry of Home Affairs, 2 May 1925 (PRONI, Cabinet papers, CAB/9/J/24/1).

upon which women could bring a case for judicial separation: a conviction summarily of the husband of aggravated assault; desertion; persistent cruelty; a conviction on indictment where the fine was less than £5 or if the sentence was less than two months; wilful neglect to provide maintenance to the wife and child; and if the husband was a habitual drunkard.⁶⁷ Leslie looked to incorporate these wider grounds for judicial separation into Northern Irish law.

In addition to adding these grounds, Leslie also contemplated reciprocity with the Free State. Recognising the real possibility of couples moving across the newly-created border, Leslie added: 'if we could bring in Dublin also it would be all the better.'⁶⁸ However, at the time of presenting this bill the Free State was in the midst of discussing the status of divorce and separation legislation in its jurisdiction. A clause regarding this issue was not included in Leslie's bill, as he believed it was too complicated and needed its own specific act. This need for reciprocity between London and Belfast was particularly important in relation to matrimonial matters for, as the examination of divorces in the 1925-39 period demonstrates, it was not uncommon for one spouse to live in England while the other spouse remained in Northern Ireland. This issue of allowing for the legal recognition of divorces in border areas was not limited to the newly partitioned Ireland. Snell notes that in early twentieth-century Canada it was not unheard of for Canadians to seek divorce in the United States as Canadian law only had adultery as the grounds for divorce, whereas American states had more liberal terms: 'Despite their dubious validity in Canada, it is notable that Canadians often chose the American option and, based on impressionistic evidence only, where women petitioners were concerned, the grounds were usually either desertion or cruelty'.⁶⁹

The Northern Irish government agreed that such legislative reform was necessary. In fact an official in the Ministry of Home Affairs conceded that: 'Senator Leslie has rendered a public service by preparing and introducing this Bill',⁷⁰ but ultimately encouraged Leslie to withdraw the bill. Officially, the government said it wanted to hear public opinion on the matter and take more time to study the issue. The deputy leader of the Senate, the Viscount of Massereene and Ferard, articulated

⁶⁷ Ibid.

⁶⁸ *Hansard NI (Senate)*. vi, col. 82 (6 May 1925).

⁶⁹ Snell, 'Women and the Nova Scotia divorce court', n.5, p. 4.

⁷⁰ Watt, Ministry of Home Affairs, to Cabinet Secretariat, 4 May 1925 (PRONI, Cabinet papers, CAB/9/J/24/1).

the government's concern regarding legislating ahead of public opinion: 'The House will appreciate that the provisions of the Bill would effect a sudden and extensive change in the Law here in Northern Ireland. In a matter of this kind the Government feel that they must proceed with caution and that legislation on this point should not be undertaken without a clear expression of public opinion.'⁷¹ This followed a recommendation from the Ministry of Home Affairs: 'There does not appear to be any strong reason why the law on this subject should not be the same in Northern Ireland as in Great Britain, but the details will require careful consideration. As Senator Leslie's Bill is prepared on these lines it is suggested that a statement might be made on the Bill but intimating that the Government require further time for consider, and that they would be prepared to introduce a Bill of their own on these lines at a later date.'⁷² Evidently there was interest in changing the law to conform to British precedent, however there was hesitancy to implement these changes.

The government, through the new leader of the Senate Viscount Charlemont, a man who would divorce from his wife in 1940,⁷³ argued: 'the House will, I am sure agree with me that it would be a mistake to discard a code which is showing itself to be reasonably efficient and to introduce a new code which may be excellent in Great Britain, but may not be at all suitable to the needs of the people here'.⁷⁴ In other words, the people of Northern Ireland did not desire English laws to regulate their marriages. This distinction between English and Northern Irish 'needs' fits with McCormick's thesis that the Northern Irish state saw itself as morally superior to England. This is clear in the suggestions that the English law allowed for further 'loosening of the marriage ties' and that such a law would be unfit in the province. Instead, Charlemont suggested: 'What is required in Northern Ireland is something which will temporarily bridge over the comparatively short period during which there is difficulty between husband and wife. It is highly desirable that the form of the Order should not in any way make it more difficult for the husband and wife to come

⁷¹ *Hansard NI (Senate)*, vi, col. 88 (6 May 1925).

⁷² Memorandum prepared by D.L. Clarke, Ministry of Home Affairs, 2 May 1925 (PRONI, Cabinet papers, CAB/9/J/24/1).

⁷³ William Murphy, 'Caulfeild, James Edward Geale 8th Viscount Charlemont', in James McGuire and James Quinn (ed), *Dictionary of Irish Biography*. (Cambridge, 2009)

(<http://dib.cambridge.org/viewReadPage.do?articleId=a1561>) (5 Dec. 2017).

⁷⁴ *Hansard NI (Senate)*, vii, col. 325 (3 Nov. 1926).

together again . . .’⁷⁵ The *Belfast Newsletter* reported this discussion in the Senate, so the public did have the opportunity to inform themselves on this issue and petition the government.⁷⁶

Another main reason for the delay of legal reform was the effect that such legislation would have on the administration of justice in Northern Ireland. A reform to allow the courts to declare divorce would require repealing sections of the Government of Ireland Act, 1920, as the Supreme Court had limited powers regarding matrimonial matters. The Ministry of Home Affairs observed: ‘A judicial separation is defined by the Divorce Court England Act 1857 as having the effect of a divorce a mensa et thoro and accordingly the effect of Mr Leslie’s Bill would be to grant to Courts of Summary Jurisdiction the power to grant a divorce of the nature which marks the limit of the power of the Supreme Court in Northern Ireland with regard to divorce’.⁷⁷ The ministry expressed hesitancy whether it was ‘desirable’ to give the courts this power.⁷⁸

The government was also hesitant to legislate out of step with public opinion: ‘It is essentially a case in which the Government should not proceed in advance of public opinion here and it is eminently desirable that we should see how far public opinion is prepared to go’.⁷⁹ A related concern was with respect to the religious institutions in the state. The November 1925 memorandum prepared by the Ministry of Home Affairs cited ‘the deference to the views of the Roman Catholic Church on the Marriage Law’ as the probable reason why Ireland had been excluded from matrimonial acts since 1857.⁸⁰ Similarly, another memorandum suggested ‘it is safe to anticipate that the Roman Catholic Church will not welcome any change’. However, it is important to note that it was not just the Catholic religion that the government feared, for the memorandum continued: ‘and I am not sure to what extent the general

⁷⁵ Ibid.

⁷⁶ *Belfast Newsletter*, 4 Nov. 1926.

⁷⁷ Memorandum prepared by Ministry of Home Affairs for cabinet meeting, 4 Nov. 1925 (PRONI, Cabinet papers, CAB/9/J/24/1).

⁷⁸ This became a greater issue in the 1930s, and as such will be discussed in further detail later in the chapter.

⁷⁹ Watt, Ministry of Home Affairs, to Cabinet Secretariat, 4 May 1925 (PRONI, Cabinet papers, CAB/9/J/24/1).

⁸⁰ Memorandum prepared by Ministry of Home Affairs for cabinet meeting, 4 Nov. 1925 (PRONI, Cabinet papers, CAB/9/J/24/1).

Protestant community would be prepared to go'.⁸¹ Indeed, John Regan notes: 'Anglican canon law was almost as illiberal on divorce as Roman Catholic canon law and to Presbyterianism of the more fundamental Ulster genus divorce was even more abhorrent.'⁸² As such, the government agreed to make itself available for delegations from those in favour of changing the law, and it would look into the matter itself. It appears that only the BWAC sent a delegation to the government. With this small formal interest, the government concluded 'on the whole it does not appear that any interest is displayed by the public generally'. Despite this, it was agreed to continue to look into the matter, but there was no pressure to legislate on it in the near future.⁸³ However, by January 1926 the lack of public interest and the concern about the backlash from the churches out-weighed the need for this legislation, which the government did not see as completely necessary. A memorandum for a January 1926 cabinet meeting summarised the former point:

Legislation would probably be objected to by representatives of the various churches; the Roman Catholic Church would undoubtedly oppose strenuously and sections of Protestant churches would probably resent its introduction. Until the larger question of divorce generally is dealt with and in absence of a clear public demand Government should not introduce legislation granting to Courts of Summary Jurisdiction the power to grant divorce a mensa et thoro.⁸⁴

The BWAC continued its lobbying of the government for reform of the Summary Jurisdiction bill. In March 1926 it wrote the Central Women's section of the NILP asking 'to send a Resolution to the Ministry of Home Affairs with regards to making necessary reforms in the law regarding Separation and Maintenance Orders'.⁸⁵ The Women's section voted 'to send a Resolution to the Ministry of Home Affairs with regards to making necessary reforms in the Law regarding Separation Maintenance Orders and also to send a copy of same to the Labour Party'.⁸⁶ However, there is no record of the government discussing this resolution.

⁸¹ Watt, Ministry of Home Affairs, to Cabinet Secretariat, 4 May 1925 (PRONI, Cabinet papers, CAB/9/J/24/1).

⁸² John Regan, *The Irish Counterrevolution, 1921-36* (Dublin, 1999), p. 254.

⁸³ Memorandum prepared by Ministry of Home Affairs for cabinet meeting, 4 Nov. 1925 (PRONI, Cabinet papers, CAB/9/J/24/1).

⁸⁴ Memorandum attached to cabinet conclusions, 9 Jan. 1926 (PRONI, Cabinet papers, CAB/9/J/24/1).

⁸⁵ Minutes of the meeting of the Central women's section of the NILP, 2 Mar. 1926. (PRONI, Central Women's Section of the Northern Ireland Labour Party records, D3311/1).

⁸⁶ *Ibid.*, 11 Mar. 1926.

The government justified blocking Leslie's bill by arguing that the practice of the law, not the letter of the law, allowed for judicial separation on the grounds suggested by Leslie. Accordingly the government claimed there was not a pressing need to amend the law. This is an important point as it highlights the tenuous legal ground that women stood on. The same Ministry of Home Affairs memorandum from 1925 which concluded that the issue had generated little public interest, reasoned: 'As already pointed out the only ground in Ireland on which an Order may be granted is desertion, but this has been held to mean constructive as well as actual desertion', and proceeded to explain how each clause of Leslie's bill actually already fell under desertion.⁸⁷

It has been decided that cruelty carried out with the intention of compelling the wife to leave home constitutes desertion and generally speaking if the husband by his conduct compels the wife to leave the home there is desertion on the part of the husband. It is a matter of experience that in all cases brought into Court an assault forms an incident in the cruel treatment of a wife by her husband, and if in consequence of this cruel treatment she finds herself compelled to leave her husband a Court of Summary Jurisdiction would hardly doubt that the husband intended the consequence of his own Acts, that is to say to bring the cohabitation to an end. There should be no difficulty in finding desertion proved in such a case.

Similarly, the case of a 'habitual drunkard' who was cruel to his wife would also fall under an action based upon desertion. The other suggested grounds for separation could fall under desertion as well. As such, the memorandum concluded: 'broadly speaking there is no great practical extension of the grounds on which an Order may be made contemplated by Mr Leslie's Bill'.⁸⁸ This provided an extremely insecure legal standing for the married woman. With no formal codification of this legal practice, her fate was up to the discretion of the judge. The memorandum recognised this, but did not see it as a pressing issue: 'At the same time it would undoubtedly be more satisfactory and convenient that these grounds should be specifically set out in an Act rather than that they should rest on judicial decisions which may be somewhat strained.'⁸⁹

This lack of urgency to codify these laws and provide legal protection to ill-treated women reflected a wider lack of concern about problematic marriages and

⁸⁷ Memorandum prepared by Ministry of Home Affairs for cabinet meeting, 4 Nov. 1925 (PRONI, Cabinet papers, CAB/9/J/24/1).

⁸⁸ Ibid.

⁸⁹ Ibid.

domestic violence, particularly against women. In addition to starting her own action to receive this order, it is likely that the burden of proof regarding her future safety would be on the wife. As such she would need to testify, call witnesses, and/or provide other evidence to prove the risk posed by her partner. This would be a complicated and costly process. Urquhart's study of domestic violence in Irish marriages from 1857 to 1922 highlights how common abuse was and how uncommon it was for a woman to take legal action in such cases: 'Criminal records from 1853 to 1920 include over 1000 appeals from Irishmen convicted of domestic violence . . . Domestic violence was undoubtedly more commonplace than these figures suggest; many women were unwilling to testify against an abusive spouse, proceed with criminal cases, separate or divorce . . .'⁹⁰ Therefore, a judicial separation under these circumstances was not very likely. The government consulted a resident magistrate in Belfast who heard cases seeking such orders. He advised: '[in his opinion] if the Orders of the Court were put in this form it would tend to make the separations more permanent. His view is that in the great majority of the cases which come before him all that is required is some machinery to bridge over the temporary difficulty . . . in the great majority of cases the parties come together again and the Order simply lapses.'⁹¹ The judge did not think it necessary to codify these alternatives for granting an order for judicial separation, and he thought the severity of these issues were not enough to require permanent separation. Leslie criticised the government's consultation of resident magistrates and suggested they instead consult doctors, poor law officers, nurses, and religious authorities 'if you desire information as to the sufferings of women and children'.⁹² This echoes Dr Morrison's activism for the unmarried mother and indicates how medical men exposed to social realities were willing to speak out.

Further, a distrust of women was put forth in the debates on extending the grounds for an order for separation: Senator Joseph Cunningham, a founder of the Ulster Unionist Labour Association (UULA) and the Senate's longest serving

⁹⁰ Diane Urquhart, 'Irish divorce and domestic violence, 1857-1922' in *Women's History Review*, xxii, no. 5 (2013), p. 825.

⁹¹ Memorandum prepared by Ministry of Home Affairs for cabinet meeting, 4 Nov. 1925 (PRONI, Cabinet papers, CAB/9/J/24/1).

⁹² *Hansard NI (Senate)*, vii, col. 325 (3 Nov. 1926).

member,⁹³ cautioned against the new powers of the bill: 'when such drastic powers are given in a case where a woman complains of abuse or cruelty one would need to know to what extent that cruelty had been practised, or whether it was only imagination on the part of the woman. There are certain women who are peculiar in that respect, and it will be necessary to be very careful in framing the Bill'.⁹⁴ This echoes the hesitancy in the affiliation orders debates regarding the power given to the unmarried mother to take action against the father of the child. It also reflects the idea that a woman had heightened emotions and hysteria. This distrust fit into a wider pattern of reluctance to empower women with more legal rights.

Class and divorce reform

While politicians and lobbyists campaigned for reform of separation and maintenance laws, the government also received letters calling for a machinery for 'poor man's divorce'. As discussed above, a divorce by an act of parliament was costly and therefore mainly a prerogative of the privileged. In England, where the courts issued divorce orders, there was a system in place for a 'poor man's divorce'. In order to qualify for this divorce, a petitioner had to meet the criteria to sue as a poor person. This meant the person had to swear they were not worth more than £50 and did not have an income exceeding £2 a week. If such conditions were met, the court assigned free legal representation.⁹⁵ As such, divorce in England was more accessible as women and men had equal grounds, and people with limited means could start actions.⁹⁶

The Northern Irish government considered the issue of aid for people with limited means. In 1925 the Home Office sent a League of Nations questionnaire to Northern Ireland about legal aid for the poor. A memorandum drawn up by the Northern Ireland cabinet secretary, Mr Blackwell, explained 'there are no public or private institutions to provide aid to the poor in litigation, free advice, nor is there any

⁹³ Helen Andrews, 'Cunningham, Joseph Mullan', in James McGuire and James Quinn (ed), *Dictionary of Irish Biography*. (Cambridge, 2009). (<http://dib.cambridge.org/viewReadPage.do?articleId=a2304>) (4 Apr. 2017).

⁹⁴ *Hansard NI (Senate)* vi, col. 86 (6 May 1925).

⁹⁵ J.E.G. de Montmorency, 'Divorce law in England' in *University of Pennsylvania Law Review* lxxv no. 1 (1926), pp 48 – 9.

⁹⁶ For a discussion of the poor's man's divorce in England see Gail Savage, 'They would if they could: class, gender, and popular representation of English divorce litigation, 1858-1908' in *Journal of Family History* xxxvi no. 2 (2011), pp 181-5.

international organisation in Northern Ireland to give aid to the poor'. The situation was bleak for those looking for legal help with no means to pay for it. Blackwell explained that there was no intention to establish any legal aid provision in the state. This conclusion was based on a consultation with the Council of the Incorporated Law Society, Northern Ireland, which unanimously passed a resolution:

The Committee has carefully considered the advisability of forming in Northern Ireland a Society for the provision of Legal Aid for the Poor. The Committee is of opinion that such a Society is neither necessary nor desirable in Northern Ireland, as the members of the profession in Northern Ireland have at all times in the past shown themselves ready and willing to assist the deserving poor in obtaining justice, and moreover, the formation of such a Society might lead to a volume of vexatious and unnecessary litigation.⁹⁷

However, letters from people asking for a poor person's divorce contradicts this conclusion. Partition was used by these letter-writers to emphasise the injustice that only the rich in Northern Ireland had the privilege of divorce. Several letters calling for reform highlighted how Northern Ireland had wanted to remain a part of the UK so it could have the same privileges as those in Britain.

Letters from Northern Irish people living in other parts of the UK demonstrate the direct link between the consequences of partition and the inequality in divorce law between Northern Ireland and the rest of the UK. A Northern Irish woman living in Glasgow wrote to Prime Minister Craig to request a poor person's divorce. She was only married to her husband for eighteen months but they separated because she wanted children and he did not. The couple had been separated for ten years and she wanted to start a new life. She explained that she spent all of her savings and could not access a poor person's divorce in Scotland because she was married in Northern Ireland. Appealing to the morality of the prime minister, the letter writer explained: 'I dearly want my freedom only like a lady. I am a good woman and wish to remain as such . . . Surely there is some way out without having to sin for your soul to get freedom. Well I am not doing that.'⁹⁸ The prime minister's office responded to the

⁹⁷ Blackwell to the Imperial Secretary, 18 June 1925 (TNA, Kew, Home Office papers, HO 267/511).

⁹⁸ E.K. to Prime Minister Craig, 4 July 1937 (PRONI, Prime Minister's papers, PM/2/11/84). While these letters are public record, these personal matters did not go to court or go through parliament, unlike the aforementioned divorce acts, so I will use her initials. The same principle will be applied to subsequent letters about matrimonial issues, which are also public record.

woman explaining she should seek legal advice as he was 'unable to interfere in the matter'.⁹⁹

A similar case was presented to the prime minister by J.B. He married in 1914 and when war broke out he joined the British forces and went to France in 1915. When J.B. was in France his wife met another man and remained with him even upon J.B.'s return. J.B. explained that he could not afford a divorce by bill, and that he could not access the British courts. The aforementioned conclusion of the Law Society of Northern Ireland that solicitors would help the poor is contradicted by J.B.'s experience: 'I've spoken to a solicitor and he didn't seem interested because I hadn't a bank balance. I'm not worth £10 therefore few sympathisers . . .'¹⁰⁰ J.B.'s case highlighted how Northern Ireland was a part of the UK and as such the citizens should be entitled to the same rights across the kingdom. He emphasised the sacrifice he made and the injustice he then felt: 'I am a British subject and I cannot get my freedom. In England of which we boast we form a part, they can be divorced[sic] quite easy, there is a law for the Poor. Can anything be done to give me my freedom, or is there any religious freedom . . . I lost my wife through the war and as a British subject I claim a British subject's rights. Ulster will fight and Ulster will be right.'¹⁰¹ This man, who in unionist eyes, was an example of a man who had risked his life for King and country, felt he was being denied his right as a UK citizen because he was not resident in England and Wales. This was a devolution issue. While Stormont professed the policy of parity with England, the realities of implementing laws on a parallel basis were complicated and slow.

J.B. also outlined the implications of this outdated law for his wife and her children: 'In the meantime my wife is living in sin . . . neither she or I are free . . . Children are being born and they haven't a lawful father'.¹⁰² In a later letter to the Ministry of Home Affairs, J.B. wrote: 'it's disgraceful to keep my wife living in a condition contrary to the law of God and the moral standard of a Christian Province. For the children's sake she should be married to the man she is living with'.¹⁰³ Both parties were tied to a legal contract neither one wished to be a part of any longer.

⁹⁹ C.H. Blackmore to E.K., 6 July 1937 (PRONI, Prime Minister's papers, PM/2/11/84).

¹⁰⁰ J.B. to Prime Minister Craig, 17 Mar. 1927 (PRONI, Ministry of Home Affairs, HA/8/160).

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Ibid., 27. Apr. 1927 (PRONI, Ministry of Home Affairs, HA/8/160).

Further the consequences of this situation meant the children were deprived of legal rights, as in the eyes of the law they were illegitimate. In this letter J.B. again linked his sacrifices in the Great War and the connection between Northern Ireland and Britain – ‘We in Ulster claim to be part of the British Empire. As a serving soldier I lost my wife. Why can’t we have all the privileges?’¹⁰⁴

The official response was the stock answer given to all letters requesting a poor man’s divorce in Northern Ireland: ‘questions of this kind are matters upon which you would require to seek legal advice, as it would be contrary to practice for the Ministry to advise in such cases’, adding that it would be necessary for him to obtain a bill of divorce through parliament to annul the marriage.¹⁰⁵ Internal correspondence within Home Affairs queried whether anything could be done to help ‘persons without means to procure a divorce’ in this instance. The response was the same. While ‘the circumstances related in Mr [B.]’s letter are certainly sad’, but nothing further can be done.¹⁰⁶ Strangely, from the outset it was clear that there was nothing that could be done for J.B., as the law in Northern Ireland only allowed for divorce by ruling through parliament, but the Attorney General asked the inspector general of the Royal Ulster Constabulary (RUC) to investigate J.B.’s claims.¹⁰⁷ The RUC confirmed the facts, adding that he and his wife had two children together and that she had six more with her new partner.¹⁰⁸ Such an investigation would not change J.B.’s situation or access to divorce, so it is puzzling why it was ordered.

