

‘I don’t care what it is going to cost, I am prepared to pay’

MEN’S VOICES AND ABORTION IN NEW ZEALAND, 1919–1937¹



HISTORIES OF ILLEGAL ABORTION in New Zealand have been firmly embedded in the broad field of women’s history. Historians have explored the practice with an emphasis on uncovering women’s experience,² and have discussed abortion in the context of women’s political history,³ their medical history,⁴ the history of discourses about women’s demands for birth control and the history of New Zealand’s family planning movement.⁵ New Zealand historians working in other fields appear to have accepted that abortion history is women’s history. Jock Phillips’s work on representations of Pākehā masculinity discussed men’s role in family-building and their pride in the achievement of live births, especially sons, but presented illegal abortion as the resort of women facing ‘penury and overwork’.⁶ Likewise, James Belich emphasised women’s attitudes as the driver of the late nineteenth and early twentieth century’s falling birth rates and declining family sizes, describing these trends as the result of a ‘Great Mothers’ Mutiny’.⁷ There are some notable exceptions, however, such as Ian Pool, Arunachalam Dharmalingam and Janet Sceats’s careful description of falling birth rates as the result of couples’ joint endeavour and agency rather than the sole agency of women.⁸ Caroline Daley has taken historians to task over our unreflective and unimaginative use of sources, challenging us to ask new questions of our material and look past the grim representations of sexual danger and disaster for women in the archives to reveal the other unaided perspectives.⁹ In this article I aim to take up Daley’s challenge by uncovering the voices of white New Zealand (Pākehā) men who admitted involvement in the procurement of abortions between 1919 and 1937 and by discussing how their stories contribute to our understanding of men’s representations of masculine responses to pregnancy in the past.¹⁰

Discussion of men’s involvement in abortion is fairly limited in the New Zealand historiography. It is acknowledged that some abortionists were male.¹¹ Likewise men’s involvement in abortion might be inferred by the emphasis in the historiography on concerns about the prevalence of the practice among married women.¹² Barbara Brookes described one man’s involvement in his wife’s death from an overdose of quinine, and the same story is also briefly recounted in Sandra Coney’s *Standing in the Sunshine*.¹³ In another article exploring mothers’ role as the ‘household experts’ on health and hygiene, Brookes presented the story from the Caversham Project of a man’s involvement in abortion as recounted by a female participant.¹⁴ However, these descriptions are limited to one or two sentences at most; there is relatively little explicit

examination of men's support for abortion. My own work on abortion has been similarly focused on women, exploring men's roles in procuring abortions through the lens of aborting women's intimate and familial relationships.¹⁵ While men's roles in procuring abortions have not been completely ignored by historians, we have not offered any significant analysis of how men's engagement with abortion might add to our understanding of masculine responses to pregnancy.

The sources for this article are men's testimonies held in the archives of criminal court trials and coroners' inquests or reports of these proceedings recounted in the press. These sources require careful analysis sensitive to their limitations. The first part of this article describes the processes constructing legal archives, focusing on the forces shaping the production of men's testimonies. I then explore the variety of roles men admitted playing in the procurement of abortions. Finally, I examine how these testimonies and their context might extend our understanding of the masculine values reflected in men's representations of their responses to pregnancy.

The Crimes Act 1908 criminalised induced abortions performed for reasons other than the preservation of the life of the pregnant woman.¹⁶ Legal sources provide a wealth of information about the abortion practices of the era. This article is drawn from my examination of 94 criminal court trials and 71 coroners' inquests undertaken as research for my doctoral thesis. The 94 court cases heard evidence regarding 109 attempts at abortion and represent just under half of the 193 criminal court cases reported in the *Appendices to the Journals of the House of Representatives* between 1919 and 1937. I sourced these cases by reading the court and local news sections of the major regional daily newspapers such as the *New Zealand Herald*, *Dominion*, *Press* and *Otago Daily Times* across selected time periods and by reading all the weekly tabloid editions of *New Zealand Truth* for the years 1919 to 1937 inclusive.¹⁷ After applying to Archives New Zealand for permission I was able to view the case files for 30 criminal court trials and have used newspaper transcripts and summaries for the remainder.¹⁸ I identified the 71 inquests by searching the 'Cause of Death' column in the Inquest Register Indexes held at Archives New Zealand, Wellington. There are no restrictions on access to inquest files which are over 50 years old, so I was able to view all the files identified. While there is no information available about exactly how many abortion-related inquests were conducted during this time, the inquests examined probably represent a large proportion of those where the coroners' findings related to pregnancy loss and/or illegal abortion.

The trial or inquest file and its reporting in the press represents the final 'hearing' of some of the evidence found by police enquiries. Archival files do not, however, provide an accurate reflection of the events or the protagonists that these investigations sought to uncover. The rules governing the collection of evidence, the construction of personal testimonies and the conduct of legal proceedings limited the contribution that investigations made to the final contents of archival court and inquest records. In short, a significant amount of information was excluded. In order to understand what conclusions we can and

cannot draw from the men's testimonies in these files, we must first understand how they were constructed.

Illegal abortions were difficult to detect, investigate and bring to trial or inquest. Few abortion attempts came to the attention of the authorities despite newspapers, journals and concerned officials describing the practice as widespread and highly prevalent. Of those complaints that the police investigated fully, fewer than half resulted in a conviction.¹⁹ More importantly, people whom the police believed might have witnessed abortions had the right under common law to refuse to give self-incriminating evidence or, if married, evidence incriminating their spouse.²⁰ These privileges placed powerful limits on the police's abilities to extract testimony from witnesses in support of investigations. Nor could people be compelled to incriminate themselves by the courts or at inquests. Trials and inquests were not inevitable consequences of investigations. Many investigations fell by the wayside because the police could find insufficient evidence to back up the original complaint.²¹

Where there was evidence of an illegal abortion, the police collected it and passed their files on to the Crown Prosecutor. If charges were laid against one or more individuals a hearing in the Magistrate's Court determined whether the prosecution had sufficient evidence for a Supreme Court trial to proceed. Evidence included items,²² statements to police²³ and testimony from witnesses. Each piece of evidence had to pass a test to be admissible; tangible items and statements had to have been collected legally.²⁴ Witnesses could only testify to what they saw or heard directly; no hearsay evidence was admissible. Testimonies were not witnesses' entire understanding of the events in question, but rather were answers to specific questions put by prosecutors and defence counsels. Finally, in order for charges to proceed to a trial there was an expectation that the prosecution would corroborate some or all of the evidence with other evidence.²⁵

At criminal court trials the need to provide first-hand testimony and corroborated evidence created opportunities for people to testify about their support for abortions, thereby contributing to the historical record of such practices. The law criminalised all parties to the abortion, including pregnant and post-abortion women, their supporters and abortionists, meaning that the primary witnesses to the crime were also accomplices. In the absence of corroborated evidence of abortion, the prosecution offered immunity to accomplices in return for them giving evidence against other parties to the crime. As Richmond Fell, the Nelson Crown Prosecutor, stated in a letter to the Minister of Justice in 1919, a free pardon and official promise of immunity from future prosecutions were the price the Crown had to pay to obtain witness testimony without which 'no charge could succeed'.²⁶ In most of the trials examined here, the prosecution negotiated with women and their supporters, including their male partners, to give evidence against those accused of performing abortions.²⁷

The change in status from accomplice to witness meant that trial records sometimes held information from men about how they helped secure abortions. These statements must be treated with caution because they were profoundly shaped by the rules governing delivery of testimony.²⁸ Prosecutors' questions

directed men to narrate their stories in ways that positioned them as witnesses and corroborated other evidence presented to the court. The questions focused men's statements on tangible evidence of their involvement in abortions, such as the amount and timing of payments, descriptions of the abortionists' homes and offices, and details of their role accompanying women to or from visits with the alleged abortionists.²⁹ For example, the prosecutor questioned one witness at length about the day, time and location of a telephone call he had made to the accused abortionist. This testimony was intended to corroborate information received from Post Office staff that the man had used their services to place a call to the home phone number of the accused.³⁰ The prosecutors' focus on retrieving evidence against the accused meant that men were rarely asked questions that were not relevant to the goal of securing a conviction. In practice this meant that testimonies often focused on apparently minor details like the phone call mentioned above, or the denomination of bank notes used in the transaction, but that they might be completely devoid of meaningful information about a couple's relationship other than the witness's belief that he was probably or possibly responsible for the pregnancy.³¹

That these men testified under a degree of duress cannot be ignored either. Accomplices faced potential punishment if they chose to withhold their testimony. As one young man stated in 1923, 'if I didn't give a statement I'd be worse off'.³² Defence counsels played on this fact in their questioning of accomplice-witnesses, querying whether the police had placed the witness under undue pressure to give a statement and highlighting the benefits of compliance for the witness.³³ These defence questions were intended to support the acquittal of the accused. We should not assume, however, that accomplice-witnesses felt threatened by these questions as they also offered witnesses the opportunity to resist the role imposed upon them by their deal with the Crown.³⁴ These factors add another layer of complexity for historians using witness testimonies as sources for the history of abortion because they make these sources only partially useful recordings of men's actual roles and further diminish their usefulness in the broader project of uncovering abortion practices within the population.