While J.B.’s letter highlighted the legal issue that partition did not solve, a letter from J.C., a woman looking for divorce, reveals the pressing circumstances of a woman of lesser means. She wrote to the Minister of Home Affairs in 1934 asking to apply for a poor person’s divorce. She explained that her husband had to pay maintenance to a married woman for a child they had together while he was married to Mrs C. C. stayed with her husband: ‘It was not for love of him . . . it was my two

¹⁰⁴ Ibid.

¹⁰⁵ Ministry of Home Affairs to B., 22 Apr. 1927. (PRONI, Ministry of Home Affairs, HA/8/160).

¹⁰⁶ Ministry of Home Affairs minute, 23 Mar. 1927 (PRONI, Ministry of Home Affairs, HA/8/160). This was reiterated in a letter within the ministry again on 9 April: ‘this is a sad case but I am afraid [nothing else can be done] . . .’ Minute to Principal H from Assistant Secretary, 9 Apr. 1927 (PRONI, Ministry Home Affairs papers, HA/8/160).

¹⁰⁷ R. Lynn to Inspector General, RUC, 28 Mar. 1927 (PRONI, Ministry of Home Affairs, HA/8/160).

¹⁰⁸ Inspector General’s Office, RUC, to R. Lynn, 7 Apr. 1927 (PRONI, Ministry of Home Affairs, HA/8/160).

children and the one I was expecting that I was thinking of'. When he fell behind in his payments and Mrs C. could not support him, he left her. She spoke with a solicitor but could not afford a divorce by bill, so she wrote to the government to see if there was an alternative route for divorce. Her letter provides insight into the dire situation she was in: 'I am only 28 years of age and my life is ruined unless I can get free'.¹⁰⁹ The use of 'get free' is particularly evocative, as it demonstrates the possible permanence of the situation and the feeling of being trapped. Unfortunately there was nothing she could do. The government took this issue of class under consideration when drafting the bill in 1939, but the establishment of the administration for 'a poor man's divorce' remained unresolved. Divorce was to remain largely a middle-class and upper-class privilege.

However, it is important to note that even wealth and connections could not secure a divorce outside of the law in Northern Ireland even if such a divorce would have been legal in England. In 1930 the prime minister received a letter on behalf of a man seeking a divorce. The relationship between the letter writer and the man seeking the divorce is unclear. The letter writer explained that the man's father was a devoted supporter of Craig and was a 'staunch Orangeman'. The man seeking the divorce 'is a well educated loyalist . . . and the girl is the worst type of adventurist – an R.C. [Roman Catholic] who set herself to catch him . . . she said she'd become Protestant – married him in our Church – and then refused to become Protestant – and left him. And the priest in her village refuses to let her return to the husband'. It appears the letter writer was close to Craig as the writer notes 'You said [illegible writing] would lay the matter before the Attorney General and then let me know if in the near future there would be a possibility of introducing a divorce bill into this Parliament'.¹¹⁰ However, the letter does not indicate any reason for divorce other than the wife deserting the husband, which was grounds for divorce in England, but not Northern Ireland. The prime minister's office advised that the only option the man had was to file for judicial separation. Therefore, even the connected and wealthy still struggled with the out of date divorce legislation in Northern Ireland.

An internal note about this file from the Ministry of Home Affairs to the prime minister reveals an opinion reflective of the government's approach to divorce reform

¹⁰⁹ J.C. to Sir Dawson Bates, 13 Dec. 1934 (PRONI, Ministry of Home Affairs, HA/8/160).

¹¹⁰ C. H. to Prime Minister Craig, 27 Mar. 1930. (PRONI, Prime Minister's papers, PM/2/10/41).

throughout the period under review: ‘While, personally, I would like to see the divorce law in Northern Ireland brought up to more modern ideas, proceedings made less cumbersome and expensive, and the grounds for divorce extended, I am satisfied that we would meet with great opposition on the part of the Roman Catholic population, and I am not at all sure that the Protestant population have any desire to extend the facilities for divorce’.¹¹¹ The following section will examine how this attitude was at odds with demands from the public, pressure to conform to the policy of parity, and the ideals of the Northern Irish government.

The Government of Ireland Act 1920, devolved government, and divorce reform

As discussed above, certain provisions of the Government of Ireland Act, 1920, needed to be reformed in order for divorce cases to transfer to the Northern Irish courts. This issue came to the fore in May 1931 when the Senate Committee on Standing Orders, the body that ruled on divorce bills, prepared a memorandum for the government illustrating the many unsatisfactory consequences of allowing divorce by bill to continue. These included issues such as: minutes of the proceedings were not kept, and therefore no record existed of the process, and the problem that the committee might not have legal experience and as such could make a ruling that is ‘repugnant to the general law’.¹¹² The committee unanimously called for the transfer of procedure and jurisdiction from parliament to the courts. However, Arthur S. Quekett, the parliamentary draftsman, advised the government that ss.4 (14) and 47 of the Government of Ireland Act, 1920 did not provide the necessary legal jurisdiction to the Northern Irish state to change the administration of divorce law. In order for procedure to change, the parliament of Northern Ireland would need to amend the law to give the supreme court of Northern Ireland the power to rule on divorces. However, Quekett noted that this was ‘ . . . outside the powers of the Northern Ireland Parliament. It has always been difficult to adjust this reservation with the grant of general legislative power “for the peace, order, and good government of Northern Ireland”’.¹¹³ It became practice since 1920 that parliament could give jurisdiction to

¹¹¹ Ministry of Home Affairs to Prime Minister Craig, 17 Apr. 1930 (PRONI, Prime Minister’s office, PM/2/10/41).

¹¹² Memorandum prepared by Lord Bangor. c.May 1931 (PRONI, Ministry of Home Affairs, HA/8/160).

¹¹³ Memorandum prepared by Arthur S. Quekett, Parliamentary Draftsman, 4 May 1931 (PRONI, Ministry of Home Affairs, HA/8/160).

the Supreme Court in full, but could not delegate a specific jurisdiction to a specific court. In terms of divorce, this meant that the state did not have the power to set-up the machinery for divorce courts in Northern Ireland.

This was such a specific administrative rule that even the Attorney General admitted after being informed about it that he was unaware of its nuances:

In considering this matter in the first instance I thought that our Parliament would have power to legislate as the question of Divorce is not a reserved matter and is not within the clauses of the Act of 1920 restricting our powers of legislation. I thought that having passed the legislation conferring jurisdiction upon the Supreme Court that that Court would have power to make Rules regulating the procedure and that there could be no question of their refusing jurisdiction.¹¹⁴

This erroneous assumption demonstrates the complexities of devolution, for it was impossible to change these powers of the court in their contemporary constitutional standing. This change could only happen through a bill in Westminster. However, Westminster avoided contentious bills relating to Northern Ireland. The draftsman noted that the imperial government had to be assured that a bill was not controversial before introducing it. He referred to previous instances in which the controversial parts of a bill were ironed out in Stormont before being sent to Westminster. The draftsman advised testing the water by having a debate in the Northern Irish parliament about changing the law: ‘The Government would hardly ask the British Government to introduce a Bill, unless they were assured that the general public opinion in Northern Ireland was behind them’.¹¹⁵ Upon the Attorney General’s advice, the government decided to leave the matter for a later date. There was a concern that the imperial government would refuse to legislate ‘as this is a very controversial matter and would be opposed in the Imperial House of Commons by the Roman Catholic Members and by all enemies of our Government’.¹¹⁶

A way around this controversial matter was for the imperial government to amend the Government of Ireland Act in a miscellaneous provisions bill. The parliamentary draftsman organised this manoeuvre and prepared an amendment which gave the Northern Irish government the power to legislate in all matters within its

¹¹⁴ Memorandum: Divorce a vinculo. Prepared by the Attorney General, 7 May 1931 (PRONI, Ministry of Home Affairs, HA/8/160).

¹¹⁵ Ibid.

¹¹⁶ Memorandum: Divorce a vinculo. Prepared by the Attorney General, 7 May 1931 (PRONI, Ministry of Home Affairs, HA/8/160).

jurisdiction. Following on from this change, the government could institute divorce in the courts. While the constitutional issue was the biggest block to reform, the final line of the Attorney General's memorandum should not be overlooked: 'Assuming that we can secure an amendment of the Act of 1920 to give our Parliament the necessary power the question of legislation then becomes a political one, and the government will have to be certain that it has sufficient support to legislate upon the lines suggested'.¹¹⁷ This raises the question as to whether the government would legislate on this contentious issue even if it had the power. At the time of its introduction the 1932 act was seen as the key to unlocking legislative reform in Northern Ireland. The *Journal of Comparative Law* explained its significance as: 'several subjects of law relating to Northern Ireland are ripe for consolidation but have remained untouched because the law is partly in Acts of the United Kingdom and contains some element of "reserved matter". The obstacle is neatly removed by s.3 of the Northern Ireland (Miscellaneous Provisions) Act, 1932 (c.11), enabling the Belfast Parliament to repeal and re-enact United Kingdom laws in the course of consolidating any branch of the statute law "the general subject-matter of which is within the powers of the Parliament of Northern Ireland"'.¹¹⁸

With these changes it might be expected that the government would reform the laws immediately. However, its actions following the 1932 act confirm that the political risk of legislating on this matter continued to be a major block to divorce reform. The Ministry of Home Affairs informed the cabinet secretariat that the 1932 Miscellaneous Provisions Act empowered the government to change divorce procedure but 'it does not necessarily follow that the Government will, at present at any rate, introduce the necessary legislation, as legislation on matters such as Divorce would require careful consideration in the light of the attitude of our Churches on such subjects'.¹¹⁹ Indeed, it would be another seven years until the reforming legislation was introduced.

The government held that line through much of the 1930s. While the legal machinery was there for the government to change the law, it feared the political risk associated with divorce. Despite the government's resistance to reform, some

¹¹⁷ Ibid.

¹¹⁸ Cecil T. Carr, C.W. Duret Aubin, Arthur S. Quekett, and A. Denis Pringle, 'British Isles' in *Journal of Comparative Legislation and International Law*, vol. xvi, no. 2 (1934), p.2.

¹¹⁹ Ministry of Home Affairs to Cabinet Secretariat, c. 1932 (PRONI, Ministry of Home Affairs, HA/8/160).

politicians still petitioned for change. In 1933 Senator Leslie again posed a question to the government about its plans for transferring jurisdiction over divorce to the courts: 'in view of the powers given to this Parliament by the Northern Ireland (Misc Provisions) Act of 1932, [is it] the intention of the Government to introduce legislation in the immediate future in order to confer a more effective jurisdiction on the High Court of Northern Ireland, and so avoid the delay, expense, and other inconveniences of the existing system[?]'¹²⁰ In particular Leslie highlighted the issue that divorce bills were subject to parliamentary sessions, and since divorces took about two months to pass through parliament, they could only be granted during the spring session, thus causing undue delay and inconvenience for the parties involved. In their deliberations on how to respond to this question, the Ministry of Home Affairs informed the prime minister of the position the government should take on the matter. At the forefront of their hesitancy was concerns about a political backlash: 'we were of opinion that a day would come when it would be expedient to do so, but at the same time, we feel that in the present state of feeling in the country it would be impolitic to embark on any Divorce legislation at present.'¹²¹ In particular the government feared the 'most determined opposition' from the Catholic church, as well as some Protestant churches, such as the Presbyterian and Methodist churches. This overruled any calls for reform in 1934, as the Ministry of Home Affairs concluded 'It appears that the whole question of Divorce Procedure in Northern Ireland has been shelved indefinitely, owing to fear of hostility from the Churches'.¹²²

There was also the fear that a change in procedure would open the floodgates to liberalising grounds for divorce and making divorce easier. As such, Bates suggested: 'even if our system involves any delays or inconveniences, it might be argued that it would be all the more desirable not to change the system and make Divorce easier'. On a similar moral note, the privacy of divorce by bill was presented by the government as a benefit for the Northern Irish people. The details of divorce proceedings were not published in parliamentary minutes or in the press, thus avoiding 'anything in the nature of sensational details which only appeal to persons of

¹²⁰ *Hansard NI (Senate)*, xv, col. 204 (23 May 1933).

¹²¹ Sir Dawson Bates, Minister of Home Affairs, to Prime Minister Craig, 22 May 1933 (PRONI, Ministry of Home Affairs, HA/8/160).

¹²² Home Affairs minute by A.H.M. Irwin, 15 Mar. 1934 (PRONI, Ministry of Home Affairs, HA/8/160).

a morbid character.¹²³ Importantly, some details of divorces were published as a private act when divorces were granted through parliament. Again, such publicity was not mentioned by the Minister for Home Affairs. Further, the minister did not acknowledge that divorce cases had to go through the courts as judicial separations, and such it is possible that the details of cases could be published in the press. Such press reports were sensational in England. Savage notes ‘a burgeoning popular press exposed litigating couples to the harsh glare of publicity. The account of the Divorce Court that became a regular feature of Victorian newspapers created and continually reinforced the image of the Divorce Court as the exclusive domain of the well-to-do, the aristocratic, and the disreputable.’¹²⁴ This hunger for salacious details of matrimonial conflict were seen as beneath the morals of the Northern Irish people, and as such the legislators promoted the benefits of hearing divorce cases in the privacy of the Senate.

This note is reminiscent of the opinions in the affiliation orders debate about whether cases should be heard *in camera* to avoid unseemly details being reported in the press. In particular, Samuel McGuffin, UUP MP for Belfast North, expressed relief that details published across the water in Britain did not appear in Northern Ireland: ‘The Belfast Press is particularly careful in these matters as compared with the Press across the water. We never read in our local papers the harrowing and obscene details that we see published in regard to cases tried in Great Britain’.¹²⁵ This same idea was held regarding divorce by the courts: that can happen across the water where lower morals prevail, but here in Ulster morality is kept to a higher standard. In Canada, parties in divorce proceedings tried to keep the details away from the public eye, however this differs from the Northern Irish experience because officials did not agree to keep the details private. For instance, the wife of a Halifax doctor started an action based on cruelty and settled out of court. The couple asked their counsel to request that evidence be kept private, but the judge declined the request. Snell describes his motivation: ‘the granting of divorce or judicial separation was the

¹²³ Sir Dawson Bates, Minister of Home Affairs, to Prime Minister Craig, 22 May 1933 (PRONI, Ministry of Home Affairs, HA/8/160).

¹²⁴ Savage, ‘Class, gender and popular representation of English divorce litigation’, p. 174.

¹²⁵ *Hansard NI (Commons)*, iv, col. 494 (2 Apr. 1924).

responsibility of the court on behalf of the state and was not to be controlled by individual couples.’¹²⁶

The legal profession also protested about the state of divorce law. In 1936 the Bar Council of Northern Ireland passed the resolution: ‘That the present system which compels suitors after incurring the expense of High Court proceedings in matrimonial causes, to incur the further great expense of a hearing before the Joint Committee of both Houses should be terminated by legislation’.¹²⁷ The letter from A.B. Babington, the former Northern Irish Attorney General, enclosed the resolution to the prime minister and called the disparity in means to divorce for rich and poor ‘a complete denial of justice’. Babington even said he and the Minister for Home Affairs believed it would be beneficial that ‘some steps might be taken to sound the Protestant Church in advance’ of any reform.¹²⁸ However, the government decided it was not a pressing matter. Craig interpreted this resolution as taking issue ‘not so much against the system itself as against its cost’, so the cabinet decided to postpone the matter.¹²⁹ It appears then that the discrepancy in access to divorce was not seen as sufficiently pressing to justify the political risk of reforming the law.

The legal publication, the *Irish Jurist*, which was an all-Ireland publication produced in the Free State, had a different opinion of divorce than the northern legal community. The journal was in print until the early 1900s and resumed publication in 1935. Its Easter 1937 publication wrote of divorce reform:

A remarkable suggestion was uttered in the course of the hearing in a recent action in the High Court that provision should be made to enable the Courts in suitable cases to grant decrees of divorce *a vinculo*. Hitherto the Courts of this country, both in Northern Ireland and the Irish Free State, have never had that power . . . If such a provision were made the jurisdiction to pronounce a decree of divorce *mensa et thoro*, which is one now of frequent application, would probably fall to some extent into disuetude [sic] in favour of the wider decree, as has happened in other countries.¹³⁰

¹²⁶ Snell, ‘Women and the Nova Scotia divorce court’, pp 14-5.

¹²⁷ Resolution of the Bar Council of Northern Ireland, 20 Nov. 1936, forwarded by Arthur Babington to the Prime Minister Craig, 26 Nov. 1936 (PRONI, Ministry of Home Affairs, HA/8/160).

¹²⁸ Arthur Babington to the Prime Minister Craig, 26 Nov. 1936 (PRONI, Ministry of Home Affairs, HA/8/160).

¹²⁹ Extract from draft conclusions of a cabinet meeting, 16 Dec. 1936 (PRONI, Ministry of Home Affairs, HA/8/160).

¹³⁰ ‘Divorce law’ in *Irish Jurist*, iii no. 2 (Easter term, 1937), p. 18.

As such, it can be seen that the issue was indeed quite divisive. Even in the legal community there was not a uniform opinion about the law.

The hesitancy to legislate about divorce was not distinct to the Northern Irish government or even the general conservatism of 1930s Ulster. Indeed, this was not exclusively an Irish pattern either. In Canada divorce laws were not reformed from confederation in 1867 until the first general divorce statute in 1968.¹³¹ Similarly, Redmayne notes that in any call for reform following the 1937 Matrimonial Causes Act ‘every [English] government shrank into its shell’. For instance in 1951 instead of moving to reform divorce law, the government established a royal commission on divorce. Redmayne suggests this allowed the government to ‘appear to have an interest and involvement in the subject, and then ignore the subsequent findings’,¹³² much like the Free State’s approach to social issues in the 1920s. Therefore the Unionist government’s hesitancy was characteristic of governments in this period expressing a reluctance to legislate on a particularly divisive matter. However, it should be noted that while the English governments may have been reluctant to legislate, several bills relating to separation and divorce did pass through parliament in the years following the 1857 Matrimonial Causes Act. In Northern Ireland until 1939, however, reticence to reform remained strong. Therefore the hesitancy with which the Northern Irish government approached divorce was much stronger than English governments at the time.

V. Successful reform: 1939 Matrimonial Causes Act

Following the passing of the 1937 Matrimonial Causes Act in Westminster, progress towards divorce reform in Northern Ireland picked up speed. Redmayne summarises the significance of the English act: ‘[the act] represents a watershed in divorce law reform. Often called Herbert's Act after the Independent MP who promoted the Bill, it was based upon the recommendations of the Royal Commission of 1912. The act extended the grounds for divorce and represented a significant move away from the doctrine of the matrimonial offence.’¹³³ In addition to adultery, the new act provided for divorce on the new grounds of cruelty, desertion for two years,

¹³¹ Snell, ‘Women and the Nova Scotia Divorce Court’, p. 5.

¹³² Redmayne, ‘Matrimonial Causes Act of 1937’, p. 199.

¹³³ Ibid., p.183.

and incurable insanity as sole legal reasons for divorce. Redmayne notes that ‘the acceptance of the latter meant that, for the first time, divorce was permitted when neither party was at fault’.¹³⁴

It should be noted that in the same year divorce was further liberalised in England, the Free State (called Éire after 1937) banned divorce. These two changes did not go unnoticed in Northern Ireland. The Registrar-General raised his concern: ‘In connection with recent marriage legislation in England and also in view of certain provisions in the new Irish Free State Constitution (pardon me – the Constitution of Eire, as from to-morrow) our Registrar-General was somewhat perturbed as to the effect on the Marriage Law in Northern Ireland, more particularly in regard to persons seeking to be remarried, and desired legal advice’.¹³⁵ While it was agreed that there was nothing for the Registrar-General to be concerned about, the precarious position of Northern Ireland between a country that barred divorce and another that liberalised it was potentially another reason for the government to re-examine the state of the law.

In 1938 Dr Robert Johnstone, MP for Queen’s University, posed a question to the government asking when it would bring in divorce reform ‘designed to remove the present disabilities under which the inhabitants of Northern Ireland labour’.¹³⁶ This elicited more of a response from the press and the public than previous questions to the government. Letters to newspapers were published calling for reform and the government responded affirmatively that action was being taken to modify divorce procedure along English lines. This increased discussion amongst the public and the government was likely propelled by the passing of the 1937 Matrimonial Cause Act in Westminster. A letter to the *Belfast Newsletter* praised Johnstone’s question and referenced the step-by-step principle to highlight the injustice of the state of the law in Northern Ireland: ‘If we in Northern Ireland pride ourselves on being part and parcel of the United Kingdom, governed by same laws, why not follow England step by step in this direction as in others and give relief to many from the miserable possible of being neither married nor unmarried – Yours, &c., ONE OF SUCH’.¹³⁷ Step-by-step was discussed again by another letter-writer to the *Newsletter*. Here the letter-writer

¹³⁴ Ibid.

¹³⁵ Ministry of Finance to A.P. Magill, Ministry of Home Affairs 28 Dec. 1937 (PRONI, Ministry of Home Affairs, HA/8/160).

¹³⁶ *Hansard NI (Commons)* xxi, col. 969 (10 May 1938).

¹³⁷ *Belfast Newsletter*, 11 May 1938.

suggests the government should make any divorce reform bill ‘retrospective as from the date of the passing of the English Bill, and thus stick to the policy of step-by-step.’¹³⁸ Step-by-step was clearly such a fixed part of the political landscape in Northern Ireland that the public offered its own opinion on how the government could ensure it was followed correctly.

A 1938 *Daily Mail* article, ‘The Voice of Women’, provides insight into what some women of Northern Ireland thought about divorce reform.¹³⁹ However, the knowledge and insight gleaned from the report was not articulated in parliamentary debates or internal correspondence. The report was by Paul Brewsher, a reporter ‘making a tour to find out what the women of Britain are thinking’. He travelled to Belfast to find that the ‘extraordinary anomaly between the divorce laws in England and Northern Ireland is much exercising the minds of the women of Ulster . . .’. He interviewed Alderman Mrs Coleman, ‘the only woman member of the Belfast Corporation’, who strongly supported the reform and denied the idea that easier divorce will make people less serious about getting married. Coleman articulated the belief that Northern Ireland had higher morals than Britain, so a modernised divorce law should be passed because the Northern Irish people would not take improper advantage of it: ‘the people of Northern Ireland are more rigidly moral than in many other parts of the British Isles. One reason is that they don’t travel so much – and they take their home life more seriously. They are dour people – more level-headed and dogmatic than in many other places’.¹⁴⁰ Brewsher himself agreed with this assessment. He reasoned that the small number of divorces in Northern Ireland was due to the parliamentary procedure as well as ‘the strong objection to divorce both in the large Roman Catholic community and among the many strict Protestants – and also the notably high – something stern – character of the people’. This article brought the voices of selected women to the fore in this debate. In particular the opinion of Mrs W.J. Homes, the wife of a prominent in Belfast lawyer: ‘The women’s vote will certainly be behind the Government in this matter because women have suffered more than men from the difficult divorce laws’.¹⁴¹

¹³⁸ Ibid., 17 May 1938.

¹³⁹ This news clipping is in a Ministry of Home Affairs file relating to divorce, suggesting that officials read the article and saw it as pertinent to deliberations on the topic. See PRONI, Ministry of Home Affairs papers, HA/8/160.

¹⁴⁰ *Daily Mail*, 29 Nov. 1938.

¹⁴¹ Ibid.

In calls for reforms for divorce, legislators were aware of the controversy of such legislation amongst religious hierarchies. In the Senate Captain Perceval-Maxwell asked when the government planned to introduce reform. In his call he drew a clear distinction between what he identified as the ‘religious aspect’ and the ‘political aspect’ of marriage. He insisted that the religious aspect should be dealt with by theologians, whereas the political aspect of marriage was in the sphere of the government because it regulated legal status and rights in property. However, recognising that the religious and political often met, Perceval-Maxwell emphasised previous successes of the two harmoniously working together: ‘it was ecclesiastical influence that gifted on to the Common Law those great and beneficial principles of equity that relieve in cases of failure of consideration and unconscionable contracts . . . is it too much to ask for the same charity and good sense to be applied to marriage contracts?’¹⁴² However nuanced Perceval-Maxwell’s speech may have been, there were senators completely opposed to any efforts to reform divorce law. Senator Thomas McAllister, previously a Nationalist MP for Antrim, opposed the motion based upon his religious teachings. The *Cork Examiner* and the *Belfast Newsletter* reported McAllister’s opposition. The *Newsletter* ran the headline ‘NATIONALIST’S DISSENT’ and highlighted ‘For himself, and on behalf of the Church to which he belonged, he felt bound to oppose the motion’.¹⁴³ The *Examiner* mentioned McAllister’s opposition and added ‘[Perceval-Maxwell’s] motion was passed by a majority, the Nationalist and Catholic members voting against’.¹⁴⁴

Catholics were not alone in their objections to the divorce bill on a religious basis. The June 1938 Methodist Conference in Belfast discussed what its policy would be going forward regarding the remarriage of ‘persons who in divorce proceedings have been declared innocent partners’.¹⁴⁵ In other words, those who started the divorce proceedings. The Committee held that an individual policy would have to be decided upon for the marriages, as ‘a person declared innocent by the Courts might not be innocent from the point of view of the Church’. The Committee examined the matrimonial causes bill to be introduced to the Northern Irish

¹⁴² *Hansard NI (Senate)*, xxi, col. 203 (17 May 1938).

¹⁴³ *Belfast Newsletter*, 18 May 1939.

¹⁴⁴ *Cork Examiner*, 18 May 1938.

¹⁴⁵ *Irish Times*, 25 June 1938.

parliament. The decision regarding the re-marriage of ‘innocent’ persons would be decided after consultation of the new bill.

Finally, at the opening of the 1938-9 parliamentary session, it was announced that the government would introduce divorce reforms that year. The same objections that the MPs and senators had expressed throughout the last 18 years were voiced in parliament again. The attitude of wanting divorce in Northern Ireland but lowering themselves to English morals was expressed by Major Dobbs: ‘I am an old-fashioned person, holding old fashioned views, and I would not like to see the divorce laws as now constituted in England applying in their entirety to this Province. But I do feel that our divorce legislation does require to be improved’.¹⁴⁶ Despite the pervasiveness of this attitude, the law introduced in 1939 was along the same lines as the English act of 1937. This was protested by Thomas Campbell, Nationalist Party MP for Belfast Central who was a barrister and active member of the Belfast legal community: ‘The learned Attorney-General has given us an English Bill. It certainly is not an Irish Bill. There is nothing Irish about this measure . . .’¹⁴⁷ He said it degraded the six counties to the level of England; and, ‘I know of no nation of the globe where family purity is more prized than it is among the Irish and it is a bitter and evil fruit of partition that this Bill should be brought in here applying this system of divorce in any part of Irish territory’.¹⁴⁸ Another Nationalist MP, Richard Byrne, argued for parity between Éire and Northern Ireland: ‘Such a measure does not apply in 26 counties, and it should not apply here’.¹⁴⁹ Conversely, William Grant, a founding member of the Ulster Volunteer Force and the UULA, and MP for Belfast, Duncairn, was in favour of the bill because it brought Northern Ireland into line with England and justified partition: ‘We in Northern Ireland – I mean we on the Government side, and our supporters – never wanted a Parliament for Northern Ireland. If we had not had this Parliament we would have been represented at Westminster. I claim we are entitled, therefore, to the same legislation as is applicable to the people on the other side’.¹⁵⁰

Strangely, one of the controversies about the introduction of this bill in parliament was the fact that the Attorney General, Arthur Black, was a lifelong bachelor. In the 1920s Black was praised as ‘an outstanding lawyer’ for the Belfast

¹⁴⁶ *Hansard NI (Senate)*, xxii, col. 9 (8 Dec. 1938).

¹⁴⁷ *Hansard NI (Commons)*, xxii, col. 1251 (2 May 1939).

¹⁴⁸ *Ibid.*, cols 1253, 1254.

¹⁴⁹ *Ibid.*, col. 1257.

¹⁵⁰ *Hansard NI (Commons)*, xxii, col. 1255 (2 May 1939).

Corporation, with a long, successful legal career and an expertise in chancery law.¹⁵¹ Despite these successes, several MPs attacked him for presenting divorce law having never been married. John W. Nixon, Independent Unionist MP and Alderman of Belfast, said: ‘perhaps one might reflect that if the Attorney-General were not a bachelor some of his arguments on a subject like this would carry more weight, for then perhaps he would have a little experience behind him . . . Marriage is the most solemn ceremony in the world; the Attorney-General does not know anything about that, except what he sees and reads’.¹⁵²

In discussions of the 1939 bill, women were discussed as needing to be protected, rather than becoming equals under this legislation. William Grant promoted the bill as: ‘Frame this as giving justice to the woman and her child. A woman is in a marriage with a man, but he leaves her for other women. She is stuck in this marriage. Is that woman not entitled to some protection? Is the child not entitled to some protection?’¹⁵³ These debates also shed light on some contemporary ideas of the role of a wife. In his explanation of the insanity clause, the Attorney General gave the example of a husband whose wife was mentally ill: ‘Take the case of a young man whose wife is incurable and confined in a mental home. He has to find a housekeeper to look after his home. Does it not seem a difficult thing that he should be compelled to be tied to a person who can never be a real wife and who may not recognise his

¹⁵¹ John Rouse, ‘Arthur Black’ in James McGuire and James Quinn (ed), *Dictionary of Irish Biography* (Cambridge, 2009).

(<http://dib.cambridge.org/viewReadPage.do?articleId=a0683>) (21 Nov. 2017).

¹⁵² Ibid., cols 1244-5. Nixon, who will be discussed in more detail in the following chapter, was a controversial figure. As Hourican writes, Nixon was suspected of playing a key role in several sectarian murders in the early 1920s in Belfast: ‘Nixon was passed over for promotion within in the RUC and publicly condemned the decision] The NI minister of home affairs, Richard Dawson Bates, wanted to take immediate disciplinary action against Nixon, who was blatantly sectarian and was widely suspected of being at the centre of an assassination gang operating from within the crown forces and carrying out reprisals on catholics for the murder of RIC members. A dossier prepared by the Free State Department of Defence (February 1924) described him as a religious fanatic, linked him with the murder of Owen McMahon and his sons on 24 March 1922, and named him as leader of the gang who murdered four men and a child in Arnon St., Belfast, on 1 April 1922. However he enjoyed strong support within the RUC – when he failed to get his promotion, numerous Orange lodges sent in formal protests, threatening to take the matter further. Bates backed down, and in the king's birthday honours the following summer Nixon was awarded an MBE on the recommendation of the Unionist chief whip, Capt. Herbert Dixon, and the lodges were appeased.’ Bridget Hourican, ‘Nixon, John William’, in James McGuire and James Quinn (ed), *Dictionary of Irish Biography* (Cambridge, 2009)

(<http://dib.cambridge.org/viewReadPage.do?articleId=a6216>) [Accessed 12 Oct. 2017]

¹⁵³ *Hansard NI (Commons)*, xxii, col. 1256 (2 May 1939).

existence?'.¹⁵⁴ The wife was seen as a homemaker and the bond of marriage takes second place to this position. Phillips discusses how the failure to meet these ideals of 'marital and domestic obligations' drove new grounds for divorce. Australian divorce laws allowed for the dissolution of marriage 'when either husband or wife failed to perform the specific domestic roles allowed to them: support and service, respectively'.¹⁵⁵ Protection of women was also part of divorce reform in Americas in early twentieth-century which was tied to the temperance movement. Roderick Phillips explains the work of these groups: 'the evidence they brought forth was sufficiently powerful to convince legislators in many states to include alcohol-specific offenses among those justifying divorce, particularly when they rendered spouses incapable of fulfilling their obligations within marriage'.¹⁵⁶

That is not to say that the argument for legal equality in the case of divorce proceedings was not addressed by members of the parliament. In his 1938 Senate address, Perceval-Maxwell also raised the issue that 'A man can divorce his wife for simple adultery, but a woman cannot divorce her husband for the same cause unless the adultery is incestuous or bigamous, or is coupled with desertion of two years or with cruelty. I think that it is impossible under modern conditions to justify this distinction'.¹⁵⁷ However, largely, the voice of women was absent in the parliamentary debates about the Matrimonial Causes Act. The politicians called for public opinion, but very seldom did this opinion appear to reflect the voice of married women. This differs from Stone's explanation of the ease with which the 1923 act passed through Westminster. Women petitioners were a strong group in England. The 1923 law which gave equal access to divorce based on adultery was so successful because 'this bill was said to be "practically universally demanded by the women of this country" who, it will be remembered, had recently been granted the vote. Afraid of offending this large new constituency, most of the opponents of the bill ran for political cover, and it easily passed both Houses and became law'.¹⁵⁸ The same sentiment can be applied to the 1937 act which so significantly changed divorce law in the UK.

¹⁵⁴ Ibid., col. 1558 (16 May 1939).

¹⁵⁵ Roderick Phillips, *Putting asunder: a history of divorce in Western society* (Cambridge, 1988), p. 498.

¹⁵⁶ Ibid., p. 497.

¹⁵⁷ *Hansard NI (Senate)* xxi, cols 203-4 (17 May 1938).

¹⁵⁸ Lawrence Stone, *Road to divorce: England 1530-1987* (Oxford, 1990), p. 396.

VI. Conclusion

This analysis of divorce law reform confirms this thesis' finding that laws relating to morality posed a problem to following step-by-step. McCormick's thesis of a perceived superior Northern Irish morality can be extended to the historical understanding of the step-by-step policy, and in this case, divorce law. The government revealed strong aversion to reforming divorce law in case it was at odds with Northern Irish morals. Eventually the policy of parity won out and divorce law was reformed in 1939, but this was late compared to the English reforms of the 1920s. This confirms what the previous chapters have argued, that the writing of law in Northern Ireland in this period had more to do with navigating devolved government and fulfilling the promises of the policy of parity following partition than adhering to Northern Irish ideals about a superior morality. Only after prolonged debate did the balance between legislating for Northern Irish morals and following the policy of parity fall in favour of policy in London.

Issues stemming from devolution meant that Stormont did not have the power to reform divorce law until 1932. As such, much of this chapter has examined the constitutional and legal implications of partition on the practice of divorce law in Northern Ireland. Because of the informal policy of parity practiced by the northern government since 1921, women had the potential to divorce on grounds practiced in England that were yet to be codified in Northern Ireland. In Northern Ireland the link with England meant some legal conventions were followed even if they were not codified. This demonstrates that the judiciary and the wider public were more progressive than the government in some cases, and that legal structures of devolved government complicated legal practice across the UK.

The close analysis of trends in divorce law from 1921-39 adds to the scholarship on the history of divorce because it looks at specific Northern Irish cases for the first time. Further, this chapter adds to the knowledge in this area by expanding the understanding of influences on social policy. In particular, while Catholic social teaching was behind the barring of divorce in the Free State/Éire, the analysis of the slow process of legal reform in Northern Ireland demonstrates that this hesitancy was part of a wider conservatism and was not specifically a Catholic phenomenon. However, the clear difference between the two states is seen in the Free

State incorporating this Catholic practice into the law, rather than the Northern Irish government eventually following the policy of parity.

Many of the patterns seen in the debates about divorce in this area appear again in the 1970s and 1980s. An article in a 1986 issue of *Fortnight* reported that Taoiseach Garret FitzGerald had the northern Protestant community in mind during the 1986 divorce referendum in the Republic of Ireland. Helen Shaw, the author of the article, reports: ‘the referendum’s outcome is bound up in the “constitutional crusade” [FitzGerald] launched in the early ‘80s to create the pluralist society which would bring northern Protestants into a 32 county Republic’. Reminiscent of Yeats’ plea to the Senate in 1925, FitzGerald saw divorce as one means to unite the island.¹⁵⁹

Prominent unionists continued to oppose divorce reform in Northern Ireland on the basis that it would lower morals. Echoes of the attitudes of the 1930s were loud. For instance, Reverend Ian Paisley was adamantly against divorce, and a letter from leader of the UUP, Jim Molyneaux, to the Secretary of State, Roy Mason, highlighted the superior morals of the province to London: ‘it goes without saying these things are even more delicate and controversial in Northern Ireland than in Great Britain’.¹⁶⁰ Shaw highlights how in 1985 the Assembly in Northern Ireland opposed a law that would have brought in postal divorce for uncontested divorces of couples without children. Shaw writes ‘[the Assembly said] that the North was “different” to Britain and such a move would not be in line with the “cultural traditions” of the state’,¹⁶¹ echoing the MPs of the 1930s.

The divorced woman was a figure who did not conform to societal expectations. The next chapter will examine women who also defied what society expected of them: the ‘spinster’ teacher and the married female teacher. The former was seen as unfortunate and to be protected, and the latter as a selfish woman who neglected her familial responsibilities. The justifications for the marriage bar by Northern Irish politicians, civil servants, and the wider public reveal closer similarities to the Free State policies, as well as those in the dominions, which raises important questions about the wider influences on social policy in the two Irish states.

¹⁵⁹ Helen Shaw, ‘Untying the knot: the North and Divorce’, in *Fortnight*, no. 241 (23 June – 6 July 1986), p. 5.

¹⁶⁰ Quoted in *Ibid.*, p. 6.

¹⁶¹ *Ibid.*

Chapter seven: Deserving spinsters and neglectful wives: the marriage bar on women teachers.

‘When a woman marries she should turn herself to the highest function for which she was created, namely the creation of a home and the bringing forth of future children’¹

I. Introduction

This chapter examines the marriage bar on women teachers in the two states after partition, particularly in Northern Ireland. Such an approach allows for a comparative interrogation of the policies in the two states and an understanding of wider conservatisms at work across the island, as well as rectifying a gap in the literature on scholarship on the marriage bar in Northern Ireland. The marriage bar policy required the retirement of women teachers upon marriage. As such, the marriage bar is a lens through which we can understand how social policy based women’s value on their marital status. It was a common policy in Europe, North America, and Australia in the 1920s and 1930s, particularly in times of economic recession and depression. However, in the historiography of the Free State, the marriage bar has been largely attributed to the state-church consensus based upon Catholic social teaching. Using partition as the point of comparison, this chapter investigates the origins of the marriage bar policy in Northern Ireland and posits that the existence of such a policy north of the new border challenges the strength of the state-church Catholic social teaching thesis. Instead the marriage bar was rooted in wider conservative trends of the era and economic measures which prioritised a male breadwinner model and employed inexpensive female labour if necessary. The marriage bar in the 1930s came at a time of economic depression. Teacher’s salaries were reduced in 1931 by 7.5%, the same cut as the RUC. That year MPs, senators, and parliamentary secretaries also had their salaries cut.² Clear writes of the Free State bar: ‘[it] was introduced in a cynical attempt to make jobs available for young, single women and men. The same is true of the marriage bar against women in the public service’.³ While these economic motivations were the main drivers behind the marriage bar

¹ Dr Hugh Smith Morrison, MP, *Hansard NI (Commons)* iv, col. 317 (25 Mar. 1924).

² Akenson, *Education and enmity*, p. 135.

³ Clear, ‘Women in de Valera’s Ireland, 1922-48: a reappraisal’, p. 107.

policy, this chapter will examine how gendered ideas of women informed the policy and how the civil service aided with the implementation of the policy. Indeed, as O’Leary argues: ‘The history of the marriage bar cannot be understood in isolation from the society that produces it’.⁴

When analysing the marriage bar in the two states in the 1920s and 1930s it is important to keep in mind that this was not have been a prominent feminist issue of the era. As Bryson notes: ‘ . . . while the marriage bar undoubtedly irritated those affected (particularly national school teachers), it did not impinge directly on the vast majority of Irish women. Irish married women worked outside the home only in cases of absolute necessity’. Bryson supports this with statistics that demonstrate the low numbers of married Irish women in professional employment. In the Free State in 1926 only 5.6 per cent of married women were in employment, whereas in Northern Ireland 14.5 per cent held occupations.⁵ As such, this chapter focuses more on the generation of this policy rather than suggesting that protests or even interest in this policy was an experience of the majority of women at this time.

In investigating the origins of this policy this chapter will analyse public opinion and political rhetoric of the era, particularly with regard to discussions of the ‘plight’ of single women teachers. In fact it will be seen that the marriage bar was presented by some as a welfare policy for single women who society deemed as ‘unfortunates’ because of their ‘unsuccessful’ marital status. As such, these women were understood to need protection from married women teachers who limited single women’s access the job market. This chapter adds to the historiography and understanding of the marriage bar by bringing single women into the analysis as a key figure in the policy objectives. Traditionally the marriage bar has been understood as a policy that targeted married women, but it will be seen here that it was also constructed as a way to help single women.

The chapter also considers how the Northern Irish civil service after partition effected the rolling out of the marriage bar policy. Since local councils largely held the most sway in educational decisions, the marriage bar was implemented through resolutions decided by these councils. As such, the Ministry of Education claimed neutrality on the issue, thereby circumventing any criticism about the bar. However,

⁴ Eoin O’Leary, ‘The Irish National Teachers’ Organisation and the marriage bar for women national teachers, 1933-58’. *Saothar* xii (1985), p. 51.

⁵ Anna Bryson, *No coward soul: a biography of Thekla Beere* (Dublin, 2009), p. 63.

the ministry was instrumental in the administration of the relevant regulations about the bar and was consulted by local authorities on the legality of such a measure. This differs from the Free State where the Department of Education decided upon a unilateral national marriage bar. This difference in Northern Ireland allows for an examination of how the complex relationship between the ministry and local authorities affected women in the jurisdiction.

Finally, the chapter will examine how teachers' unions and other civil society groups reacted to the bar. While the marriage bar was a global trend, the reaction of the teachers' unions to the bar had a specifically Northern Irish context. The Ulster Teachers' Union (UTU) and the Irish National Teachers' Organisation (INTO) were two competing unions within the new state. The UTU had unionist leanings and the INTO had nationalist leanings. However, the two found common ground on the marriage bar issue, looking beyond traditional political lines in Northern Ireland. The responses from the wider public reflect the paternalistic values and gendered expectations that motivated the marriage bar, thereby reaffirming the wider paternalistic, conservative trends at work in this period.

II. Welfare for the single woman?

This first section will examine how the gendered opinions of legislators and the wider public constructed the marriage bar as a policy for several 'categories' of women; specifically, the single young female teacher, the married female teacher, and the mother/teacher. Further, this section adds to existing literature on the marriage bar in the two Irelands by bringing single women into the analysis. Often the marriage bar has been examined using the married woman as the sole figure of analysis, but it will be seen that the single woman was also a significant target of this policy.

A common argument put forward in favour of the marriage bar highlighted how single women were more in need of employment than married women. This sentiment was often underlined with pity for the single woman as 'unfortunates' who could not find a husband, and who as such were more deserving of employment than a woman with a husband as the breadwinner. This section will examine representations of these women and how the public felt a need to protect this single, 'unfortunate' woman. In her analysis of single women after the First World War, Holden argues that: 'the single state in general, and single women more particularly, have been regarded as

being in a temporary position or as inferior to those who are married'.⁶ This perception of single women in relation to their married counterparts in Northern Ireland follows this pattern. The women were seen either as young and awaiting marriage, or unfortunate and unlucky in their spinsterhood. Holden also describes the negative connotations of the spinster: 'the stigma attached to spinsters designated them as sad and frustrated but also as unwanted by men.'⁷ This section argues that the paternalistic arguments in favour of a marriage bar put forward by legislators and the wider public on behalf of single women stem from this idea of the unfortunate spinster. Further, a parallel can be seen between this paternalism and the lack of agency that the legislators' attributed to the actions of the unmarried mother. This approach taken by the legislators uniformly paints women as powerless. While it was true in many cases that unmarried mothers were victims of male manipulation and that single women teachers would have married under different circumstances, the approach taken by the legislators fails to bring into account the agency of these women and their circumstances.⁸

Part of the patronising sympathy for the unmarried teacher stems from the legacy of loss from the First World War. It was a commonly held belief that a large part of a generation of women would never marry because so many potential partners died in the war. This belief was articulated in Stormont by Dr Morrison in a 1924 debate about the marriage bar in the Stormont House of Commons.⁹ The national government remained officially neutral on the subject, but the merits and faults of the policy were still discussed in Stormont when Samuel McGuffin, UUP MP for Belfast North, introduced a motion for the government to take a position on the marriage bar in the state. When discussing the benefits of such a policy Morrison said: '... there are a great many women who cannot get men owing to the fact that men do not exist for them. They have very serious difficulties to contend with, and I would like to make the good things go round as far as they can go round. When a woman is married she is provided for'.¹⁰ Morrison's appeal for the single woman parallels a pattern discussed in Oram's study of English women teachers. She found that it was a

⁶ Katherine Holden, 'Imaginary widows: spinsters, marriage, and the "lost generation" in Britain after the Great War' in *Journal of Family History*, xxx no. 4 (Oct. 2005), p. 389.