Similar legal rules structured coroners' inquests, although these were less limiting in terms of admissibility of evidence. At an inquest, the coroner heard the evidence for the purpose of determining if the death in question resulted from natural causes or illegal activity. No person was charged with having acted illegally so there were often no defence lawyers present and legal arguments were uncommon. However, charges might be laid as a result of the coroner's verdict, and in some cases persons of interest to the inquest had their legal representatives present at the hearing.³⁵ Evidence still had to pass legal tests to be ruled admissible. Witnesses to inquests had the same privileges against self- or spousal-incrimination as those at trials.³⁶ But unlike trials, an inquest could still proceed even if the key witnesses invoked their right not to testify. This meant that sometimes the evidence at inquests provided a wealth of information about the final hours of the deceased's life and her relationships, and explored the concerns of those who reported the matter to the police, but offered little evidence showing that an illegal abortion had actually taken place.³⁷

The final structure and contents of court and inquest files was limited to admissible evidence. Inadmissible evidence did not generally appear in the archives unless its admissibility had been debated in court or unless details of police investigations were published in the press beforehand.³⁸ Consequently, archived court and inquest records are not an accurate reflection of events as they unfolded in the past but rather are a collection of pieces of the bigger picture, told in different ways by a number of narrators and isolated by the selective processes of police investigations and legal rules. At inquests evidence presented often appeared as disjointed scraps. But in the courtroom these pieces were then combined within the opposing arguments of prosecutors and defence counsels.

The rules on which evidence could be heard at legal forums limit historians' ability to analyse trends revealed by these records. In the sample this article is drawn from, the courts heard evidence that revealed male involvement in efforts to procure abortions at 46 of the 94 court cases (49%). The inquest records revealed less male participation, only 26 inquests (37%). However, we cannot conclude that no mention of men's involvement at particular criminal court trials or inquests meant that no man had actually been involved. Rather, it suggests that evidence of men's involvement was either unavailable or inadmissible to these forums for reasons that are not made clear by the files but that might or might not include a lack of male involvement. Therefore, historians cannot make judgements as to the extent of men's involvement in procuring abortions across the population based solely upon the percentages of their involvement revealed in legal archives.

Likewise, other demographic trends shown by abortion trials and inquests did not necessarily reflect population norms. The marital status of the women undergoing the abortions illustrates the complexity of the data and the need to contextualise it within an overarching understanding of the legal processes which produced it. The majority of the criminal court trials and coroners' inquests examined here revealed accusations of abortion attempts on single women. The trial files related to 88 single women (81%) compared to just 21 married women (19%), although charges were not necessarily laid for each of these women's attempted abortions.³⁹ The predominance of unmarried women among those whose abortions were discussed at trials suggests that the authorities viewed loss of illegitimate pregnancy as highly suspicious and were likely to investigate concerns about such events. In addition, my own research suggests that young and inexperienced women and men used social networks to gain access to abortion, meaning that their enquiries left trails of evidence that might later be uncovered by police and used to support criminal charges.⁴⁰

In the inquest files, single women's abortions still dominated but the split was less pronounced, with 41 inquests into the deaths of single women (58%) compared to 30 married women's deaths (42%). Inquests' tendency to enquire into a higher proportion of married women's deaths than trials possibly reflected the fact that inquests were less hampered by common law privileges. A husband could claim the right to silence if his testimony would incriminate himself or his wife in court, and in the absence of his evidence a trial might not proceed. In contrast, an inquest could still proceed without the husband's

testimony because no charges were laid against any individual.⁴¹

The men and women involved in these trials and inquests were all of British descent, either the offspring of settlers who had migrated to New Zealand from Britain or her colonies, or themselves migrants from these locales. During the course of my research I found only one inquest that explored an abortion performed on a woman of Māori descent. Her boyfriend was also of Māori descent.⁴² This inquest has been excluded from the data for this article as it is inappropriate to generalise about Māori and abortion based on one case study found within a context dominated by Pākehā cultures of abortion.

Nonetheless, the absence of Māori from the source data requires some explanation. The majority of these trials and inquests examined abortions which were believed to have taken place in urban centres, although in some cases rural women were found to have travelled to cities or larger towns to have abortions.⁴³ Widespread Māori migration to urban areas did not occur until after World War II, possibly indicating restricted access to abortion between the two world wars. Perhaps more important was the apparent dearth of interest in abortion among Māori. Pool et al argue that during the early-twentieth century Māori women experienced almost universal early marriage and made little effort to restrict fecundity.⁴⁴ Finally, as historians have documented, there was a climate of anxiety about the falling birth rates among Pākehā New Zealanders, prompting many to see illegal abortion as a pressing social problem and raising the possibility that pregnancy loss among white women was more likely to be monitored and considered suspicious by the authorities and therefore more likely to be investigated.⁴⁵

The contradictory nature of court records, which simultaneously reveal and obscure important information about gender relations, sexual cultures and illegal behaviour, limits the usefulness of these records for exploring the bigger picture.⁴⁶ Men's testimonies were but a small part of the larger project of trials and inquests, where multiple aspects of the abortion event were presented by different witnesses. Testimony was tendered in response to questions determined by the prosecution and legal counsel attempting to persuade juries and coroners to accept particular versions of abortion events. In order to accommodate these limitations, some historians suggest we must settle for uncovering a somewhat smaller picture than that which the original legal forum had set out to explore. On the other hand, Chris Brickell's history of men's homosexual experience and behaviour shows that men's courtroom testimonies can provide historians with material to chart the changing landscape of male sexuality in history.⁴⁷ Brickell uses court testimonies as 'a way into the categories, language and conventions of their time', which were reflected in men's narratives regardless of the ways these were elicited.⁴⁸ Stephen Robertson, a historian of United States sexual crimes, argues that legal sources are less useful for understanding intimate relationships and behaviour than they are for revealing the engagement between individuals, the law and society.⁴⁹ Robertson's view is pertinent for men's testimonies to abortion trials and inquests. Despite the fact that these forums usually enquired into events impinging on the female body, the men who gave evidence were speaking to other men. At these proceedings, men dominated the official positions as

police, coroners, judges, prosecution and defence lawyers, and jury members.⁵⁰ Legal sources provide an ideal entry point into exploring men's cultures and values regarding their efforts to control fertility within intimate relationships.

Men's testimonies demonstrated enormous variation in the extent to which male witnesses admitted assisting their partners to terminate pregnancies. Some men described extensive involvement in most aspects of the practice. Manawatu farmer Mervyn Wright⁵¹ told the court in 1928 that he had travelled to Wellington to see Dr Harrison to make the necessary arrangements for Harrison to perform an abortion on his girlfriend and had paid the £50 fee.⁵² James Howard told the court in 1937 that when pregnancy had twice resulted from a secret relationship with his young girlfriend he had contacted an abortionist to make arrangements. He had then travelled with his girlfriend, Anna, from the West Coast to Christchurch and paid for the service.⁵³ Married men's testimonies revealed that they too might be active participants in their wives' abortions. In 1935, cabinetmaker Glenn Bishop told the court that he had visited Christchurch abortionist Rebecca Stevens to discuss his wife's pregnancy and negotiate a price for an abortion.⁵⁴ Two years later unemployed cook Albert Henry described to the court how he had contacted the local jeweller, Lewis Dayton, to perform an abortion on his wife, Maud. Albert testified that Dayton had given him a catheter with instructions on how to sterilise it and that Albert had prepared the instrument each of the four times that Dayton visited the family home.⁵⁵ These men described considerable involvement in the engagement of an abortionist's services.

Men also described supporting women's own attempts to abort pregnancies. In 1935 a haberdasher named Donald Cowperthwaite approached police after the death of his girlfriend Agnes, telling them he had helped her pass a syringe into her uterus for the purpose of bringing back her periods.⁵⁶ Men might also acquire goods that were later used in abortion attempts. In 1929, Matthew Morris, a bricklayer, told police that after his lover Annie suspected she was pregnant, he had purchased a catheter.⁵⁷ In 1935, Arthur Teed, a farmer, admitted to police that he had bought a quantity of quinine, which his wife drank with brandy to induce an abortion.⁵⁸ The same year relief worker Jim Frazer told police he had bought an enema syringe from the chemist for his wife to use to attempt an abortion.⁵⁹ These men described supporting their wives' and girlfriends' efforts to end pregnancies, and, in the case of the latter three, presented themselves as acting as the women's agents in purchasing the necessary materials.

Testimonies revealed that men's support was often the first step in a long process. After admitting their role in the practical arrangements, many men went on to explain how they continued to help and support their wives or lovers through the abortion's aftermath. During the interwar period, most induced abortions stimulated women's bodies to expel the products of conception and 'bring on' a miscarriage or menstruation. The process might take days or weeks to complete, and could result in a woman becoming extremely ill.⁶⁰ Matthew described to the coroners' inquest how he had sat through the night nursing Annie as she became increasingly unwell. He told of how he overrode her wishes and called in a doctor when it became clear to him that her illness

was serious.⁶¹ Albert and Jim both nursed their wives through the sudden onset of abortion-related illnesses, testifying to the dismay of watching their wives suddenly become seriously incapacitated, the desperate search for help which ensued and the horror of the women's deaths.⁶²

We simply cannot know the extent to which men's testimonies about procuring and assisting women's abortions were true reflections of the dynamics of their relationships with those women. Nor can we uncover from their testimonies whether men's actions had been motivated by altruism or selfishness, although one could argue that their decisions to testify as witnesses evidenced a degree of self-interest. Other sources are needed to examine these aspects of abortion attempts. Nonetheless we can examine what men's testimonies might say about the public values dictating men's responses to pregnancies. As Brickell has argued of court testimonies, witnesses 'reinvent themselves to suit the needs of the moment', and the way in which the process of reinvention operated can be revealing.⁶³ Within the parameters defined by prosecutors' and defence lawyers' questions men constructed their own testimonies in ways which were intended to influence multiple audiences, including not just the courts, but also friends, family and the press. Men testifying to their involvement in abortions presented themselves in ways that shone the best possible light on their motives, partly because of their legal situation, but also because of their community reputation. Historians can use court and inquest records to uncover the values with which these men attempted to align their narratives.