⁷ Ibid., p. 390.

⁸ See chapter two.

⁹ The reader will recall Dr Morrison from chapter two's analysis of the affiliation orders legislation.

¹⁰ *Hansard NI (Commons)* iv, col. 319 (25 Mar. 1924).

commonly accepted belief that: ‘teachers suggested that a boyfriend or fiancé had been killed in the First World War (in many cases, genuinely of course), or in more general terms that they belonged to the postwar generation for whom there were insufficient men. This tactic was used to deflect aspersions on their normality by a wide cohort of women’.¹¹ Holden refers to these women as ‘imaginary widows’: ‘Haunted by the “lost generation” of young men, these husbandless and childless women have been condemned to rest in a shadowland of premature, imaginary widowhood’.¹² This pity transformed into a paternalistic drive to provide for women who did not meet societal expectations of them. This informed the debate on the marriage bar and transformed it into a policy that could be understood as partly a regulation of single women’s welfare. Morrison articulated this belief a few days following his earlier statement: ‘it would be fair and reasonable to open the door to the less fortunate sisters who cannot get into married life and possibly cannot get into a school. I would approve very highly of making this law uniform and giving a chance to the sister who is, perhaps, not so favourably circumstanced as the more fortunate one who has secured a husband.’¹³ Not only does this reflect the ideas of a lost generation and imaginary widowhood but this also prioritises marriage as the ultimate goal for every woman: she is better off married and is unlucky if single. As such, the marriage bar was constructed, in part, as a way to ‘help’ these women.

There was more to account for singleness than the loss of men in the war. Many single women remained unmarried because they had family members to care for at home. This was the same for married women, but the marriage bar policy did not appreciate the complexities of women caring for family outside of the traditional male breadwinner model. While some wrote to the papers about this, it appears that the letter-writers did not fully appreciate the complexities either. In one letter to the *Belfast Newsletter* a writer suggested many unmarried women had people to care for at home whereas many married women did not.¹⁴ Conversely in an interview with the *Belfast Newsletter*, Joseph Boyce, chair of the northern INTO raised the crucial point that many married women also supported their family members, such as their parents or siblings, and some women were the sole earners in their partnership. On this Boyce

¹¹ Alison Oram, *Women teachers and feminist politics* (Manchester, 1996), p. 192.

¹² Holden, ‘Spinsters after WWI Britain’, p. 388.

¹³ *Hansard NI (Commons)* iv, col. 319 (25 Mar. 1924).

¹⁴ *Belfast Newsletter*, 20 Jan. 1931.

said ‘I presume they would not be asked to resign’.¹⁵ Other women remained single to continue their career path. Most famously civil servants in England such as Dame Evelyn Sharpe and Dame Alix Meynell rose up through the ranks of the civil service as unmarried but, as Theakston writes in the case of Sharp: ‘Her twenty-year-long relationship (starting in the 1950s) with another very senior civil servant was a semi-open secret at the top of Whitehall’.¹⁶ In 1966 Sharpe discussed her marital status: ‘I should prefer to have been a man: then I could have had a career and marriage too’.¹⁷

A foil to this idea of the single woman teacher was a construction of married women teachers as greedy and neglectful. Some local authorities and members of the public validated the intervention into women’s employment with the belief that married women teachers were selfish for remaining in employment, as they had a husband to rely on financially, while single women were unemployed and husbandless. At the Strabane and Castlederg Regional Education Committee it was argued that ‘it was not fair to young teachers that they should be deprived of their livelihood because the married teacher was in a position in which she drew a salary that should be provided by her husband’.¹⁸ This idea was supported in newspapers and the wider public. For instance, a letter from the parents of the Aughavery and Grogey districts in Co. Fermanagh cited two married women teachers with husbands who owned large farms: ‘How we believe it is unfair to us parents, who have tried to educate our young girls and when done they can hardly get a position, chiefly owing to these who could live well at home with their husbands, and we would venture also to state it would be a blessing to their land as it might induce their husbands to raise some crop and also give some employment to our working people’.¹⁹ A letter to the *Northern Whig* pointed to married women teachers as the ‘direct cause of this great and deplorable hardship [of unemployment] being inflicted on poor girls and their parents . . . I think the time had come when something should be done to abolish

¹⁵ Ibid., 31 Oct. 1929.

¹⁶ Kevin Theakston, ‘Sharp, Evelyn Adelaide, Baroness Sharp (1903–1985)’, *Oxford Dictionary of National Biography* (Oxford, 2004) online edn, Jan. 2011 (<http://www.oxforddnb.com/view/article/31672>) (12 Oct. 2017).

¹⁷ *The Times*, 18 Feb. 1966, quoted in Ibid.

¹⁸ *Evening Telegraph*, 3 Apr. 1935.

¹⁹ ‘Parents of the Aughavery and Grogey districts’ to the Minister of Education, 23 June 31. (PRONI, Ministry of Education papers, ED/13/1/1148).

ladies being permitted to teach, contending, as I do, that their proper position is adorning the house of which they were intended to be mistress'.²⁰

Copelman writes of a similar public response in London in 1922, however the focus was weighted towards the welfare of the single woman rather than criticisms of the married teacher: 'The correspondents were more concerned about the right of the young single teacher to work than with the impropriety of married women working. The feeling was that all of the time and expense that families invested in training daughters to be teachers was wasted'.²¹ While members of the Northern Irish public expressed concerns and frustration, other sources suggested married women were needed as teachers. The annual northern conference of the INTO in 1933 raised the argument that 'certain local authorities were finding it difficult to retain the services of single lady teachers in rural areas and were disposed to appoint married lady teachers . . .'.²² Therefore it can be questioned how much of this debate was part of wider concerns about married women in employment and out of the home, rather than job security for single women. Redmond and Harford attribute this sentiment in the Free State partly to electoral politics, revealing a flawed logic on the part of the government:

The politics of appealing to an electorate who may be prone to jealousy of the middle-class families who enjoyed secure, professional, well-remunerated employment reveals much about the time. Women teachers appear in this instance merely to have been scapegoats for the government's inability to provide an adequate number of jobs. Married women teachers losing their jobs would not provide unskilled labourers with employment; a skewed logic was clearly in operation.²³

Similar sentiments regarding single teachers were expressed in New South Wales in 1932. In Theobald's and Dwyer's study of the marriage bar legislation in 1932 they find 'the argument that the rights of beginning teachers must come before the rights of married women underpinned the dismissal Act [the marriage bar] from beginning to end . . . the diminishing resources of the Depression years set capital against labour,

²⁰ *Northern Whig*, 20 Sept. 1928.

²¹ Dina M. Copelman, *London's Women Teachers: Gender, Class and Feminism. 1870-1930* (London, 1996), p. 192.

²² *Belfast Newsletter*, 27 Feb. 1933.

²³ Jennifer Redmond and Judith Harford, "'One man one job': the marriage ban and the employment of women teachers in Irish primary schools' in *Paedagogica Historica*, xxvii no. 5 (Oct. 2010), p. 648.

worker against worker, men against women, and single women against married women.’²⁴

Outright criticisms of the ‘spinster teacher’ were not as popular in the Northern Irish discussion about the bar as it was in England. Oram discusses negative portrayals of single women teachers in the press and amongst the English public: ‘The celibate spinster teacher, it was suggested, might have a morbid effect on her pupils as a result of her own sexual repression. Sex reformers suggested that the “cold natured” woman, often “very ill-equipped emotionally” could be harmful to pupils of both sexes’.²⁵ Even in more subtle ways single women were not celebrated in society. In Irish scholarship, Leeann Lane discusses how single women were marginalised in society. Her examination of the life of Rosamond Jacob highlights the invisibility of the single woman: ‘Much of Jacob’s life in the 1920s and 1930s then revolved around an attempt to live a meaningful existence in a society in which she was increasingly invisible as a single woman’.²⁶ Lane notes how in some cases single women were not taken as seriously, but instead were seen as ‘childlike, superfluous and unproductive’.²⁷ The marriage bar discussions were a rare instance in which single women were discussed in some detail, but Lane’s findings also apply here, as the women were not seen as mature individuals. The state paternalism towards this group can be understood as stemming from this sentiment. In other cases paternalism was replaced with fear. A letter to the *Northern Whig* suggested that single women teachers were underdeveloped and a bad example to young children: ‘We believe, and psychologists do, that the personality cannot be fully developed without marriage. Celibates, unless they are freakish, are not fully developed either physically or mentally.’ The consequences of this on the students were linked to wider concerns about threats to reproduction and marriage: ‘What is the result in girls’ schools at least? They are staffed wholly by spinsters who are neurotic, due to the unnaturalness of their lives. This reacts on the girls who are going out into the world in large numbers with unbalanced minds. Are we to sacrifice the future of our young people and the country’s progress to the spinsters of the present day?’²⁸

²⁴ Marjorie Theobald and Donna Dwyer, ‘An episode in feminist politics: the Married women (Lecturers and Teachers) Act, 1932-47’ in *Labour history* lxxvi (May 1999), p. 62, 75.

²⁵ Oram, *Women teachers and feminist politics*, p. 189.

²⁶ Leeann Lane, *Rosamond Jacob: third person singular* (Dublin, 2010), p. 172.

²⁷ *Ibid.*, p. 181.

²⁸ *Northern Whig*, 14 June 1929.

While arguments in favour of the marriage bar saw it partly as a way to provide help to single women, there were concerns that it would in fact go too far and discourage marriage. In the 1924 Stormont debates about the marriage bar Samuel McGuffin argued: ‘if you deny their right to continue after the epoch of marriage that unnecessarily and unjustifiably discourages marriage amongst teachers . . .’²⁹ Again in 1931 when the Antrim Regional Education Committee (REC) debated a marriage bar, a council member asked ‘was a lady teacher to be punished by dismissal for marrying. He was surprised that the members of the committee should make out that marriage was such a failure that they warned the young ladies not to embark on it.’³⁰ However, the marriage bar did not stop relationships, it just subverted traditional courting practices. In Holden’s study of single women in England she discusses the types of relationships of unmarried men and women outside marriage. In some cases, this was an effect of marriage bars. Holden refers to the observation of feminist writer Vera Brittan that: ‘[In] establishing a number of celibate professions for women, marriage bars made the sacrifice of normal human relationships the intolerable condition of professional success and economic security . . . [and] provided many women who had no natural taste for life-long virginity with a direct and powerful incentive to the very irregular unions which were held in such abhorrence by contemporary society’.³¹ The potential for immorality was not raised in the Northern Irish discussions. Instead fears were expressed that women teachers would be given the life sentence of spinsterhood, thereby living lonely and unfulfilled lives.

It was agreed that single women teachers would be less costly to employ, as they were usually younger, but there was much debate about their efficiency in comparison to married women teachers. This became a contentious topic between legislators in favour of a marriage bar and those against the policy. In fact, tables 7.1 and 7.2 demonstrate how in 1929 the Northern Irish civil service enumerated this debate following a parliamentary question from John W. Nixon, Independent Unionist MP and Alderman of Belfast on the efficiency of married and single women teachers.

²⁹ *Hansard NI (Commons)* iv, col. 312 (25 Mar. 1924).

³⁰ *Irish News*, 16 Jan. 1931.

³¹ Vera Brittain, *Halcyon or the future of monogamy* (London, 1929) in Katherine Holden, *The shadow of marriage: singleness in England, 1914-60* (Manchester, 2007), p. 80; biographical information on Vera Brittain: Alan Bishop, ‘Brittain, Vera Mary (1893–1970)’, *Oxford Dictionary of National Biography* (Oxford, 2004), online edn, Oct 2008 (<http://www.oxforddnb.com/view/article/32076>) (13 Nov. 2017).

7.1 Efficiency of married women teachers³²

	Highly efficient	Efficient	Fairly efficient	Not efficient
A. Principals and assistants	212	523	46	3
B. Junior assistant mistresses	5	115	19	3
C. subtotal and percentage	217 (23.4%)	638 (68.9%)	65 (7%)	6 (0.6%)

7.2 Efficiency of single women teachers³³

	Highly efficient	Efficient	Fairly efficient	Not efficient
A. Principals and assistants	649	1313	45	11
B. Junior assistant mistresses	10	407	29	6
C. sub-total and percentage	659 (26.7%)	1720 (69.6%)	74 (3%)	17 (0.7%)

As the data demonstrates, there was an insignificant difference in efficiency of married and single women teachers. Nevertheless ideas of the inefficiency of married women teachers continued. Copelman describes a similar practice in London two decades earlier:

By 1908/9, however, the pressure mounted as training colleges graduated a surplus of young women teachers. Investigations were undertaken to determine: (1) if married teachers were absent more due to illness; (2) the likely educational effect of married women's work; and (3) the impact on the teachers' own families. Individual opinions differed, but the overall conclusion was that no correlation could be established between teachers' effectiveness and their marital status.³⁴

Redmond and Harford describe the significance of evaluating teachers through this lens: 'At various intervals single women teachers were valued over married and vice versa. The discourse surrounding the premium placed on single versus married

³² From information provided in table prepared by the parliamentary secretary to the Ministry of Education, *Hansard NI (Commons)* xi, col. 1126 (12 Nov. 1929).

³³ Ibid.

³⁴ Copelman, *London's Women Teachers*, p. 192.

teachers testifies to the way in which women's marital status has been historically viewed as central to their identity as teachers.³⁵

Those in favour of a bar espoused opinions which reinforced traditional paternalistic views of women. Mr Heatley from the Antrim REC remarked: 'when a woman got married she could not be as efficient as when she was single'.³⁶ And within the civil service Dr Garrett, the chief inspector for the Ministry of Education, revealed in a letter to the secretary of the ministry: ' . . . I do not propose to deal with the arguments for and against the retention of married women teachers as the subject has been pretty fully discussed on numerous occasions. My own experience of married women teachers, especially those in country districts, is unfavourable. They are often slovenly in appearance and dress and in this respect exercise an influence on the children which is to be deplored.'³⁷ This personal opinion had no direct bearing on social policy but is indicative of common thought at the time.

Conversely, the UTU argued that married women were better suited for the profession. A resolution from the 1930 UTU conference read: 'Statistics show that married women teachers are amongst the most efficient in the service of the Ministry of Education . . .'³⁸ Much of the evidence used to support this argument conflated the idea of 'wife' and 'mother'. In Stormont, McGuffin argued that married women teachers 'would be in a better position to deal with children than maiden teachers would.'³⁹ Mrs Barbour, of the Lisburn and Belfast Regional Education Committee said she: ' . . . considered that the subject should be approached from the point of view as to what was best for the child. It was not the duty of the committee to make jobs for those who could not get them anywhere else. She believed that a married woman was better qualified to have the care of young children.'⁴⁰ Oram's work indicates that such sentiments were expressed across the water as well. In 1937 a

³⁵ Redmond and Harford, "One man one job", p. 640.

³⁶ *Belfast Newsletter*, 16 Jan. 1931.

³⁷ Garrett to Secretary Wyse, 28 Jan. 1937 (PRONI, Ministry of Education papers, ED/13/1/1148).

³⁸ Resolution 10, *Annual Conference of the Ulster Teachers' Union*, Apr. 1930 (PRONI, Ulster Teachers' Union papers, D3944/C/1).

³⁹ *Hansard NI (Commons)* iv, col. 312 (25 Mar. 1924).

⁴⁰ Extract of minutes from the monthly meeting of the Lisburn and Belfast Regional Education Committee, sent to the Ministry of Education, 18 Apr. 1932 (PRONI, Ministry of Education papers, ED/13/1/1148).

letter to a newspaper ‘asserted that married women were more successful teachers because they “understand children in a way that is impossible to spinsters”’.⁴¹

Regarding what was best for the child, it was not a given that a mother/teacher was the best woman for the job. In 1924 Dehra Chichester, one of two women MPs in Stormont at the time, read from a letter to the *Northern Whig*, as she felt it ‘expresses my views very clearly’. The letter writer believed: ‘We are told that the work of a schoolteacher is a strenuous and nerve-racking experience; if so, a woman in a certain condition is certainly not fit to cope with the work in a satisfactory manner. It would be interesting to obtain medical opinion on this point. In England attention is being given to the many cases of married women being in various kinds of employment and its relation to the future race . . .’⁴² Therefore, not only was the married teacher/mother unfit for service, she might be unfit for reproducing and/or rearing her children. Similarly, Robert McKeown, the parliamentary secretary to the Ministry of Education, said the ministry could not take a uniform stance on married women teachers. However, he did comment on the efficiency of the married woman teacher: ‘There is no doubt that for some years subsequent to marriage the work cannot be done as efficiently as under other circumstances, and if the work is done as efficiently under the trying circumstances of a school, I think it means there must be a loss of nervous energy on the part of the teacher herself, and also very serious misgivings as to what goes on at home.’⁴³ Therefore, women were not only being judged as bad wives and mothers, they were also judged as bad employees.

Many of those who participated in public debates about the bar believed it was a privilege for women to stay at home. In 1924 Sir Robert Anderson, UUP MP for Londonderry said: ‘I hope the time will come when society will be so arranged, and the economic position of the country will be such, that it will not be necessary for any married woman to go out and earn her living’.⁴⁴ Anderson’s aspirations foreshadow article 41.2 of the 1937 Bunreacht na hÉireann (Irish constitution) which called for the protection of the women’s position in the home, particularly stating: ‘The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic

⁴¹ *Daily Sketch*, 29 Dec. 1937, quoted in Oram, *Women Teachers and Feminist Politics*, p. 185.

⁴² *Hansard NI (Commons)* iv, col. 320 (25 Mar. 1924); *Northern Whig*, 24 Mar. 1924.

⁴³ *Hansard NI (Commons)* iv, col. 326 (25 Mar. 1924).

⁴⁴ *Ibid.*, col. 323.

necessity to engage in labour to the neglect of their duties in the home'.⁴⁵ This sentiment expressed by Anderson and his peers can be understood to come from a place of paternalistic concern for women's welfare. A married mother should only concern herself with home and children, not the additional burden of earning an income. Should the married woman not conform to this ideal, she faced shame. A person wrote to the *Belfast Newsletter*, calling themselves 'LET LIVE' and shamed the women for neglecting their homes and children: 'for the sake of the large number of unemployed teachers, the girls in our training colleges, their own neglected homes, husbands and children, let us get rid of the married women teachers. We are paying for whole-time teachers and not muddlers with the responsibility of a home on their shoulders as well'.⁴⁶ With these competing ideals about women, wives, and mothers, the complexities of the marriage bar come to the fore. Mainly a policy based upon economic retrenchment, it was also understood at the time as a welfare policy for single women. This reflects wider paternalistic societal expectations of women in regards to marriage and motherhood. As seen above even those against the marriage bar still held paternalistic views of the single and married woman. The following two sections will examine how these views turned into policy and how the complicated political landscape of Northern Ireland influenced its operation.

III. Local councils and the Ministry of Education

This section will examine the application of the bar and the role of the relationship between the Ministry of Education and the local educational authorities. Local authorities in Northern Ireland largely governed education. Akenson provides a detailed discussion of the Northern Irish education system, so the discussion here will be brief.⁴⁷ Local education operated through two powers in this period: local education authorities (LEA) and regional education committees (REC). This system was modelled on the British local education system. Akenson argues that RECs held the 'real education powers', as the LEA was only in charge of financial matters while RECs organised policy and administration. He goes on to observe that the relationship

⁴⁵ Article 41.2.2, *Bunreacht na hÉireann* (1937).

⁴⁶ *Belfast Newsletter*, 26 Oct. 1929.

⁴⁷ See Akenson, *Education and enmity*, pp 39 – 71.

between these authorities ‘was unclear and apt to produce tensions’.⁴⁸ This chapter adds to Akenson’s work with its examination of the relationship between these education authorities and the ministry.

Because of this localisation of education administration, marriage bars were introduced on a piecemeal basis whereas in the Free State the marriage bar was introduced on a national level. As discussed above, marriage bars were not uncommon in the 1920s. Indeed, at the outset of the Northern Irish state a marriage bar operated in the Catholic schools in the diocese of Down and Connor.⁴⁹ However it was not until 1929 that the first REC, the Belfast education authority, passed a successful marriage bar resolution. Akenson identifies the Belfast authority’s resolution to bar married women teachers as a watershed moment because of the number of teachers the REC employed and the influence of the authority. He notes: ‘the Belfast education authority was the largest single employer of teachers: it engaged about 900 total personnel of whom, in 1931, about eight were married women.’⁵⁰ Gradually over the following ten years several LEAs and RECs passed resolutions in favour of the marriage bar. By April 1936 Londonderry county borough, Magherafelt (Co. Londonderry), Lisburn and Belfast, and Omagh had not formally instituted marriage bars, whereas the other fourteen educational authorities had bans in operation.⁵¹

The Lisburn and Belfast REC was one council that voted against a resolution to bring in a marriage bar. It discussed the issue in April 1932 and by this time several education committees had brought marriage bars into effect. However, the chairman of this REC opposed the motion, arguing: ‘he was not going to let other education committees do this thinking for him’. He argued that, while the bar may be economical in salaries, it would be ‘an economy with less efficiency’.⁵² The resolution failed to pass by six to three. Details about other committees that did not pass a marriage bar resolution are sparse. For instance consultation of the Omagh Education Committee minutes reveals little discussion about how the committee came

⁴⁸ Ibid., pp 59 - 60.

⁴⁹ T.J. O’Connell, *A History of the Irish National Teachers’ Organisation, 1868-1968* (Dublin, 1970), p. 286.

⁵⁰ Akenson, *Education and enmity*, p. 137.

⁵¹ Agreements between local Education Authorities and women teachers, 3 Apr. 1936 (PRONI, Ministry of Education papers, ED/13/1/1150).

⁵² Minutes from the monthly meeting of the Belfast and Lisburn Regional Education Committee, 18 Apr. 1932 (PRONI, Ministry of Education papers, ED/13/1/1148).

to the decision to oppose the ban. In April 1931 the committee notes receiving correspondence from the Ministry of Education ‘re: Leave of absence to Teachers on occasion of marriage. Noted’.⁵³ Theoretically, these ‘free’ jurisdictions allowed the opportunity for women who were forced to retire elsewhere in the country apply for jobs in this area. The lack of such pockets of employment for women in the Free State meant once a woman was retired she could not apply for a teaching position in another part of the country.

The official line of the national government was that it had a neutral, hands-off approach regarding the ban. As early as 1924 this debate entered into the Stormont House of Commons and the government remained neutral on the subject. The 1924 debate was sparked by the speech of McGuffin in which he presented the case of Mrs Lyske, a married teacher who was dismissed on the occasion of her pregnancy coming to term. Lyske married in 1922 and her school manager assured her that she would not be asked to resign. In 1923 when Lyske was expecting her first child she applied for a substitute teacher to take her place two months before her leave, as was required under the rules of the ministry. Instead of being granted this substitute, Lyske was served with three month’s notice of termination of employment. Lyske appealed her case to the Ministry of Education, but the ministry stayed out of the matter.⁵⁴ McGuffin called the manager’s decision ‘not only cruel but autocratic’ and asked for the Minister of Education to take a specific line on the question of married women teachers, rather than allowing the manager to decide on a case by case basis.⁵⁵ The ministry held firm in response to McGuffin: ‘The absence of general agreement amongst perfectly fair-minded persons on this subject [of employing married women teachers] seems to the Ministry to constitute a strong reason for declining to lay down any hard and fast rule in regard to it.’⁵⁶ Unsatisfied with this approach and the logic behind it, McGuffin presented a motion to the House a few days later, stating: ‘That in the opinion of this House, no disability should attach to a married woman teacher by reason of her marriage or maternity.’⁵⁷ This debate has been referenced throughout this chapter and as demonstrated so far, it revealed much about contemporary ideas of

⁵³ Omagh Education Committee Minutes, 11 Apr. 1931 (PRONI, Local Authority papers, LA/6/7/AC/4/3).

⁵⁴ *Hansard NI (Commons)* iv, col. 310 (25 Mar. 1924).

⁵⁵ *Ibid.*, col. 110 (13 Mar. 1924).

⁵⁶ *Ibid.*, col. 109.

⁵⁷ *Ibid.*, col. 310 (25 Mar. 1924).

motherhood, women's work, and the role of the national government. However, this functioned purely as an airing of opinion, as the Ministry of Education held firm to its neutral position.

The ministry's approach differs from that of other jurisdictions. For instance, in 1928 the New South Wales Department of Education wrote to married women teachers asking for their resignation. The letter acknowledged that while a formal marriage bar did not exist, '... the Department prefers their resignation. No guarantee can be given that the locality of their employment would suit their domestic requirements, and private considerations must always give way to the needs of the Department'.⁵⁸ Similarly, the Free State Department of Education appeared to take an active role in supporting a marriage bar. According to the 1932 president of the INTO, Mr M Kearny of Tipperary: 'a deputation from the teachers had already interviewed Mr Derrig, the Minister of Education, who had an open mind on the subject, but the officials of the Education Department seemed inclined to encourage the introduction of such a rule.'⁵⁹ An important point about the Free State introduction of the bar is that it came through the Ministry of Education. Redmond and Harford discuss the implications of this process: '... there was no legislative process through which the ban could have been debated in either House of the Oireachtas ... This meant that the government avoided having to justify its position through lengthy debates'.⁶⁰ Therefore Free State and Northern Irish lawmakers could distance themselves from the bar, but the Northern Irish government still debated the bar and the civil service offered its opinion of the merits and drawbacks of the legislation.

The neutral position of the Northern Irish ministry and its relationship with educational authorities was not always so clear, however. In the early years of the policy in Northern Ireland, the ministry devoted time to investigating whether it should take action and if the local authorities were exercising power outside of their means. When the North Antrim REC passed a resolution in 1929 to call for the retirement of women teachers upon their marriage, this raised flags at the ministry to investigate whether the committees even had the power to make such changes. Initially it was suggested that the ministry should intervene in the REC's ruling as the resolution may have violated the terms of the Education Act. A minute prepared for

⁵⁸ Theobald and Dwyer, 'An episode in feminist history', p. 61.

⁵⁹ *Irish News*, 1 Apr. 1932.

⁶⁰ Redmond and Harford, "'One man one job'", p. 650.

the assistant secretary William Anderson Houston highlights the process through which the ministry affirmed its neutral position. The memorandum suggested that the members of the REC could be 'personally liable in an action at the suit of the teacher and would be ultra vires' (emphasis in original).⁶¹ Houston briefed the permanent secretary, Andrew Bonaparte Wyse,⁶² on this finding and suggested writing to the REC, but Wyse believed that 'the power of the Ministry to declare the action . . . ultra vires is not so clear'. He explained that the actions could be just if the teacher was given three months notice of the termination of her employment. He added: 'the Ministry has taken the view that marriage was a new part in a woman teacher's condition that made her dismissal by the manager an act which was "reasonably justifiable", and so presumably an appeal would fail. In these circumstances I don't see how we could interfere effectively with the Committee's recent resolution so long as our policy remains as hitherto.'⁶³ As such, the ministry did not intervene. However, as will be discussed below, the non-interventionist policy would be questioned again.

This question of a marriage bar breaching the law should not be overlooked. While the challenge to the marriage bar could have come through the Ministry of Education – a challenge appearing to originate out of fears of legal retribution – in England married women teachers took legal challenges against the bar. The Sex Disqualification Act applied across the UK and was therefore operational in Northern Ireland at the time of the introduction of the marriage bars in the 1920s and 1930s. The law ruled: 'A person shall not be disqualified by sex or marriage from the exercise of any public function, or from being appointed to or holding any civil or judicial office or post, or from entering or assuming or carrying on any civil

⁶¹ Minute prepared by James Moles to Assistant-secretary William Anderson Houston, 24 Oct. 1929 (PRONI, Ministry of Education papers, ED/13/1/1149).

⁶² Bonaparte Wyse was the only Catholic in Northern Ireland to hold the position of permanent secretary in the civil service. He was a Unionist. Initially appointed the Lynn Commission into education in Northern Ireland in 1922 to placate the catholic hierarchy, but 'This overlooked the fact that Wyse, liberal – even freethinking – in his religious outlook, an advocate of non-denominational education and a member of the Waterford landed gentry, with an English mother, was hardly representative of the interests of Northern Irish catholics'. (Bridget Hourican, 'Wyse, Andrew Reginald Nicholas Gerald Bonaparte', in James McGuire and James Quinn (ed), Dictionary of Irish Biography. (Cambridge, 2009).

(<http://dib.cambridge.org/viewReadPage.do?articleId=a9149>) (9 June 2017).

⁶³ Handwritten note on Moles' minute, Houston to Bonaparte Wyse, 25 Oct. 1929. (PRONI, Ministry of Education papers, ED/13/1/1149); Bonaparte Wyse to Houston, 3 Oct. 1929. (PRONI, Ministry of Education papers, ED/13/1149).

profession or vocation . . .’⁶⁴ It contained clauses that allowed the civil service to regulate the ‘mode of the admission . . . and the conditions on which women admitted to that service may be appointed to or continue to hold posts therein, and giving power to reserve to men any branch of or posts in the civil service . . .’⁶⁵ And judges could rule women out of juries as well. In her analysis of the marriage bar in England, Kate Murphy finds that ‘when tested in law, it became apparent that while the Act might enable married women to work, it did not entitle them to do so’.⁶⁶ Oram also discusses the failure of the Act to protect women teachers, arguing: ‘The Sex Disqualification (Removal) Act simply freed the employer from any restrictions, but gave no rights to the employee’.⁶⁷ She discusses cases in which women teachers and their union brought wrongful dismissal cases predicated upon this Act, but each case lost as the courts interpreted the act ‘in the most conservative possible way’.⁶⁸ Therefore the legality of the marriage bar was tried against this act several times, but was always ruled to be within the confines of the law. Redmond and Harford note that this did not apply to the Free State,⁶⁹ but this did apply to Northern Ireland. There is no evidence to suggest similar legal actions based on the 1919 act were taken in Northern Ireland.⁷⁰

The actions of the civil servants within the ministry challenge the idea of a ‘neutral’ approach. While the ministry did not push for marriage bars, once a local authority made the decision to require retirement upon marriage, the machinery of the civil service aided its implementation. However, it cannot go without mentioning the conflicting opinions within the ministry on the question of intervention. June 1929 minutes within the Ministry of Education reveal a discussion about whether the ministry should subtly push the education authorities away from a marriage bar because it feared such a change would result in a shortage of teachers which in turn would require more teachers to be trained and thus increase cost to the state. An internal memorandum recommended: ‘It might be well therefore to consider the

⁶⁴ Sex Disqualification (Removal) Act, 1919. 9 & 10 Geo 5. c.71. 23 Dec. 1919. *Irish Statute Book* (<http://www.irishstatutebook.ie/eli/1919/act/71/enacted/en/print.html>) (8 June 2017).

⁶⁵ Ibid.

⁶⁶ Kate Murphy, ‘A marriage bar of convenience? The BBC and married women’s work. 1923-39’ in *Twentieth Century British History*, xxv, no. 4 (2014), p. 539.

⁶⁷ Oram, *Women teachers and feminist politics*, p. 168.

⁶⁸ Ibid., p. 167.

⁶⁹ Redmond and Harford, “‘One man one job’”, p. 651.

⁷⁰ However plans for legal action were suggested by the INTO, as will be discussed later in the chapter.

advisability of issuing to all the authorities a considered statement of the Ministry's views on the subject with (or without as may be deemed expedite) a hint that a general adoption of this policy would involve an unwelcome addition to State expenditure'.⁷¹ This potential result would undermine the economic motivation behind marriage bar policy. Further, the ministry concluded: 'The Government might be unwilling to have this increased cost thrust upon it by reason of a policy which to many people appears rather doctrinaire and unnecessary, and one which the Ministry is not itself disposed to adopt.'⁷² While this point was only briefly considered, it is important to mention because it contradicts the traditional logic of the marriage bar across many countries.

This line of dissuading councils away from a marriage bar was not followed. Instead the ministry advised councils on the legalities and logistics of the new marriage policy. For instance, from October 1930 to April 1931 the ministry corresponded with the Antrim REC regarding the implementation of a marriage bar. The REC wrote to the ministry asking to be informed 'as to the powers of the Regional Committee over female teachers on their marriage. Has the Committee the right to prescribe that upon a teacher's marriage she shall resign her position?'⁷³ Again in April when the REC was revising its agreements with teachers to include a clause that called for all female teachers to resign on marriage, it asked the ministry to provide 'some information as to a suitable clause which the Ministry would approve of for insertion in all future agreements'.⁷⁴ In turn the ministry sent copies of contracts prepared for other councils that recently included a marriage bar into their agreements with new female employees. The ministry also advised the local councils on how they should handle the dismissal of teachers who were hired before the council voted in favour of a marriage bar. The Belfast Education Committee received advice from the ministry that current teachers should be given three months notice when they get

⁷¹ W.L. to Love, Memorandum on married women teachers, 13 June 1929 (PRONI, Ministry of Education papers, ED/13/1/1148).

⁷² Ibid.

⁷³ Antrim REC to the Ministry of Education, 20 Oct. 1930 (PRONI, Ministry of Education papers, ED/13/1/1149).

⁷⁴ Antrim REC to Ministry of Education, 13 Apr. 1931. (PRONI, Ministry of Education papers, ED/13/1/1149).

married and ‘the Ministry as referee under the agreement will be prepared to countersign such notice.’⁷⁵

The ministry’s role in entrenching the marriage bar is strongly seen in its insistence on pursuing refunds from retired married teachers. When graduating from training college, teachers in Northern Ireland had to commit to teach for five years in the state to pay back their education costs. The policy of requiring five years service after training stemmed from partition. Bonaparte Wyse explained this decision, taken in 1922, in a letter to the Ministry of Finance. From 1890 to 1922 teachers were only required to give two years service, but when the country was divided, the Ministry of Education feared teachers might train in Northern Ireland and then move to the Free State or England. Wyse explained: ‘This, at the time, was a reasonable protection in view of the fact that the Northern Ireland administration had not then established its position, but at the present day the necessity of such a measure seems to us here to be very insubstantial’.⁷⁶ With the enforced marriage bar, teachers who married before seeing out their five-year term had to pay back their tuition costs in full. This change in policy had quite dire consequences for a teacher’s finances. Firstly, she lost her employment upon marriage. Secondly, if she married before her five-year service requirement expired, she was required to refund her education costs because she was compelled to resign before fulfilling the terms of her contract. An easy solution to the matter might be to postpone marriage until the five years service is fulfilled; however, a letter about a teacher to the ministry demonstrates the impracticalities of this: ‘her date of marriage seems indefinitely postponed the man to whom she is engaged may be very awkwardly situated if he is for example a farmer and really needs a wife to run his home, does not wish his wife to teach after marriage – which would not be allowed in any case’.⁷⁷ The writer asks if the ministry might show sympathy to the woman’s case, but the ministry replied in the negative: ‘Although the Ministry is aware that the question of employment of such teachers after marriage presents

⁷⁵ Extract from meeting of the Belfast Education Committee, 4 Dec. 1931. (PRONI, Ministry of Education papers, ED/13/1/1148).

⁷⁶ Bonaparte Wyse to Duggan, Ministry of Finance, 17 Sept. 1937. (PRONI, Ministry of Education papers, ED/13/1/1148).

⁷⁷ E.A. to Mr Horace, 18 May 1936. (PRONI, Ministry of Education papers, ED/13/1/1148).

difficulty . . . It must be distinctly understood, that marriage in such circumstances cannot release the teacher from her obligations under her agreement'.⁷⁸

Implementing this policy required coordination between local councils, the Ministry of Education, and the Ministry of Finance. The local authorities were also unclear about how to implement the marriage bar with the five-year service agreement. In January 1932 Major Stanley, the Director of Education of the Belfast Education Authority, wrote to the Ministry of Education about a female assistant teacher who planned to marry after only three and a half years of service. The Director wanted the ministry's guidance on whether or not the teacher was required to pay back her tuition.⁷⁹ The ministry advised:

Such teachers undertook that, in the event of their failure within a reasonable period after the completion of their training to serve to the satisfaction of this Ministry, which was/is to be the sole and absolute judge of the reasonableness of the period, for five years as a public elementary school teacher in Northern Ireland, if afforded an opportunity of such employment, they would refund to the Ministry, when called upon to do so, the full amount paid in respect of their training.⁸⁰

Major Stanley's letter prompted Dr Garrett to consult Secretary Wyse. Garrett explained 'the question now definitely raised by Major Stanley is becoming increasingly difficult . . .' He illuminated the paradoxical nature of the situation: 'it seems to me that if a woman teacher who has not completed the five year agreement is compelled to resign on account of marriage thereby making it practically impossible for her to complete the five years service we cannot in equity require her to pay up'. At this point many RECs had marriage bars, so even if a woman had to resign from one school, it would be impossible for her to complete her teaching service in her area. Garrett explained this as: 'Any teacher thrown out of employment on account of marriage has little or no chance of employment in these areas.'⁸¹ Garrett and assistant secretary Houston met on the subject. In a note to Garrett, Houston said he believed the five-year agreement needed to remain, but he also provided the suggestion of reducing the agreement to requiring full payment only up to two years.

⁷⁸ Ministry of Education to E.A., 26 May 1936. (PRONI, Ministry of Education papers, ED/13/1/1148).

⁷⁹ Director of Education, Education Office, Belfast, to the Ministry of Education, 21 Jan. 1932. (PRONI, Ministry of Education papers, ED/13/1/1148).

⁸⁰ Ibid., 15 Feb. 1932.

⁸¹ Garrett to Bonaparte Wyse, 1 Feb. 1932. (PRONI, Ministry of Education papers, ED/13/1/1148).

From years three to five, the amount due would be decreased by 10% every six months.⁸² However, Finance rejected the idea on the grounds that since so many women were retiring before finishing their five years of service it was necessary to push for a full refund. Finance declined to change the policy uniformly because ‘the problem now appears to be of greater magnitude than this Ministry had imagined, and therefore it is not desired to relax further the authority of the Ministry of Finance’.⁸³ Education continued to push this alteration to the policy throughout the 1930s. In 1937 Wyse appealed to Finance again to change its policy. Here he employed the stereotype of the unfortunate single woman to convince Finance: ‘it seems to me it would be cruel and indefensible to put ladies who are unsuccessful in the matrimonial market under a disability that does not apply to those whom I suppose we may call their more fortunate sisters. . .’⁸⁴ Duggan from Finance responded to the gendered language: ‘I pass no comment on your somewhat cynical phrasing of “their more fortunate sisters”. The cruelty appears to be to allow them to get married before they have had five years’ full experience of what small children are like!’⁸⁵ This correspondence demonstrates that the strength of the ideal of the tragic spinster was enduring but not uniform.

Finance did allow for certain cases to be exempt from this policy. The Ministry of Education had to elect cases for consideration and provide details about the women. An examination of these cases allows for insight into the women who were effected by the marriage bar, what happened to them after they were required to retire, and an analysis of the extent to which the ministry participated in the enforcement of the marriage bar. The cases illustrate the difficulty that the ministry faced to secure the refunds. The ministry considered dealing with refund cases through the courts. In one case it was suggested that if a teacher could not provide the full refund the ministry could sue her father. It was decided to leave this case with the Crown Solicitor. No record can be found to show whether the Crown pursued the case or not.⁸⁶ In another case a teacher retired upon marriage to a clergyman and the couple moved to London for him to become a vicar. The teacher owed the ministry

⁸² Houston to Garrett, 3 Feb. 1932. (PRONI, Ministry of Education papers, ED/13/1/1148).

⁸³ Duggan, Ministry of Finance, to Garrett, Ministry of Education, 2 Nov. 1932 (PRONI, Ministry of Education papers, ED/13/1/1149).

⁸⁴ Wyse to Duggan, 17 Sept. 1937 (PRONI, Ministry of Education papers, ED/13/1/1148).

⁸⁵ Duggan to Wyse, 20 Sept. 1937. (PRONI, Ministry of Education papers, ED/13/1/1148).

⁸⁶ Wyse to Garrett, 6 Apr. 1932. (PRONI, Ministry of Education papers, ED/13/1/1148).

£72 after teaching for three years and two months. Unable to refund the ministry, she agreed to return to teach 'in the vicinity of Belfast' to complete her five years service. Her husband appealed on her behalf saying she could not return to Northern Ireland because he would have to leave his position in London if she returned to Belfast. In these circumstances the Ministry of Education asked for leniency for the teacher and to have her pay only three-fifths of the refund and in instalments. An interesting point to note regarding the training of this teacher is that she started her studies at the Church of Ireland college in Dublin and moved north in 1922 to study at Stranmillis. The change in jurisdiction after partition does not appear to affect the amount required by the ministry. In another case the Ministry of Education suggested the pursuance of a refund from a teacher should be dropped, as she demonstrated interest in finding a post after marriage but all of the REC's in her area imposed marriage bars. The Ministry of Finance ordered each teacher to repay the cost of training, reduced by 10% for every six months of completed service.⁸⁷

In other cases the education committee allowed married women to continue their work until their five years had been served. The *Strabane Chronicle* reported in March 1932 that: 'The Belfast Education Committee have acceded to the request of a young lady teacher, who is to be married in July, to allow her to continue teaching until she has completed five years. She pointed out to the Committee that in July she would have only 3½ years teaching experience, and under her agreement she must serve five years in schools under the jurisdiction of the Ministry or else recoup her training fees.'⁸⁸ The Ministry of Education welcomed this special consideration. This is reflected in a 1935 letter from Wyse to all local authorities about the five-year service agreement and the complications stemming from the marriage bar. His letter advised each authority that it has the power to postpone the termination of the teacher until her five years service was up. Wyse noted: ' . . . the Ministry would esteem it a favour if, as soon as the Committee becomes aware that a woman teacher proposes to terminate her employment by marriage, the local Authority would inquire from the Ministry whether it has any claim upon the teacher for service pursuant to her training

⁸⁷ Ministry of Education to Ministry of Finance, 24 Nov. 1932. (PRONI, Ministry of Education papers, ED/13/1/1148).

⁸⁸ *Strabane Chronicle*, 5 Mar. 1932.

agreement'. Should the committee decide to postpone the dismissal, it would need to confirm this in writing to the teacher.⁸⁹

Even after this letter, the Ministry of Education was required to chase for refunds, but with limited success. A letter from Garrett to Wyse highlights this: 'There have been 39 cases where a refund should have been made. Of these 8 only have paid up or are paying up, 16 have had to be excused for various reasons and 15 have not been firmly settled but present little hope of a refund or of completion of 5 years service'.⁹⁰ Of the cases in which the ministry tracked the teachers down for payments, one teacher moved to the Free State and 'refused to acknowledge correspondence' so her case was dropped.⁹¹ Following-up on these refunds was not a small task. One report in the ministry discussed a police report into the wealth of a teacher's family. That same case was deemed not worthy of going to court, as the family did not have enough funds to repay the Ministry.⁹²

By 1937 the difficulties faced by the Ministry of Education led an official to suggest: 'I think that the time has come when the Ministry should again consider this matter of the training agreement, at least so far as it applies to a woman teacher who resigns on marriage . . .' citing the lack of opportunities for a married woman teacher to secure employment to finish her five years service. Further, the author mentioned that the Chief Crown Solicitor 'has expressed considerable doubt' regarding the success of legal action and 'the general question whether it is in the public interest that a penalty should be imposed when a teacher is obliged to resign on marriage, even though such a penalty was prescribed in the agreement'.⁹³ It is unclear whether this agreement stayed in operation.