Histories of the masculine values associated with intimate relationships in New Zealand are as sparse as those revealing men's roles in procuring abortions. The most notable publication on masculinity and sexuality during the interwar period is Jock Phillips's *A Man's Country?* Phillips presents late-nineteenth and early-twentieth-century New Zealand masculinity as primarily driven by homosociality or mateship, which he sees as competing with rather than complementing men's roles in family life.⁶⁴ Such competition was not commonly manifested in the criminal court testimony. Mateship was expressed in male support networks when men searching for information about abortion asked for and received advice from male friends, relatives and workmates.⁶⁵ The court testimony provides little evidence of conflict between mateship and family values. Deborah Montgomerie has argued that, according to the prevailing norms of mid-twentieth-century New Zealand, 'being a good bloke was as much about being a good son, husband and father as being a good mate'.⁶⁶ It is this aspect that was more commonly shown in men's testimonies. The conflict may very well have existed, but the social context in which testimony was being proffered did not support its articulation. In one unusual 1935 example Bill Cooper admitted to balking at an abortionist's high asking fee. The criticism he received illustrates the constraints on men's testimonies. Cooper, a farmhand, told the court that he had refused to pay the fee of the abortionist to whom he had been introduced. He testified to having told men at the local pub that despite having sufficient money in his possession he wanted to find the 'cheapest place'. The judge clearly bristled at Bill's behaviour. At the end of the trial Mr Justice Reed declared him 'a thorough-faced rotter, not only because he got a girl into trouble, but because he boasted about it everywhere'.⁶⁷

Although comments such as Mr Justice Reed's were relatively rare, where male authorities at criminal court trials and coroners' inquests passed judgement on the men who helped their partners obtain abortions, their statements provide some clues about the standards by which men judged the morality of other men's behaviour in cases of unwanted pregnancy. The comments of one other judge stand out. When Terry Vincent stood before the court for sentencing in relation to his part in the abortion attempt that claimed the life of his girlfriend Rose in 1923, Mr Justice Salmond reprimanded him saying: 'Yours is a very serious offence. You made love to a girl, seduced her and got her into trouble, and instead of taking her to a clergyman, like an honourable man, you took her to an abortionist, and now she lies in a dishonoured grave in consequence of your action.'⁶⁸ Justice Salmond's criticism of Terry's behaviour implied an alternative course of action based on the acceptance of responsibility and respect for propriety; Terry should have done his duty and proposed marriage.

Similar values were also evident in men's testimonies. Men who testified before the courts often presented their actions as an exercise of responsibility, albeit in very different ways from that which Mr Justice Salmond suggested. In 1920 Colin Brown testified at the inquest into May Pickles's death and at the criminal court trial of her abortionist. May, a former lover of Colin's, and her father had visited Colin at his home in Oamaru. During the visit they informed him of May's condition and requested he finance May's visit to an abortionist. Colin described meeting May at the train station in Dunedin and going with her to Helen Green's home. He paid £20 to Green, then, he said, left May in Green's care having received an assurance that all would be well.⁶⁹ Another young Oamaru man recounted a similar experience in 1928, also at both an inquest and a trial. John Campbell told of receiving a visit from 18-year-old Jean Souther and her friend Mrs Thomas, during which they discussed Jean's condition. He stated that he had handed over £24 to Thomas to fund Jean's trip to Dunedin to terminate the pregnancy, although in this case Jean's friend accompanied her to the abortionist rather than the putative father of her child.⁷⁰

Colin and John intimated to the courts that while they had had sexual relations with the women concerned the respective relationships had never really developed into courtships. Both young men openly admitted that their participation in the abortions was the result of social pressure to do the right thing by the women. They differed on how they presented this responsibility, however. Colin presented himself as having accepted responsibility for May's pregnancy, telling the court that he had said to Green, 'I don't care what it is going to cost, I am prepared to pay'.⁷¹ His statement stressed that he saw it as his duty to provide May with a remedy for her predicament. John was not quite as chivalrous, suggesting that, 'Maybe [Jean] had asked others first'. The court was left to draw out the implication: perhaps he was not the only man with whom Jean had been intimate, just the only one willing to help her.⁷² Yet despite his implicit questioning of the paternity of Jean's pregnancy, John's narrative echoed Colin's by presenting his actions as an expected response to the possibility that his previous sexual encounters with Jean had caused the pregnancy.