IV. Responses of civil society and the wider public

While the previous section dealt with reactions to the marriage bar within the government, civil service, and education authorities, the following section will examine how those outside the official channels responded to the introduction of the

⁸⁹ Wyse to all local authorities, 22 Feb. 1935 (PRONI, Ministry of Education papers, ED/13/1/1150).

⁹⁰ Garrett to Wyse, 28 Jan. 1937 (PRONI, Ministry of Education papers, ED/13/1/1148).

⁹¹ Table of cases of married teachers owing money, undated. (PRONI, Ministry of Education papers, ED/13/1/1148).

⁹² Glen to Garrett, 26 Jan. 1937. (PRONI, Ministry of Education papers, ED/13/1/1148).

⁹³ Ibid.

bar. Redmond's and Harford's study of the marriage bar in the Free State notes that the INTO was the only union to be 'sympathetic with the plight of female teachers when the marriage ban was proposed'.⁹⁴ Even the IWWU did not take up the cause of the marriage bar. Bryson notes of the IWWU and the civil service marriage bar: 'it was not until 1960s that IWWU showed any concern for the fact that women received lower pay or experienced poor promotion opportunities'.⁹⁵ This section will demonstrate a network of activism about the marriage bar in Northern Ireland which extends to two teachers' unions as well as women's groups and the wider public. It will be seen that these public reactions to the bar reflected the complex paternalistic ideals expressed about women discussed in the first part of this chapter.

The reaction of the teachers' unions to the marriage bar is particularly interesting within the political context of post-partition Northern Ireland. While this thesis has challenged the traditional view of examining Northern Irish politics solely through the prism of nationalist and unionist politics, this lens is important in many cases, still. In the case of the marriage bar, the nationalist/unionist paradigm becomes unavoidable when examining the opposition of the INTO and the UTU to the marriage bar. The INTO and UTU reflected the nationalist/unionist divide in Northern Ireland but found common ground when opposing the marriage bar. The two competing unions spoke for the teachers in the new state. The all-Ireland INTO and the UTU both worked in the province.⁹⁶ A study of the two unions' opposition to the marriage bar provides insight into the complexities of unionist and nationalist politics, the function of an all-Ireland union after partition, and how the two groups viewed women workers.

The two unions formed out of the INTO. There had been a history of splits within the organisation, most notably in 1886 and 1899.⁹⁷ The divide that led to the establishment of the UTU in 1918-9 when four northern committees of the INTO

⁹⁴ Redmond and Harford, "One man one job", p. 643.

⁹⁵ Bryson, *Thekla Beere*, p. 60.

⁹⁶ Richard H. Mapstone, *The Ulster Teachers' Union: an historical perspective* (University of Ulster, 1986), p. 109.

⁹⁷ In 1886 a northern group of the INTO split into the Northern Union of Irish National Teachers following a clash over relations with the Lord Lieutenant at the time. The two groups reconciled in 1888. Again in 1899 factions came to the fore with the establishment of the 1899 Irish Protestant Teachers' Union was established. Its founding followed a move from the INTO Executive that appeased the Catholic hierarchy who had threatened to boycott the Union. The Protestant teachers, mainly from Ulster but also some from Dublin and Cork, created their own Union, but members could also be members of the INTO. See O'Connell, *History of the INTO*, pp 24-5, 60.

seceded from the organisation. Mapstone writes that the Education act of 1918 became a site of division between Catholic/Nationalist members of the INTO and the unionist members.⁹⁸ Another factor was that the northern group also opposed the INTO's affiliation with the Trade Union Congress (TUC), as the TUC was sympathetic to Sinn Féin. Records of the UTU's Lisburn branch in November 1918 reflect this: 'After mature deliberation it was decided that we can not any longer associate ourselves with the programme of the Irish Trades Council as that body is Bolshevist and Sinn Fein in the extreme. It was proposed by the Secretary and seconded by Mr Turkington "that the association sever its connection with the INTO at the end of the current year". Passed unanimously.'⁹⁹ The first meeting of the new union was held in Belfast in July 1919.¹⁰⁰

The formation of the UTU predated partition, but after 1922 its significance grew. Of this, Mapstone writes: 'the process of partition did however guarantee the continual existence of the UTU. The acceptance of partition was an acceptance of the social order which Unionism had created'.¹⁰¹ The INTO did not recognise the northern state for the first years of its existence. Mapstone writes that the effect of this was 'a representational vacuum which was willingly filled by the UTU'.¹⁰² In the mid-1920s the INTO recognised the Northern Irish state and in 1933 the state was even praised in the INTO's presidential address at the annual conference 'the Government of Northern Ireland must be given the credit of having long ago set their teachers' minds at rest by assuming full responsibility for payment of pensions and also admitting convent and monastery school teachers and junior assistant mistresses to pension rights . . .'.¹⁰³ The UTU approached the INTO to combine into one union: 'within the last few years attempts had been made to form a federation of the unions of Elementary Teachers in N. Ireland and that in each case the INTO refused to join.'¹⁰⁴

⁹⁸ Mapstone, *The Ulster Teachers' Union: an historical perspective*, p. 36.

⁹⁹ Meeting minutes of the Lisburn National Teachers' Association, Nov. 1918 (PRONI, Ulster Teachers' Union papers, D3944/H/1).

¹⁰⁰ Meeting minutes of the Ulster National Teachers' Union, later UTU, 19 July 1919. (PRONI, Ulster Teachers' Union papers, D3944/A/1).

¹⁰¹ Mapstone, *The Ulster Teachers' Union: an historical perspective*, p. 39.

¹⁰² Ibid., p. 40.

¹⁰³ *Belfast Newsletter*, 19 Apr. 1933.

¹⁰⁴ Meeting minutes of the Central Executive of the UTU, May 1928 (PRONI, Ulster Teachers' Union papers, D3944/A/1).

The INTO and UTU collaborated in efforts for civil rights (such as the ability to vote) for teachers in Northern Ireland. A joint committee of unions was established and petitioned the government for civil rights for teachers. The group worked together until late 1933. This cooperation foundered because of the UTU's dislike of the INTO's associations. An August 1933 minute of a UTU meeting found that 'it was the opinion of the Executive that this joint action should be discontinued, especially in view of the action taken by the INTO with reference to the application of the Union with the World Federation of Education Authorities'.¹⁰⁵ The coalition was dissolved in November 1933.¹⁰⁶ The INTO and UTU also found common ground in their opposition to the marriage bar, but they did not form a joint committee on the matter. The actions of both unions demonstrate that despite the political divide, there were issues that the unions agreed upon.

Each union had sympathetic MPs in parliament who asked questions on their behalf. Jack Beattie, NILP MP, was the official INTO spokesperson in Stormont.¹⁰⁷ Beattie raised the issue of forced retirement of married women teachers but there was not much that could be accomplished by petitioning the government, the issue was decided by local councils and the ministry could not intervene. As such, the Ministry of Education's response to Beattie's question in 1929 became typical. Beattie asked about the North Antrim REC's new marriage bar policy and the parliamentary secretary John Hanna Robb responded: 'Inasmuch as it was open to the former managers to give a three months' notice of dismissal to women teachers on marriage, the Regional Committee in deciding to adopt this policy is not exceeding its lawful powers, and the Ministry has not, therefore, taken any steps to intervene'.¹⁰⁸

Mapstone suggests that the UTU did not have a voice in parliament.¹⁰⁹ While it is true that the UTU did not have an official voice in Stormont, it was closely aligned with other unionist bodies. Mapstone notes a link between the UTU and UULA. A minute from a March 1924 UTU meeting reads: 'The small deputation which had met the Executive of the Unionist Labour Association reported that the deputation appointed at the last meeting of the Executive would be received by the

¹⁰⁵ Meeting minutes of the Central Executive of the UTU, Aug. 1933 (PRONI, Ulster Teachers' Union papers, D3944/A/2).

¹⁰⁶ Ibid., Dec. 1933.

¹⁰⁷ Mapstone, *The Ulster Teachers' Union: an historical perspective*, p. 88.

¹⁰⁸ *Hansard NI (Commons)* xi, col. 1058 (7 Nov. 1929).

¹⁰⁹ Mapstone, *The Ulster Teachers' Union: an historical perspective*, p. 88.

Council of the Unionist Labour Party on that evening.¹¹⁰ Unfortunately no minutes are available about what was discussed at the UTU/UULA meeting.¹¹¹ The government also requested the services of the UTU. In January 1928 the Ministry of Labour wrote to the union asking it to send a representative to the Juvenile Advisory Committee.¹¹² In parliament a voice was found for the UTU in John W. Nixon. Mapstone mentions Beattie and his official ties to the INTO, but it is crucial not to overlook Nixon and the UTU.

While Nixon was not formally linked with the UTU he did take an interest in lobbying against the marriage bar. In June 1929 a deputation of the UTU met with Nixon and he informed them that '[he] was of opinion that the action of the Corporation in referring back the recommendation of the Education Committee would probably kill the proposal; he also advised the deputation to interview Alderman Duff who opposed the proposal at the meeting of the Corporation.'¹¹³ Nixon asked several questions in parliament about the marriage bar and gave his support to the UTU in their campaign for civil rights.¹¹⁴ In parliament in 1929 he posed similar questions as Beattie, such as inquiring about whether the Ministry of Education measured the efficiency of married women teachers and the terms of the policy that the Ministry of Education regarding married women teachers.¹¹⁵ He also asked about specific cases, such as a teacher from Ballycregagh Public Elementary School who received notice. Nixon's question reflected that of Beattie and the INTO:

...whether the authority of this Committee to issue this notice was obtained before the notice was issued; whether a Secretary has authority to issue such notices without being authorised by the Regional Committee; what is the reason the notice was issued; whether the Ministry has caused an inquiry to be

¹¹⁰ Meeting minutes of the Central Executive of the UTU, Mar. 1924 (PRONI, Ulster Teachers' Union papers, D3944/A/1).

¹¹¹ Mapstone, *The Ulster Teachers' Union: an historical perspective*, p. 109. A consultation of the available UULA papers at PRONI (Ulster Unionist Council papers, D1327/11/1/1) does not contain correspondence with UTU. However, this line was not pursued further as I did not believe it was necessary to consult the closed access files. Perhaps further investigation would yield more correspondence between the UULA and UTU.

¹¹² Meeting minutes of the Central Executive of the UTU, Jan. 1928 (PRONI, Ulster Teachers' Union papers, D3944/A/1).

¹¹³ Meeting minutes of the Central Executive of the UTU, June 1929 (PRONI, Ulster Teachers' Union papers, D3944/A/2).

¹¹⁴ Chas. A. Abraham to Smyth, 16 Feb. 1933 (PRONI, Ulster Teachers' Union papers, D/3944/K/1).

¹¹⁵ *Hansard NI (Commons)* xi, col. 1126-7 (21 Nov. 1929).

held in accordance with the 20 & 21 George V, ch. 14, and, if so, what has been the result of that inquiry.¹¹⁶

The UTU was most productive in doing its own lobbying. It wrote to the government, maintained interest in the issue at annual conferences, and even investigated taking legal action on behalf of the married women teachers. As early as June 1924 the union raised concerns about the marriage bar. It petitioned the Minister of Finance on the issue and he replied that the ministry would not interfere with the authority of the managers 'if they wished to dispense with the services of married women' [UTU minutes paraphrasing the minister's reply]. The union's minutes note: 'This communication was regarded as unsatisfactory, and a reply thereto drafted by the secretary was approved of.'¹¹⁷ The marriage bar was also a point of discussion at each annual UTU conference. At the April 1929 conference a motion proposed by W. Scott, Belfast was passed: 'That we view with the gravest concern the action of some managers in dismissing women teachers on marriage. As long as these teachers are doing efficient work they should be retained in service on the same conditions as apply to other teachers . . . ' Citing the Education Act, the resolution continued on to ask the Minister of Education to give married women equal protection as all other members.¹¹⁸ In the discussion on the motion, Scott made the point that the ministry's refusal to implement a uniform policy about the marriage meant that the women were 'entitled to the same protection as other members of the profession'.¹¹⁹ This reassertion of their protection was crucial, according to Scott, because some opportunistic managers fired women upon marriage while retaining other married women teachers. Scott alleged: 'There were cases where managers, having a grudge against teachers, utilised their marriage as an excuse for dismissing them, while other married teachers were allowed to remain in the same school.'¹²⁰

The UTU appeared before the Belfast Education Committee in 1929 to appeal the REC's resolution for a ban, but with little success. It appealed its case to the Belfast City Council in 1931.¹²¹ In this appeal, Alderman Lyle D. Hall (chairman)

¹¹⁶ Ibid., xii, col. 2259 - 60 (30 Oct. 1930).

¹¹⁷ Meeting minutes of the Central Executive of the UTU, June 1924 (PRONI, Ulster Teachers' Union papers, D3944/A/1).

¹¹⁸ *Belfast Newsletter*, 5 Apr. 1929.

¹¹⁹ Ibid.

¹²⁰ Ibid.

¹²¹ According to the 1929 minute, the proposal by the Belfast authority to institute the marriage bar was withdrawn in 1929. It was again tried in 1931. Meeting minutes of the

acknowledged the criticism put forth by the UTU delegation, but supported the education committee's resolution, citing the committee's '... duty also towards the many ratepayers who have been at the expense of training their sons and daughters for teaching appointments such as those that will only now become available, and if economies are possible by replacing teachers with maximum salaries by young teachers commencing at the lowest grades this Council is justified and bound in these difficult times to make these economies too'.¹²² A later meeting of the UTU executive council 'severely criticised' Alderman Lyle's remarks.¹²³ In its annual report the union condemned the ruling:

The regulation was not made with a view either to effect economy in public administration of efficiency in the teacher service, but with the sole object of finding employment for young teachers whose parents are resident in Belfast, and who have been pressing the members of the Education Committee to find employment for their daughters . . . Unfortunately the Union had not the active support of the other Teachers' Unions, and this fact was noted at the meeting of the Council. The case has been placed in the hands of the Union's legal advisers to take action at the appropriate time.¹²⁴

The Executive in December 1931 instructed to the general secretary to obtain counsel advice on:

- (1) On the power of the Education Authority to make such a regulation
- (2) The application of section 14 (4) (a) on this question to teachers in schools that have been transferred to the Authority, and who had been employed in the schools prior to transfer
- (3) The power of the Education Authority to require teachers in their service to sign a new agreement embodying the new conditions.¹²⁵

The union had previously sought legal counsel concerning salary cuts imposed in August 1931.¹²⁶ The *Evening Herald* reported that: 'It is probable that the veto of the Northern Ireland Education Committee on married women teachers will be challenged in the courts in the near future. The teachers have taken legal advice on the matter, and a defence fund has recently been opened. A test case will likely be taken

Central Executive of the UTU, Aug. 1929 (PRONI, Ulster Teachers' Union papers, D3944/A/2).

¹²² *Belfast Newsletter*., 2 Dec. 1931.

¹²³ *Ibid.*, 7 Dec. 1931.

¹²⁴ Report of the executive for the year ended 31 Dec. 1931 (PRONI, Ulster Teachers' Union papers, D/3944/C/1).

¹²⁵ Meeting minutes of the Central Executive of the UTU Dec. 1931 (PRONI, Ulster Teachers' Union papers, D/3944/A/2).

¹²⁶ *Ibid.*, meeting minutes of the UTU.

to settle the issue.’¹²⁷ However, in February 1932 lawyers reported that, in their opinion, the teachers had no case.¹²⁸

Despite the difficulties in appealing on behalf of married women teachers, the union was successful in its appeals on behalf of other teachers who lost their jobs. For instance in November 1928 it reported receiving a letter ‘conveying the decision of the ministry . . . [of] the dismissal of Mr [P.] of Ardmore PES. The ministry held that the dismissal was not “reasonably justified” and urged the Manager to withdraw the notice’. A standing sub-committee discussed the case of Mrs [M.] in Lisburn who received a dismissal notice due to her marriage. The union granted the sub-committee ‘full power . . . to continue action until the dismissal notice is withdrawn’.¹²⁹

The INTO also lobbied against the bar. The secretary of the Northern Irish branch, Joseph Boyce, a retired teacher, was quoted by the *Belfast Newsletter* on this: ‘teachers of Northern Ireland were strongly opposed to the wholesale and indiscriminate banning of married teachers . . . [and that the BEC’s proposal] would be fought strongly’.¹³⁰ A special meeting of the Belfast branch of the INTO was scheduled to be held in early November 1929 to discuss the issue of the marriage bar.¹³¹ While there is no follow-up report about this meeting, the union continued to pursue the subject. The INTO northern committee in 1932 argued that the government was not driven by education concerns, but by ‘secondary considerations. There was also evident a narrowness of vision and a failure to grasp the significance in every school of the evil effects of the ban. Teachers could not allow this matter to remain in its present position’.¹³² The INTO differed from the UTU because it was an all-Ireland organisation, therefore, events in the Free State influenced the northern INTO’s activity. With respect to the marriage bar, the wider INTO found common ground in their objections to the marriage bar in the Free State. At the April 1932 conference of the INTO in Dublin a motion was passed against the introduction of the marriage bar in the Free State. This was seconded by representative Eugene Caraher from Portadown. Caraher said: ‘in the North of Ireland the rule had been put in force

¹²⁷ *Evening Herald*, 24 Feb. 1932.

¹²⁸ Meeting minutes of the Central Executive of the UTU, Feb. 1932 (PRONI, Ulster Teachers’ Union papers, D/3944/A/2).

¹²⁹ Meeting minutes of the Central Executive of the UTU, Nov. 1928 (PRONI, Ulster Teachers’ Union papers, D3944/A/1).

¹³⁰ *Belfast Newsletter*, 31 Oct. 1929.

¹³¹ *Ibid.*

¹³² *Fermanagh Herald*, 20 Feb. 1932.

in some districts. Women teachers were beginning to consider whether it was worth while joining the profession or not. A young woman who took up a position as a teacher should be able to look upon it as a life-long profession. On the ground of efficiency it would be a very serious step for any Ministry to approve of any such rule as referred to in the resolution'.¹³³ With the marriage bar in place, the INTO did not abandon the married women teachers. At a meeting of the northern INTO in April 1936, a resolution was passed to provide an 'award gratuity to women teachers retiring on marriage, since retirement on marriage is now practically compulsory'. The mover of the motion, Mr T Jamison (Belfast) reasoned: 'Belfast had made retirement upon marriage compulsory in the case of women teachers. They in that conference wished to protect their women teachers'.¹³⁴

The other voice prevailing in newspaper reports and letters to the editor was the BWAC. Its critique had more of a gendered approach than that of the teachers' unions. The BWAC highlighted how the ban was discriminatory against women workers, argued that it was in no way educationally motivated, and that it did not make economic sense. It called on the ministry to intervene in local authorities' decisions to implement a marriage ban. As discussed above, the ministry did not. The BWAC sent a letter in 1929 calling for intervention, and again in 1932.¹³⁵ In 1932 the BWAC wrote the Minister of Education to 'inform us what is the position of the Ministry in regard to married women teachers at present in the Educational services . . .'. As with the letters from unions, the ministry responded to the BWAC by articulating its distance from the resolutions and its non-interventionist position. Following the ministry's response, the BWAC did not press the ministry to take action.¹³⁶

Following the decision of the Belfast City Council to support the resolution on the forced retirement of married women teachers in the district, the BWAC wrote to the *Irish News* and the *Belfast Newsletter* criticising the decision: 'Will this change increase the efficiency of the "teaching service"? . . . The real plea is economy . . . ' which they claimed would be negatively effected because of the cost to the state to

¹³³ *Belfast Newsletter*, 1 Apr. 1932.

¹³⁴ *Ibid.*, 2 Mar. 1936.

¹³⁵ BWAC to Minister of Education, 1 June 1929; BWAC to Minister of Education, 2 Mar. 1932 (PRONI, Ministry of Education papers, ED/13/1/1148).

¹³⁶ See *ibid.*, correspondence of 2 Mar., 21 Mar., and 6 Apr. 1932 between BWAC and the Ministry of Education.

train more teachers.¹³⁷ This line of argument was pursued in another letter to the *Belfast Newsletter* in March 1932: ‘Public money is spent on the education and training of the young teacher . . . If she marries she is to be dismissed on the grounds, strange to say, of economy! It certainly seems a curious method of economising’.¹³⁸ In these letters the Council offered alternatives, such as restricting the number of students in training¹³⁹ or examining British policy on the subject of building more schools in an economical way.¹⁴⁰ On the former point, members of the public also criticised the idea that it was economical to bar married women teachers: ‘It is a wicked waste of money to spend some hundreds of pounds on the training of a girl as a teacher, and then to dismiss her in perhaps a few years’ time because she gets married . . . There are not hundreds of newly-trained women teachers out of work. It happens again and again that there will be no applications from unmarried women, or only one or two, for positions in country schools. If the Ministry of Education train more than are required that is not the fault of married women teachers.’¹⁴¹ The crux of the BWAC’s argument was that this was not economical and that married women teachers were not less efficient than single women teachers. Similarly, the Central Women’s Section of the NILP ‘had a keen discussion’ about the marriage bar in December 1931, but no other record is left of what materialised from this discussion.¹⁴²

While it has been noted that religious figures have often been in favour of the ban, indeed in Free State histories the ban has been attributed to a Catholic ethos, there was a case of a Protestant cleric writing on behalf of a married teacher to keep her job: ‘Miss [M.] is an excellent teacher and to my personal knowledge has done splendid work and would continue to do so if she were married tomorrow, and for this reason should not be dismissed, but this is not my plea.’ The reverend’s specific plea was for the ministry to examine whether Miss M.’s contract had been unjustly broken by the school. She was hired by the cleric before the school transferred to the state and she and the reverend agreed she would not be dismissed on marriage. ‘When the school was transferred the agreement, without alternation in this respect, was

¹³⁷ *Irish News*, 11 Dec. 1931.