Other young men alluded to marriage as the ideal response to illegitimate

pregnancy and described their actions as governed by their inability to marry. James Howard presented his role in obtaining two abortions for his lover Anna as part of a strategy leading to marriage. Anna's parents did not wish the couple to marry. Terminating the pregnancies allowed the couple to continue their association until Anna was old enough to marry without her parents' consent. Donald Cowperthwaite told the police that he had helped his girlfriend Agnes attempt abortion because he was not yet divorced from his wife.⁷³ Divorce required separation by agreement for at least three years, and legislative changes in 1922 meant that the court could refuse a decree if the respondent could prove the petitioner had caused the separation by 'wrongful conduct'.⁷⁴ Although the circumstances outlined in each of these testimonies differed, these young men contextualised abortion as an attempt to take responsibility for pregnancy when marriage was not an option.

Married men who supported their wives to obtain abortions attracted little comment from the judiciary. Because husbands could invoke the privilege against spousal incrimination, married men were less likely to be required by the legal process to discuss what motivated their support for their wives' abortions. In 1930 George Burgess married his girlfriend of three years as she lay dying in hospital as a result of the abortion he had arranged for her.⁷⁵ The marriage meant that the dying woman's testimony could not be used to support charges against him, and when George gave evidence in court against the alleged abortionist the judge allowed him to avoid answering difficult questions about why he had chosen abortion over marriage in the first place.⁷⁶ Some men may have used their status as family men to mitigate the consequences of their actions. In 1926, Robert Hall pleaded guilty to a charge of having paid an abortionist to perform an abortion on his young lover. Prior to sentencing, Robert's lawyer made a statement to the court that Robert's estranged wife and two children had returned home to support him, and he in turn had resumed his role as husband and father.⁷⁷

The testimony of some married men suggests varying degrees of mutuality in decision-making about abortion. Glenn Bishop told the court in 1935 that his wife visited the abortionist after he had made the arrangements because 'we did not want any arrival at that time'.⁷⁸ Others indicated that they knew of their wives' dissatisfaction with regard to pregnancy but had not actively assisted in attempting to end it. In 1931, Brian Fogarty claimed that when his wife, Alice, had told him she intended using a syringe to attempt to bring on a miscarriage, he had replied that it was a waste of time and she should 'let nature take its course'.⁷⁹ Other husbands presented themselves as having deferred to their wives' authority to make such decisions. Alfred Martin told the inquest into his wife Janice's death in 1930 that they had discussed her having an abortion because 'she thought four children was enough'. He described how he had supported Janice as she miscarried, called a taxi to take her to the hospital afterwards and destroyed the remains from her miscarriage.⁸⁰ These men depicted themselves as their wives' confidants but not as their equals in the decision to proceed with an abortion. A husband might disagree with his wife about whether to proceed with a pregnancy but nonetheless defer to her wishes on the matter.

Few men admitted using their position as heads of families to claim patriarchal authority over women's bodies by forcing them to have abortions. Those who did testify in ways that suggested overly controlling behaviour or an absence of emotional connection with the woman whose death was being investigated attracted very negative criticism. In 1929 widower Vernon Henderson testified at the inquest into the death of his 15-year-old step-daughter Eileen. He said he had decided to send seven months' pregnant Eileen away to another city rather than make a complaint of statutory rape to the police 'for fear the family name would be disgraced'. Eileen later died in hospital having gone into premature labour on the journey, and Vernon told the coroner that he had not enquired about what had happened to her. The coroner took offence at Vernon's claims of ignorance, stating in his closing address that 'it is a long time since I have heard evidence of such absolute callousness and neglect'.⁸¹ This is a notable exception, however. Most of the men's testimonies made no claim to authority over women's bodies and few expressed the same degree of disinterest in women's welfare.

Men were more likely to show a desire to be seen as good fathers. According to Albert Henry, he and his wife Maud decided to abort because he lacked regular employment. Her death, he claimed, galvanised him to better provide for the needs of their two small children.⁸² Even though he was granted immunity from prosecution, Albert's testimony may well have brought unwelcome interest in his ability to continue parenting his two children from the state or his in-laws. Certainly, it seemed from Maud's parents' testimony that they had been shocked to learn of the abortion attempt.⁸³ Albert's emphasis on his rejuvenated employment prospects suggests that he may have felt his role as a father was under threat, given that his failure as a breadwinner had ultimately led to Maud's death. Other men found themselves under direct attack from in-laws. In 1927, at the inquest into his wife's death, Andrew Parsons denied accusations levelled by his mother-in-law that he had neglected his wife Marilyn by going out with other women, causing her to take her own life. Marilyn had died from an overdose of Dr Bonjean's Pills, a proprietary remedy containing ergot popularly used as an abortifacient. The allegation of spousal neglect drew questions from the coroner about Andrew's support for his young child, to which Andrew replied he had made arrangements with his own mother to care for the infant while he was at work during the day.⁸⁴

While Albert, Andrew, Robert and George's apparent motivations for claiming to be active and interested family men differed enormously, their testimonies suggest that they all believed it was important to confirm their commitment to family life. In particular, the young widowers Albert and Andrew argued that they were committed to being good fathers and were keen to show the court that they were willing and able to provide for their children's needs. George and Robert were perhaps more calculating, mobilising their positions as family men in an attempt to avoid the full consequences of their actions. But even so, they were not penalised as harshly for their apparent self-interest as Vernon, whose testimony lacked any evidence of a commitment to parenting his step-daughter.

At times men's interests clearly coincided with the interests of their wives,

as evidenced by the testimonies of those defending their deceased wives from allegations of adultery. In 1926 travelling salesman Michael Dawson gave evidence at the trial of Edith Newcombe, who was appearing on charges of having performed an abortion on Dawson's wife, Edna. Edna had given a deposition before her death stating that while Michael was away on business a family friend, David, drove her to Edith's home, where the abortion took place. The defence used this fact to raise questions about the legitimacy of Edna's pregnancy, calling into question her honesty. Michael was adamant that it was perfectly normal for Edna to rely on David for transport, stating that she regularly did so even when he was at home — defending her honour and the legitimacy of her pregnancy and deathbed statement in the process.⁸⁵ Similarly, in 1929 questions were raised at the inquest into Maureen Davies's death about the paternity of her pregnancy. Her husband, Arnold, denied they were separated, although he admitted that for many months he had been living apart from the family in another town. Arnold was adamant that the separation was only temporary while he arranged a new home for the family, telling the coroner that Maureen had conceived during an earlier visit with him.⁸⁶ These men gave testimonies negating allegations that their wives' pregnancies may have been illegitimate, possibly protecting themselves from the humiliation of the women's adultery becoming public, but also defending their wives' reputations.

Criminal court trials and coroners' inquests offer historians opportunities to examine in detail the practice of illegal abortion and highlight its terrible risks. Yet, these forums examined a larger picture than simply the impact of abortion on women's lives and reputations. They also identified the individuals who offered support for abortions and where possible co-opted these people to their purposes. In doing so, opportunities were created for men to disclose how they had helped procure abortions. Reading these testimonies as evidence of male cultures suggests that male support for abortions was neither unusual nor limited to few or very specific roles. Rather they are suggestive of a broader male culture of help-seeking and supportive behaviour around abortions both within and outside marriage. These findings concur with the findings in recent British historiography that position men as active participants in decision-making about abortion and fertility control during the interwar period.⁸⁷ It seems that Pākehā men brought these traditions with them to New Zealand and continued to observe them.

The way men told their stories of involvement with abortions revealed much about their perceptions of the values associated with being a lover, husband or father. Men frequently positioned themselves as providers of financial and emotional support to women. Undertaking the role of provider meant single men described their actions as taking responsibility for the consequences of their sexual encounters, while also acknowledging that marriage would have been the ideal option. Marriage did not absolve men of responsibility to their wives. Instead married men presented themselves as understanding of their wives' needs, situating their own behaviour somewhere on a continuum from mutual decision-making, through deferral to their wife's wishes, to lacking the will or authority to stop her abortion attempts. The testimonies examined

here suggest that male cultures of the day valued men who respected the needs of their wives or lovers and who responded with financial and emotional support. Likewise, in the case of widowers, these cultures valued men who demonstrated a continued commitment to providing for their children.

Emma Jones's study of English men's involvement in abortions uncovered a range of masculine responses to pregnancy, some mirroring the supportive male personae described here, but others revealing a less positive side to men's behaviour.⁸⁸ This study has found that New Zealand male witnesses to the courts and coroners' inquests rarely claimed patriarchal authority over women's bodies, or admitted to behaving like thorough-faced rotters in order to avoid their responsibilities. Judges' criticisms of those who did make such claims suggest that men frowned upon these behaviours. The testimonies examined here suggest that few men were willing to expose themselves to such criticisms. But the paucity of negative examples of male behaviour is likely to be the product of the sources used rather than a reflection of the range of male behaviour. Court and inquest records lend themselves to 'see[ing] how people negotiate aspects of their lives as they account for themselves to authority',⁸⁹ bringing us closer to understanding the values attributed to good men in their roles as lovers, husbands and fathers during the interwar period. However, the reality behind testimonies remains obscured by the processes constructing legal sources, rendering these sources problematic for broadening our understanding of the dynamics of these particular men's intimate relationships. These sources' opacity also hampers exploration of the range of masculine responses to pregnancies beyond the supportive caring male personae evidenced in most of the testimonies described here. Other sources must be explored to give a fuller picture of men's responses to pregnancy that might well reveal a darker side, one that better illuminates examples of men's failure to support pregnant women.