¹³⁸ *Belfast Newsletter*, 5 Mar. 1932.

¹³⁹ *Ibid.*

¹⁴⁰ *Irish News*, 11. Dec. 1931.

¹⁴¹ *Belfast Newsletter*, 20 Jan. 1931.

¹⁴² Meeting minutes of the Central Women’s Section of the NILP, 7 Dec. 1931 (PRONI, Central Women’s Section of the Northern Irish Labour Party papers, D3311/1).

reaffirmed between her and the Regional Committee and I hold it is still mutually binding and cannot be set aside unless the terms are violated or by mutual consent. Certainly not by any whimsical resolution of a misguided Regional Committee'. As such, he asked that the ministry look at her case.¹⁴³ The ministry found that the REC 'were exercising a discretion given to them by existing legislation and regulation . . . [the REC] were not exceeding their lawful powers and the Ministry had not therefore taken any steps to intervene.'¹⁴⁴

Other members of the public, however, came forward in favour of the ban. A series of letters sent to the *Belfast Newsletter* in October 1929 demonstrated support for the marriage ban. Following the successful resolution to implement a ban by the North Antrim REC, 'CES' of Lisburn wrote: 'The North Antrim Regional Education Committee have a very useful lead to the other education committees in Northern Ireland, re: married women teachers. It is to be hoped that those other communities will follow suit with the least possible delay'.¹⁴⁵ Another letter writer, appearing to be a single female teacher long established in the profession, wrote:

I agree entirely with every word that has been written against the employment of married women teachers... Personally, I have no grievance against the married women teacher, as I am employed and have been for eighteen years, have enjoyed very good health, am strong and very active, and have always done a hard day's work in the school; but I can truly say that had I the care, worry, and anxiety of a house and family and, of course, the indispensable maid – well, I should not be alive now to tell the tale . . . Like others, I consider it is greed that keeps married women teachers at work, and where husband and wife are teachers it is nothing short of scandalous.'¹⁴⁶

Letters in favour of the ban reflect the sentiment discussed earlier that single women teachers needed state intervention in order to secure jobs from married women teachers.

Other letters did not disagree with the ban but still offered criticism: W.H. Adair of Ballymoney wrote to the *Belfast Newsletter* on the practical aspects of dismissing the married teacher. The writer suggested that the teacher should receive the same retirement gratuity as a married 'lady civil servant': 'On the occasion of

¹⁴³ Rev. H.B. Henderson to Rev. W.M. Corkey, General Assembly of the Presbyterian Church in Ireland, 21 Oct. 1930. Forwarded to the Secretary for the Ministry of Education, 29 Oct. 1930. (PRONI, Ministry of Education papers, ED/13/1/1149).

¹⁴⁴ Ministry to Rev. Corkey, Nov 1930. (PRONI, Ministry of Education papers, ED/13/1/1149).

¹⁴⁵ *Belfast Newsletter*, 12 Oct. 1929.

¹⁴⁶ *Ibid.*, 26 Oct. 1929.

marriage a lady civil servant receives a gratuity proportional to the length of her service. The same concession should surely be made to a lady teacher who retires on a similar occasion. Her premiums are refunded, but she receives no benefit otherwise from the pension fund . . . School mistresses thus retiring are in equity entitled to some advantage from these sources of income.'¹⁴⁷ However, the women were not granted this concession. Despite the criticism of the bar, many operated across Northern Ireland and in all of the Free State in this period. The criticism of married teachers and the marriage bar reflect complex ideas about women. Further, the common ground found between the UTU and INTO demonstrate how new questions can inform the historical understanding of the nationalist/unionist framework in Northern Ireland.

V. Conclusion

The marriage bar provides another example of how the marital status of women was a key factor in welfare policy in this period. In addition to the economic motivations behind the marriage bar, it was also presented as a policy to help 'unfortunate' single women teachers looking for work. The marriage bar can be understood as welfare policy in this sense because politicians and the wider public justified the policy as a way to provide for single women. This valuing of women differs from the legislation discussed in previous chapters because it positions women against one another. While previous schemes distinguished other women as more 'deserving' than others, the 'others' were not vilified. With the marriage bar single women were seen as deserving, and while married women teachers were cast as greedy workers and neglectful wives. While this was not the only way in which women and the marriage bar was viewed, it was a significant thread of thought throughout the debates. This chapter's approach of studying the single woman advances the existing knowledge of the marriage bar in the two Irelands by using the single female teacher as a new crucial point of study. It also adds this scholarship by

¹⁴⁷ *Belfast Newsletter*, 26 Oct. 1929.

revealing a new understanding of how contemporaries perceived the policy at the time.

Regarding the administrative implementation of the bar, the two states differed in the ways in which the policy was implemented. The administration of this policy through the local authorities and the civil service demonstrates the complexities of policy administration in devolved government in Northern Ireland. Further, the study of the teachers' unions demonstrates how unionist and nationalist politics informed so much of the political discussion in Northern Ireland, but common ground could be found in some cases to advocate for issues of mutual interest.

Finally, this analysis also demonstrates that the implementation of the marriage bar existed within wider conservative trends occurring on a global level. Similarities between Australia, England, Northern Ireland, and the Free State raise new questions about long-held beliefs of Irish exceptionalism, particularly that a Catholic church-state consensus was behind the marriage bar in the Free State.

Chapter eight: Conclusion.

‘ . . . it is four times as dangerous to be a mother in Ireland as it is to work in the mines in Great Britain. In other words, the bearing of children is a much more dangerous occupation than mining. If that can be burnt into the minds or the imagination of the Government surely it will make them realise the state of affairs that exists at the present time.’¹

This thesis argues that both new Irish states took a paternalistic, conservative approach to legislating for women’s welfare after partition. Free State policy was defined by economic retrenchment and moral conservatism, while Northern Irish legislators looked to secure its place in the UK while also maintaining a moral paternalism in the province. To conclude this thesis, the following section will briefly examine key themes, arguments, and findings of this work, highlighting contributions to knowledge and current debates. It will conclude with recommendations for future research.

This work’s methodological approach of structuring the analysis through an all-Ireland approach allows for the excavation of new understandings about policies which had not yet been considered in their wider international context. This challenges previously-held ideas about official approaches to women and sheds new light on the priorities of, and motivations behind, social policies of the states. In particular, it is apparent that patterns of wider conservatism existed across the island which conformed to trends in other Anglo-speaking dominions. This challenges previous ideas of Irish exceptionalism and the singular influence of Catholic social teaching, and adds to the growing scholarship about women in Northern Ireland. This uncovering and analysis of trends, similarities, and issues in developing policy demonstrates the benefits of using an all-Ireland approach to historical inquiry.

The comparative study of affiliation orders north and south of the new border casts new light and asks new questions about legislation concerning unmarried mothers. By viewing this law through the lens of partition, new issues come to the surface. For instance, legislators in both states saw writing a law about a moral issue as different than writing other laws and as such took liberties to break with legislative traditions. In Northern Ireland this created a series of issues for the new devolved government in its early years. In particular, issues in the process

¹ Sam Kyle, NILP MP, *Hansard NI (Commons)*, x, col. 169 (28 Feb. 1929).

foreshadowed the recurrent dilemma of balancing parallel legislation with Britain and a perceived higher morality to Britain. Northern legislators flirted with private court proceedings, but ultimately kept the courts public, whereas the Free State agreed to close the courts for affiliation orders proceedings. The public debate about *in camera* reveals attitudes about paternalistic desire to protect rural women, a fear of urban working class females, and a prioritisation of morality over open legal practices and precedent.

The analysis of widows' pensions reveals further difficulties that the Northern Irish government had negotiating its place in wider UK policy. The efforts to secure a place in the English and Welsh widows' pensions scheme was part of a wider policy to secure funding for unemployment insurance which Northern Ireland so desperately needed. The Free State also retained crucial ties to the British civil service and ultimately adapted the British scheme to Free State needs. A direct consequence of partition was that the north had some social services before the Free State. In the case of widows' pensions, southern widows had to wait for pensions for an additional ten years after their northern counterparts. Legislating for a porous border was a serious concern when the Free State did not have pensions, as a reciprocal arrangement could not be established. In both states similar trends and values were evident regarding which widows were more deserving: mothers over childless widows, rural over urban. Further, while all widows were seen as pious, distrust still seeps in reports from civil society and within the Free State legislature.

The final two chapters re-evaluated policies which have long been attributed to Catholic social teaching and Irish exceptionalism in the histories of the Free State and looked at their northern counterparts. By examining these policies in Northern Ireland, it becomes apparent that the Free State was not alone in its conservatism. This casts new light on these policies north and south of the border. The divorce chapter interrogates a policy which has been understood to be a consequence of Catholic social teaching in the Free State, but finds that the Northern Irish government was apprehensive to reform its laws after partition, opting to keep the status quo rather than reforming along the same lines as the more progressive British laws. Like the affiliation orders debates, the divorce question poses a threat to the step-by-step policy as British laws were at odds with official ideas about Northern Irish morality. However, legal practice across UK provided a loophole which allowed for the practice of more modern divorce law. The public's

exploitation of this loophole demonstrates the public's desperation to end a marital union, as well as a more progressive public in some sense than the government.

Similarly, the marriage bar, a policy often cited in Free State literature about women and church-state consensus, was examined in this case as part of wider conservative policy. This chapter added to the knowledge on the marriage bar by considering the place of the single woman teacher. Many legislators and the wider public saw the marriage bar as righting a wrong done to these single women, and as such the policy sought to aid the welfare of the single woman, often shaming the married female teacher in the process. The analysis of the practical aspects of implementing the bar is also a crucial addition to the literature on this policy. The efforts of the civil service to chase retired women teachers for refunds for their training reveals the paradoxical nature of a policy which justified itself as being economical in a time of financial downturn, and it also illuminates the precarious financial position married women teachers were placed in resulting from the policy. Similarly, the reaction of the northern teachers' unions is crucial to the understanding of civil society and how all-Ireland groups functioned after partition.

This analysis of these specific pieces of legislation leads to wider findings and overarching themes. In particular, motherhood forms the main qualification for many of the policies discussed in this thesis. Even in laws on divorce and married women teachers', motherhood was a significant consideration. However, in the eyes of legislators, not all mothers were created equal. For instance, as Maria Luddy writes: 'for decades the fate of the unmarried mother was a life overshadowed by shame and disgrace. From the foundation of the State until the 1970s unmarried mothers, while generally enjoying the benefits of citizenship as women, had, ironically in a state that applauded motherhood, no rights as mothers'.² The first-time unmarried mother was sometimes seen as amenable to reform, while the multiple 'offender' was treated exactly as an offender: one that needed to be contained and punished. Motherhood was often a qualification because the object of the act was the child. The widow was seen as in need of support because she was the vessel through which children could receive welfare benefits. The married

² Maria Luddy, 'Foreword', in Jennifer Redmond, Sonja Tiernan, Sandra McAvoy, and Mary McAuliffe (eds), *Sexual politics in modern Ireland* (Sallins, Co. Kildare, 2015), p. xvi.

female teacher was required to stay at home to care for her family and allow ‘unfortunate’ spinsters to participate in the public sphere.

Distrust of empowering these necessitous women also informs all areas of policy under review. The unmarried mother had the potential to blackmail, the widow could fraudulently make an application, the ‘sexual double standard’³ in divorce required a woman seeking divorce to meet more grounds than a male petitioner, and the married woman teacher was a greedy figure who needed to be compelled to resign by law. Paradoxically, distrust was matched with the paternalistic desire to provide for these women along the lines of traditional ‘family values’. The unmarried mother was a victim of naivety and/or male sexuality and needed to be protected as such, a widow was the pious bereaved mother who needed support to raise her children, hesitancy to reform divorce law stemmed from the idea that traditional marriage was best for women and men, and the married woman teacher needed to retire in order for the single woman teacher to secure a job in place of a husband and a family. This thesis’ analysis of these issues in the context of partition and administrative history adds to the literature on women and welfare in the Free State and Northern Ireland which has hitherto focused on these issues mainly through the lens of sexuality and Catholic social teaching.

Crucially, it has been demonstrated that these ideals about women and welfare provision transcend borders. Similarities between north and south, and with Britain and the dominions, demonstrates a wider conservative paternalism behind many of the social policies in this period. These discussions add to the debates about Irish exceptionalism, particularly the role of the Catholic Church in forming Irish social policy. The prevalence of conservative ideals across borders demonstrates that Catholic social teaching in the Free State was symptomatic of wider conservative ideals at the time. Therefore, many of the policies and ideals articulated by legislators in the two states were not strictly Irish phenomena. These policies existed in Northern Ireland under a heavily Protestant administration and culture, and in the Free State under a Catholic one, as well as in England and Wales, Canada, and Australia. This demonstrates the strength of employing a comparative approach to reevaluate long-held beliefs about policy development.

³ Urquhart, ‘Ireland and the Divorce and Matrimonial Causes Act of 1857’, p. 302

Regarding partition, the border played a major role in motivations behind social policy. Not only did both new states have to legislate around the idea of a porous border, there was also a competitiveness stemming from the Free State to ensure its citizens were in a better position than those in the north. In the Free State there was also a desire amongst some legislators to maintain parity with Northern Ireland to ensure that the two states were on equal footing to allow for smoother unification of the two states. In Northern Ireland, partition and devolved government was the crucial factor behind welfare reform. As this thesis has demonstrated, the step-by-step policy was a complicated convention to maintain, but the cabinet was devoted to its maintenance. Further, the very real factor of financial pragmatism played a large role north and south of the border. The Free State's financial retrenchment under President Cosgrave saw a slow approach to reform, whereas the Colwyn Committee's recommendation to fund Northern Irish social services from the British Treasury meant that Northern Irish legislation had to be on a parallel basis with Britain to receive such monetary backing. Indeed, in the case of widows' pensions, the desire to secure financial support from London for future legislation was a driving force behind the pensions scheme. This work has demonstrated that the step-by-step policy became so ingrained in Northern Irish legislature that it was applied even to policies that did not require financial support from the state, such as affiliation orders and the marriage bar.

Leanne McCormick's work on sexuality in Northern Ireland in the twentieth-century has been crucial to this thesis' examination of social policy generation in this period. Her argument that Northern Irish legislators saw the state's morality, particularly on questions about sexuality, as superior to mainland Britain inspired this thesis' new questions about the devolved government's writing of social policy. This thesis' application of her finding to the study of social policy opens up new areas of understanding about the process of writing social policy in Northern Ireland after partition. By applying McCormick's argument to the step-by-step policy, this thesis argues that the policy of parity was complicated by the Northern Irish legislators' ideals about the supremacy of Northern Irish morality. When legislating about moral questions, Northern Irish legislators, at times, demonstrated a reluctance to follow step-by-step as they saw Northern Irish morality as distinct from British morality. This analysis of the development of, and

adherence to, the step-by-step policy contributes to debates about the role of the Stormont government in legislating in the first two decades of its existence.

This thesis has also examined James Smith's theory of a culture of containment. It has demonstrated that while there are valid criticisms of Smith's execution of his theory, it offers a crucial lens to analyse legislative treatment of marginalised groups. However, as this thesis has demonstrated, it is crucial to contextualise laws in Ireland with international comparisons. Such an approach moves the culture of containment away from Irish exceptionalism and into a wider application in analysis of conservative law.

There are many avenues for future research in the areas of Northern Irish social history, the history of women, and the history of social policy in the two Irelands. A different approach to this study such as one which examines non-gendered policies that had wide-reaching effects on women would yield interesting analysis on the effectiveness of welfare schemes in women's lives. This includes legislation such as housing reform, provision for milk and school lunches, and so forth. Similarly, an analysis of the everyday life of women in Northern Ireland and how they experienced these welfare policies is needed. The experience of how the Catholic minority, and particularly Catholic women, in Northern Ireland received state welfare is another topic for future examination. Studies of community and political groups, particularly the BWAC, would prove indispensable to the historiography of women in Ireland, north and south. Further, this thesis has demonstrated the benefits of all-Ireland approaches to historical research and writing. The comparative examination illuminates patterns that exist beyond borders, throwing new light on traditionally-held ideas about the two Irelands in the first two decades of their existence.

Bibliography

MANUSCRIPTS

The British National Archives, Kew (TNA)

Government Actuary Office papers

Home Office papers

Ministry of Pensions papers

Dublin Diocesan Archives (DDA)

Archbishop Byrne papers

National Archives of Ireland (NAI)

Department of Justice

Department of Finance

Department of Foreign Affairs

Department of the Taoiseach

Joint Committee of Women's Societies and Social Workers papers

Public Records Office of Northern Ireland (PRONI)

Belfast Midnight Mission papers

Cabinet papers

Central Women's Section of the Northern Ireland Labour Party papers

Local Authorities papers

Londonderry papers

Ministry of Education papers

Ministry of Home Affairs papers

Ministry of Labour papers

Presbyterian Church records

Prime Minister's papers

Ulster Teachers' Union papers

Ulster Unionist Council papers

Ulster Women's Unionist Council papers

Representative Church Body Library (RCB)

Girls' Friendly Society papers

Journal of the General Synod

Mothers' Union papers

Society of Friends Library

Liberty Crèche records

University College Dublin Archives (UCDA)

Cumman na nGaedheal/Fine Gael papers

Ernest Blythe papers

John A. Costello papers

Éamon de Valera papers

Fianna Fáil papers

Hugh Kennedy Papers

Richard Mulcahy papers

LEGISLATION

Ireland

Bunreacht na hÉireann. Constitution of Ireland. (1 July 1937).
Illegitimate Children (Affiliation Orders) Act, 1930. [1930/17]. (17 June 1930).
Widows' and Orphans' Pensions Act, 1935. [1935/29]. (2 Aug. 1935).
Army Services Pensions Act, 1971. [26/1971]. (1 Sept. 1971).

United Kingdom

Government of Ireland Act, 1920. (10 & 11 Geo. 5 c.67). (23 Dec. 1920).
Sex Disqualification (Removal) Act, 1919. (9 & 10 Geo 5. c.71). (23 Dec. 1919).

England and Wales

Bastardy Act 1923. (13 & 14 Geo. 5 c.24). (31 July 1923).
Matrimonial Causes Act 1923. (13 & 14 Geo. 5 c. 19). (18 July 1923).
Matrimonial Causes 1937. (1 Ed. 8 & 1 Geo. 6 c.57). (30 July 1937).
Widows, Orphans', and Old Age Contributory Pensions Act, 1925. (15 & 16 Geo. 5 c.70). (7 Aug. 1925).
Widows', Orphans', and Old Age Contributory Pensions Act, 1929. (20 & 21 Geo 5 c. 10). (6 Dec. 1929)

Northern Ireland

Anderson's Divorce Act (Northern Ireland), 1934. (24 Geo 5) (24 Apr. 1934).
(accessible via PRONI LIB/1185).
Clarke's Divorce Act (Northern Ireland), 1932. (22 Geo. 5) (27 Apr. 1932).
(accessible via PRONI LIB/1185).
Dobbs' Divorce Act, 1931 (21 Geo. 5) [N.I.] (5 May 1931). (accessible via PRONI LIB/1185).
Illegitimate Children (Affiliation Orders) Act (Northern Ireland), 1924. (14 & 15 Geo. 5 c.27). (7 Nov. 1924)
Macartney's Divorce Act (Northern Ireland), 1931. (21 & 22 Geo 5) (26 May 1931). (accessible via PRONI LIB/1185).
Matrimonial Causes Act (Northern Ireland), 1939. (2 & 3 Geo 6 c. 13). (4 July 1939).
Rankin's Divorce Act (Northern Ireland), 1929. (20 Geo. 5). (19 Dec. 1929).
(accessible via PRONI LIB/1185).
Trew's Divorce Act (Northern Ireland), 1936. (26 Geo. 5 & Edw. 8). (23 June 1936). (accessible via PRONI LIB/1185).
Widows', Orphans', and Old Age Contributory Pensions (Northern Ireland) Act, 1925. 15 & 16 Geo. V., c. 23 [N.I.] (6 Nov. 1925).
Widows', Orphans', and Old Age Contributory Pensions (Northern Ireland) Act, 1929. (20 Geo. V., c. 17). (19 Dec. 1929).
Widows', Orphans', and Old Age Contributory Pensions (Northern Ireland) Act, 1931. (21 & 22 Geo. V, c. 17). (24 Nov. 1931).
Wright's Divorce Act (Northern Ireland), 1925. (15 & 16 Geo 5) (10 Nov. 1925).
(accessible via PRONI LIB/1185).

OFFICIAL REPORTS

Ireland

Law Reform Commission Report on Illegitimacy. Dublin, 1982.

Report of the Commission on the Relief of the Sick and Destitute Poor, including the Insane Poor. Dublin, 1927.

Report of the Committee of Inquiry into Widows' and Orphans' Pensions. Dublin, 1933.

Northern Ireland

Report of Departmental Commission on Local Government Administration in Northern Ireland. Belfast, 1927.

PARLIAMENTARY DEBATES

Ireland

Dáil Éireann debates.

Seanad Éireann debates.

United Kingdom

Parliamentary debates (Hansard) House of Commons.

Parliamentary debates of Northern Ireland (Hansard), House of Commons.

Parliamentary debates of Northern Ireland (Hansard), Senate.

NEWSPAPERS AND PERIODICALS

Belfast Evening Telegraph

Belfast Newsletter

British Medical Journal

Church of Ireland Gazette

Connacht Tribune

Cork Examiner

Daily Mail

Evening Herald

Evening Telegraph

Fermanagh Herald

Fortnight

Freeman's Journal

Irish Independent

Irish News

Irish Press

Irish Times

Kerryman

Northern Whig

Strabane Chronicle

The Times

CONTEMPORARY JOURNAL ARTICLES

Carr, Cecil T, C.W. Duret Aubin, Arthur S. Quekett, and A. Denis Pringle. 'British Isles' in *Journal of Comparative Legislation and International Law*, vol. xvi, no. 2 (1934): pp 1 -28.

Dawson, W.R. 'Work of the Belfast War Hospital (1917-19)' in *British Journal of Psychiatry* lxxi no. 293 (1925): pp 219 – 24.

de Montmorency, J.E.G., 'Divorce law in England' in *University of Pennsylvania Law Review* lxxv no. 1 (1926): 36 – 49.

'Divorce law' in *Irish Jurist*, iii no. 2 (Easter term, 1937): p. 18.

Dunne, John Patrick. 'Poverty problems for a patriot parliament', *Journal of the Statistical and Social Inquiry Society of Ireland*, xiv no. 2 (Apr. 1922): pp 189 – 98.

Henderson, L.M., H.E. Williams, C.L. Hudson, E.E. Jones, and C.W.W. Webster. 'The legal status of illegitimates in the Commonwealth of Australia' in *Journal of comparative legislation and international law*, iii no. 1 (1921): pp 16-18.

EPHEMERA

National Library of Ireland

Dunne, J.P, Irish Mother's Pensions Society. "'Waiting the verdict". Pensions or Pauperism. Necessitous widows and orphans in the Free State.' Dublin, 1930.

BOOKS

Akensson, D.H. *Education and enmity: the control of schooling in Northern Ireland, 1920-50*. Newtown Abbot, Devon, 1973.

Barrington, Ruth. *Health, medicine and politics in Ireland, 1900 – 70*. Dublin, 1997.

Bew, Paul, Peter Gibbon and Henry Patterson. *Northern Ireland 1921-2001: political forces and social classes*. London, 2002.

Bogdanor, Vernon. *Devolution in the United Kingdom*. Oxford, 2001.

Bowen, Kurt. *Protestants in a Catholic State: Ireland's Privileged Minority*. Dublin, 1983.

- Brode, Patrick. *Courted and abandoned: seduction in Canadian Law*. Toronto, 2002.
- Bryson, Anna. *No coward soul: a biography of Thekla Beere*. Dublin, 2009.
- Buckland, Patrick. *The Factory of Grievances: Devolved Government in Northern Ireland, 1921-39*. Dublin, 1979.
- Buckley, Sarah-Anne. *The Cruelty Man: Child Welfare, the NSPCC and the State in Ireland, 1889-1956*. Manchester, 2013.
- Carey, Sophia. *Social security in Ireland, 1939-52*. Dublin, 2007.
- Chambers, Lori. *Misconceptions: unmarried motherhood and the Ontario Children of Unmarried Parents Act, 1921-1969*. Toronto, 2007.
- Clear, Caitríona. *Women of the house: women's household work in Ireland: discourses, experiences, memories*. Dublin, 2008.
- Connolly, Linda. *The Irish Women's Movement: From Revolution to Devolution*. Hampshire, 2002.
- Copelman, Dina M. *London's Women Teachers: Gender, Class and Feminism. 1870-1930*. London, 1996.
- Cousins, Mel. *The Birth of Social Welfare in Ireland, 1922-52*. Dublin, 2003.
- Daly, Mary E. *Dublin: the deposed capital: a social and economic history, 1860-1914*. Dublin, 1984.
- . *Social and economic history of Ireland since 1800*. Dublin, 1981.
- Dunphy, Richard. *The making of Fianna Fáil power in Ireland*. Oxford, 1995.
- Earnar-Byrne, Lindsey. *Mother and child: maternity and child welfare in Dublin, 1922-60*. Manchester, 2013.
- Elliott, Marianne. *The Catholics of Ulster: a history*. London, 2000.
- Fanning, Ronan. *The Irish Department of Finance, 1922-50*. Dublin, 1978.
- Ferriter, Diarmaid. *Occasions of Sin: Sex and Society in Modern Ireland*. London, 2009.
- Fitzpatrick, David. *The Two Irelands, 1912 – 1939*. Oxford, 1998.
- Follis, Bryan. *A state under siege. The establishment of Northern Ireland, 1920-1925*. Oxford, 1995.
- Foster, Gavin. *Irish civil war and society*. New York, 2015.

- Foster, R.F. *W.B. Yeats: a life. II: the arch-poet, 1925-39*. Oxford, 2003.
- Harbinson, John F. *The Ulster Unionist Party, 1882-1973: its development and organisation*. Belfast, 1973.
- Hogan, Gerard. *Origins of the Irish Constitution, 1928-41*. Dublin, 2012.
- Holden, Katherine. *The shadow of marriage: singleness in England, 1914-60*. Manchester, 2007.
- Horgan, John. *Irish Media: a Critical History Since 1922*. London, 2001.
- Hughes, Annmarie. *Gender and political identities in Scotland, 1919-39*. Edinburgh, 2010.
- Kavanagh, Ray. *Mamie Cadden: Backstreet abortionist*. Cork, 2005.
- Kennedy, Dennis. *The Widening Gulf*. Belfast, 1988.
- Kennedy, Finola. *Cottage to crèche: family change in Ireland*. Dublin, 2001.
- Kennedy, Michael. *Division and Consensus: the Politics of Cross-Border Relations in Ireland, 1925-69*. Dublin, 2000.
- Keogh, Dermot. *Ireland and the Vatican: the Politics of Diplomacy of Church-State Relations, 1922 – 1960*. Cork, 1995.
- Lane, Leeann. *Rosamond Jacob: third person singular*. Dublin, 2010.
- Lucey, Donnacha Seán. *The end of the Irish poor law? Welfare and healthcare reform in revolutionary and independent Ireland*. Manchester, 2015.
- Maguire, Moira. *Precarious childhood in post-independence Ireland*. Manchester, 2009.
- Mapstone, Richard H. *The Ulster Teachers' Union: an historical perspective*. Belfast, 1986.
- Meehan, Ciara. *The Cosgrave Party: A history of Cumann na nGaedheal, 1923-33*. Dublin, 2010.
- McCormick, Leanne. *Regulating sexuality: women in Twentieth Century Northern Ireland*. Manchester, 2009.
- Morrissey, Thomas S.J. *Edward Byrne, 1872 – 1941: the forgotten Archbishop of Dublin*. Dublin, 2010.
- O'Connell, T.J. *A History of the Irish National Teachers' Organisation, 1868-1968*. Dublin, 1970.

- O'Connor, Emmet. *A Labour History of Ireland*. Dublin, 1992.
- O'Halpin, Eunan. *The decline of the Union: British government in Ireland 1892-1920*. Dublin, 1987.
- Oram, Alison. *Women teachers and feminist politics*. Manchester, 1996.
- Pederson, Susan. *Family, Dependence, and the Origins of the Welfare State: Britain and France, 1914-1945*. New York, 1993.
- Philips, Roderick. *Putting asunder: a history of divorce in Western society*. Cambridge, 1988.
- Powell, Frederick W. *The politics of Irish social policy, 1600– 1990*. New York, 1992.
- Rattigan, Cliona. *'What else could I do?': single mothers and infanticide, Ireland, 1900-50*. Dublin, 2012.
- Regan, John. *The Irish Counter-Revolution, 1921-36*. Dublin, 1999.
- Stone, Lawrence. *Road to divorce: England 1530-1987*. Oxford, 1990.
- Urquhart, Diane. *Women in Ulster politics 1890-1945*. Dublin, 2000.
- Valiulis, Maryann (ed). *Gender and Power in Irish History*. Dublin, 2009.
- Walker, Graham. *A history of the Ulster Unionist Party. Protest, pragmatism, and pessimism*. Manchester, 2004.
- . *The politics of frustration: Harry Midgely and the failure of Labour in Northern Ireland*. Manchester, 1985.
- Walsh, Oonagh. *Anglican Women in Dublin: Philanthropy, Politics and Education in the Early Twentieth Century*. Dublin, 2005.
- Whyte, John. *Church & State in Modern Ireland, 1923 – 70*. Dublin, 1980.

ARTICLES AND CHAPTERS

- Balcom, Karen. 'Scandal and social policy: the ideal maternity home, and the evolution of social policy in Nova Scotia, 1940-51' in Raymond B. Blake and Jeffrey A. Keshen (eds). *Social fabric or patchwork quilt: the development of social policy in Canada*. Peterborough, 2006: pp 89 – 122.
- Barton, Brian. 'Northern Ireland, 1925-39' in F.J. Byrne, W.E. Vaughan et al (eds). *A New History of Ireland*. Vol. VII: Ireland, 1921-84. Oxford, 2003: pp 161 – 98.

- Beaumont, Caitriona. 'Moral dilemmas and women's rights: the attitudes of the Mothers' Union and Catholic Women's League to divorce, birth control, and abortion in England, 1928-39' in *Women's History Review*, xvi no. 4 (2007): pp 463-8
- Breathnach Ciara and Eunan O'Halpin. 'Scripting blame: Irish coroners' courts and unnamed infant dead, 1916-32' in *Social History*, xxxix no.2 (2014): pp 210 – 28.
- Brennan, Karen 'Punishing infanticide in the Irish Free State', in *Irish Journal of Legal Studies*, iii no. 1 (2013): pp 1 – 35.
- Breitenbach, Esther and Valerie Wright. 'Women as Active Citizens: Glasgow and Edinburgh c. 1918 – 1939' in *Women's History Review*, xxiii no. 3 (2014): pp 401-20.
- Coleman, Marie. 'Military service pensions for veterans of the Irish Revolution, 1916-23 in *War in history*, xx no. 2 (2013): 201 – 21.
- Connolly, Eileen. 'Durability and change in state gender systems: Ireland in the 1950s', in *European Journal of Women's Studies* x no. 1 (2003): pp 65-86.
- Cullen, Mary. 'Widows in Ireland, 1830 – 1970' in Angela Bourke, Siobhán Kilfeather, Maria Luddy, Margaret MacCurtain, Gerardine Meany, Máirín Ní Dhonnchadha, Mary O'Dowd, and Clair Wills (eds). *Field Day Anthology of Irish Writing: Irish Women's Writing and Traditions*, Vol. V. Cork, 2002: pp 609 - 10.
- Clear, Caitriona. 'Women in de Valera's Ireland, 1922-48: a reappraisal' in G. Doherty & D. Keogh (eds). *De Valera's Irelands*. Cork, 2003: 104 – 13.
- Crossman, Virginia. 'Viewing women, family, and sexuality through the prism of the Irish Poor Laws' in *Women's History Review*, xv no. 4 (4 Sept. 2006): pp 541-50.
- Daly, Mary E. 'Marriage, Fertility and Married Women's Lives in Twentieth-Century Ireland (c. 1900 – c. 1970)' in *Women's History Review* vol. xv no. 4 (September 2006): pp 571 – 85.
- '. 'Wives, Mothers, and Citizens: the Treatment of Women in the 1935 Nationality and Citizenship Act' in *Éire-Ireland*, xxxviii no. 3/4 (Fall/Winter 2003): pp 244 – 63.
- Damousi, Joy. 'The state and the widow: pension debates in inter-war years Australia', in Lynne Hansey and Lisa Pollard (eds) *Families of a New World: Gender, Politics and State Development in a Global Context*. London, 2003: pp 99 – 118.

- Dunne, Eamonn. 'Action and reaction: Catholic lay organisations in Dublin in the 1920s and 1930s' in *Archivium Hibernicum*, xlviii (1994): 107 – 118.
- Earnar-Byrne, Lindsey. 'The boat to England: an analysis of the official reactions to the emigration of single expectant Irishwomen to Britain, 1922-1972' in *Irish Economic and Social History*, xxx (2003): pp 52-70.
- , "'Parading their Poverty...': Widows in Twentieth Century Ireland' in Bórbála Faragó and Moynagh Sullivan (eds.), *Facing the Other: Interdisciplinary Studies on Race, Gender and Social Justice in Ireland*. Cambridge, 2008: pp 32 – 46.
- , 'Reinforcing the family: the role of gender, morality and sexuality in Irish welfare policy, 1922-1944' *The History of the Family*, xiii (2008): pp 360 – 9.
- Finnane, Mark. 'The Carrigan Committee of 1930-1 and the "Moral Condition of the Saorstát' in *Irish Historical Studies*, xxxii no. 128 (Nov. 2001): pp 519 – 36.
- Fitzpatrick, David. 'Divorce and separation in modern Irish history' in *Past & Present* no. 114 (Feb. 1987): 172 – 96.
- Garrett, Paul Michael. 'The Abnormal Flight: the Migration and Repatriation of Irish Unmarried Mothers' in *Social History*, xxvi no. 3 (Oct. 2000): pp 330 – 43.
- Gavigon, Shelley A.M. and Dorothy E. Chunn. 'From mother's allowance to mothers need not apply: Canadian welfare law as liberal and neo-liberal reforms' in *Law and feminism* xlv no.4 (Winter 2007): pp 732 – 71.
- Holden, Katherine. 'Imaginary widows: spinsters, marriage, and the "lost generation" in Britain after the Great War' in *Journal of Family History*, xxx no. 4 (Oct. 2005) pp 388 – 409.
- Johnson, D.S. 'The Northern Ireland Economy, 1914-39' in Liam Kennedy and Philip Ollerenshaw (eds). *An economic history of Ulster*. Manchester, 1985: pp 184 – 223.
- Keating, Anthony. 'Sexual crime in the Irish Free State 1922-33: its nature, extent and reporting' in *Irish Studies Review*, xx no.2 (May 2012): pp 135 – 55.
- Lewis, Jane. 'The problem of lone-mother families in twentieth-century Britain' in *Journal of Social Welfare and Family Law*, xx no. 3 (1998): pp 251 – 83.
- Luddy, Maria. , 'Foreword' in Jennifer Redmond, Sonja Tiernan, Sandra McAvoy, and Mary McAuliffe (eds). *Sexual politics in modern Ireland*. Sallins, Co. Kildare, 2015: pp xiv – xvii.

- '. 'Moral rescue and unmarried mothers in Ireland in the 1920s' in *Women's Studies: an interdisciplinary journal*, xxx no. 6 (2001): pp 797-817.
- '. 'Unmarried mothers in Ireland, 1880 – 1973' in *Women's History Review*, xx no. 1 (2011): pp 109 – 26.
- Martin, Peter. 'Ending the pauper taint: medical benefit and welfare reform in Northern Ireland, 1921-39' in Virginia Crossman and Peter Gray (eds). *Poverty and welfare in Ireland, 1838-1948*. Dublin, 2011: pp 223 – 36.
- McCormick, Leanne. "'No sense of wrongdoing": abortion in Belfast, 1917-67' in *Journal of Social History* xlix no. 1 (2015): pp 125-48.
- McLaughlin, Eugene. 'Ireland: From Catholic Corporatism to Social Partnership' in Allan Cochrane, John Clarke, and Sharon Gewirtz (eds). *Comparing Social Policy*. 2nd edition. London, 2001: pp 224 – 56.
- Morton, Suzanne. 'Women on their own: single mothers in working-class Halifax in the 1920s' in *Acadiensis* xxi no.2 (Spring 1992): pp 90 – 107.
- Murphy, Kate. 'A marriage bar of convenience? The BBC and married women's work. 1923-39' in *Twentieth Century British History*, xxv, no. 4 (2014): 533 – 61.
- Ó Grada, Cormac. "'The Greatest Blessing of All": the Old Age Pension in Ireland' in *Past and Present*, no. 175 (May, 2002): pp 124- 61.
- O'Halpin, Eunan. 'Politics and the State, 1922-32' in F.J. Byrne, W.E. Vaughan et al (eds). *A New History of Ireland*, vii: *Ireland, 1921-84*. Oxford, 2003: pp 86 – 126.
- O'Leary, Eoin. 'The Irish National Teachers' Organisation and the marriage bar for women national teachers, 1933-58. *Saothar*, xii (1985): pp 47 – 52.
- Ollrenshaw, Phillip. 'Northern Ireland and the British Empire – Commonwealth, 1923-61', in *Irish Historical Studies*, xxxvi, no. 142 (Nov. 2008): 227 – 42.
- Pašeta, Senia. 'New Issues and Old: Women and Politics in Ireland, 1914-18' in *Women's History Review* (2016): pp 1-18.
- Redmayne, Sharon. 'The Matrimonial Causes Act 1937: A lesson in the art of compromise' in *Oxford Journal of Legal Studies* vol. xiii, no 2 (Summer 1993): 183 – 200.
- Redmond, Jennifer. "'Sinful Singleness"? Exploring the discourses on Irish single women's emigration to England, 1922-1948' in *Women's History Review*, xvii no. 3 (2008): pp 455-76.
- '. 'In the family way and away from the family: examining the evidence in Irish unmarried mothers in Britain, 1920s-40s' in Elaine Farrell (ed.), *'She*

- said she was in the family way': Pregnancy and infancy in modern Ireland.* London, 2012: pp 163-85.
- Redmond, Jennifer and Judith Harford. "'One man one job': the marriage ban and the employment of women teachers in Irish primary schools' in *Paedagogica Historica*, xxvii no. 5 (Oct. 2010): pp 639 – 54.
- Savage, Gail. 'They would if they could: class, gender, and popular representation of English divorce litigation, 1858-1908' in *Journal of Family History* xxxvi no. 2 (2011), pp 173 – 90.
- Scannell, Yvonne. 'The constitution and the role of women' in Brian Farrell (ed). *De Valera's Constitution and Ours*. Dublin, 1988: pp 123 – 36.
- Smith, Angela. 'Discourses of morality and truth in social welfare: the surveillance of British widows in the First World War' in *Social Semiotics*, xx no. 5 (Nov. 2010): 519 – 35.
- Smith, James M. 'The Politics of Sexual Knowledge: the Origins of Ireland's Containment Culture and the Carrigan Report (1931)' in *Journal of the History of Sexuality* xiii no. 2 (April, 2004): pp 208-33.
- Snell, James. 'Marital cruelty: women and the Nova Scotia divorce court, 1900-39', in *Acadiensis*, xviii no. 1 (Autumn, 1988): 3 – 32.
- Thane, Pat. 'Non-contributory versus insurance pensions, 1878-1908' in Pat Thane (ed), *The origins of British social policy*. London, 1978: pp 84 – 106.
- '. 'Unmarried motherhood in twentieth-century England' in *Women's History Review*, xx no. 1 (2011): pp 11 – 29.
- Theobald, Marjorie and Donna Dwyer. 'An episode in feminist politics: the Married women (Lecturers and Teachers) Act, 1932-47' in *Labour history*, lxxvi (May 1999): 59 – 77.
- Urquhart, Diane. 'Ireland and the Divorce and Matrimonial Causes Act of 1857', in *Journal of Family History*, xxxviii no. 3 (2013): 301 – 20.
- '. 'Irish divorce and domestic violence, 1857-1922' in *Women's History Review*, xxii no. 5 (2013): pp 820-37.
- Valiulis, Maryann. 'Virtuous Mothers and Dutiful Wives: The Politics of Sexuality in the Irish Free State' in Maryann G. Valiulis (ed), *Gender and Power in Irish History*. Dublin, 2009: pp 100-14.
- Walker, Graham. 'Scotland, Northern Ireland, and devolution, 1945-1979' in *Journal of British Studies* xlix no. 1 (Jan 2010): pp 117 – 142.

-----'. 'Scotland and Northern Ireland: constitutional questions, connections and possibilities' in *Government and opposition*, xxxiii no. 1 (Winter 1998): pp 21 – 37.

-----'. 'The Ulster Covenant and the pulse of Protestant Ulster' in *National Identities*, xviii no. 3 (2016): pp 313-25.

Wright, Valerie. 'Education for active citizenship: women's organisations in interwar Scotland' in *History of Education*, xxxviii no. 3 (May 2009): pp 419 – 36.

UNPUBLISHED THESES

Connolly, Eileen. 'The State, Public Policy, and Gender: Ireland in Transition, 1957-1977'. PhD Thesis, Dublin City University Business School, 1998.

Davison, William Eoin. 'A Critical Analysis of the Decisions of the General Assembly of the Presbyterian Church in Ireland on Social Issues, 1921-70'. PhD thesis, Queen's University Belfast, 1978.

Graham, Ann-Marie. 'Unmarried mothers: the legislative context in Ireland, 1921-79'. M. Litt thesis, National University of Ireland, Maynooth, 2012.

Kelly, Adrian. 'Social security in independent Ireland, 1922-52'. PhD thesis, NUI Maynooth, 2012.

Magill, Patrick Francis. 'The Senate in Northern Ireland, 1921-62'. PhD Thesis, Queen's University, Belfast, 1965.

Ní Chearbhaill, Máire Brighid. 'The Society of St Vincent de Paul in Dublin, 1926-1975'. PhD thesis, National University of Ireland, Maynooth, 2000.

ELECTRONIC RESOURCES

Boothroyd, David (ed.). 'Biographies of the Members of the Northern Ireland House of Commons'.
(<http://www.election.demon.co.uk/stormont/biographies.html>).

Cannadine, Sir David (general ed.) *Oxford Dictionary of National Biography*.
(<http://www.oxforddnb.com>).

Crowe, Catriona, Ronan Fanning, Michael Kennedy, Dermot Keogh, Eunan O'Halpin, and Kate O'Malley (eds). *Documents on Irish Foreign Policy*.
(<http://www.difp.ie>).

Dáil Éireann members' directory. Houses of the Oireachtas.
(<http://www.oireachtas.ie/members-hist/default.asp?housetype=0>).

McGuire, James, James Quinn, Aidan Clarke, Ronan Fanning, K. Theodore Hoppen, and Maureen Murphy (eds). *Dictionary of Irish Biography*. (<http://dib.cambridge.org>).

Mulholland, Mark and Senia Pešeta (eds). Northern Ireland: A Divided Community, 1921-1972 Cabinet Papers of the Stormont Administration, 1921 – 72. Gale Group. *Archives Unbound*. (<http://gdc.gale.com/archivesunbound/archives-unbound-northern-ireland-a-divided-community-1921-1972/>).

Office of the Attorney General. Irish Statute Book.
(<http://www.irishstatutebook.ie/>).

Seanad Éireann members' directory. Houses of the Oireachtas.
(<http://www.oireachtas.ie/members-hist/default.asp?housetype=1>).

Who's who and who was who. Oxford University Press. Online edition.
(<http://www.ukwhoswho.com/>)