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NOTES

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2 Andrée Lévesque, 'Grandmother Took Ergot: An Historical Perspective on Abortion in New Zealand (1897–1937) Part 2: The Women', *Broadsheet*, 44, November 1976, pp.26–31; Eve Ebbett, *Victoria's Daughters: New Zealand Women of the Thirties*, Wellington, 1981, pp.118–21; Barbara Brookes, 'Reproductive Rights: The Debate over Abortion and Birth Control in the 1930s', in Barbara Brookes, Charlotte Macdonald and Margaret Tennant, eds, *Women in History: Essays on European Women in New Zealand*, Wellington, 1986, pp.119–36; Sandra Coney, *Standing in the Sunshine: A History of New Zealand Women Since They Won the Vote*, Auckland, 1993, p.74; Margaret Sparrow, *Abortion Then & Now: New Zealand Abortion Stories from 1940 to 1980*, Wellington, 2010; Joanne Richdale, 'Lifting the Veil of Silence: Personal Abortion Narratives in New Zealand, 1919–1937', PhD thesis, The University of Auckland, 2010, chs. 2, 3.

3 Coney, pp.72–74; Helen Smyth, *Rocking the Cradle: Contraception, Sex and Politics in New Zealand*, Wellington, 2000, chs 2, 4; Sparrow.

4 Lévesque, 'Grandmother Took Ergot: An Historical Perspective on Abortion in New Zealand (1897–1937) Part 1: The Abortionists', *Broadsheet*, 43, October 1976, pp.18–22; Philippa Mein Smith, *Maternity in Dispute: New Zealand 1920–1939*, Wellington, 1986, ch.7; Barbara Brookes, 'Hygiene, Health, and Bodily Knowledge, 1880–1940: A New Zealand Case Study', *Journal of Family History*, 28, 2, 2003, pp.306–307.

5 Lévesque, 'Grandmother Took Ergot: Part 2'; Brookes, 'Reproductive Rights'; Coney, pp.73–75; Smyth, chs. 2, 4.

6 Jock Phillips, *A Man's Country?: The Image of the Pakeha Male, A History*, revised edition, Auckland, 1996, pp.236–38.

7 James Belich, *Paradise Reforged: A History of the New Zealanders from the 1880s to the Year 2000*, Auckland, 2001, pp.181–83.

8 Ian Pool, Arunachalam Dharmalingam and Janet Sceats, *The New Zealand Family From 1840: A Demographic History*, Auckland, 2007, pp.100, 103.

9 Caroline Daley, 'Puritans and Pleasure-seekers', in Allison Kirkman and Pat Moloney, eds, *Sexuality Down Under: Social and Historical Perspectives*, Dunedin, 2005, pp.51–54.

10 I have chosen to limit the research to 1937 because during that year the findings were released from the Committee of Inquiry into the Various Aspects of the Problem of Abortion in New Zealand. This inquiry resulted in a substantial change in public discourses on abortion, refocusing discussions about the practice onto motherhood and family-building and away from crime and immorality. For discussion on the inquiry see Mein Smith, ch.7; Brookes, 'Reproductive Rights'.

11 See, for example, Lévesque, 'Grandmother Took Ergot: Part 1', pp.18–19; Coney, p.73. In my own work I found gendered differences in the way that abortionists practised. See Richdale, ch.4.

12 See, for example, Brookes, 'Reproductive Rights', pp.124, 127, 133; Mein Smith, pp.106–107.

13 Brookes, 'Reproductive Rights', p.124; Coney, p.74.

14 Brookes, 'Hygiene, Health', pp.306–307. Brookes also describes one young man's assault on abortionist Annie Aves which led to her death in 1938. This man's involvement in his girlfriend's abortion is briefly described in two sentences. See Barbara Brookes, 'Annie Aves', in Charlotte Macdonald, Merimeri Penfold and Bridget Williams, eds, *The Book of New Zealand Women Ko Kui Ma Te Kaupapa*, Wellington, 1991, pp.32–33.

15 Richdale, ch.3.

16 Crimes Act 1908, s.220(2).

17 The process is described in my PhD thesis. See Richdale, pp.18–21.

18 I was able to view criminal court trials from the archives in Dunedin and Christchurch. An alternative way of locating legal records is described by Chris Brickell. See Chris Brickell, 'Court

Records and the History of Male Homosexuality', *Archifacts: Journal of the Archives and Records Association of New Zealand*, 2008, pp.26–28.

19 Daley, pp.52–53.

20 The legal rules imposed on courts and coroners are discussed in Richdale, chs.5 and 6.

21 Commissioner of Police to Director-General of Health, 18 September 1930, H1 131/139 B.100 Diseases — Septic Abortion 1922–1937, Archives New Zealand, Wellington (ANZW).

22 Items included bank notes, bank account books, letters and other correspondence, implements and medicines that might be used for abortions, telephone exchange logs, bloodstained bedding or clothing, and anything else that might support the Crown's charges.

23 Statements made to the police by the accused were admissible in court if legally taken; other statements might include deathbed depositions made by women who were dying. See note 24 below.

24 To be admissible in court items collected from private property by the police during a raid had to be supported by a search warrant gained under section 365 of the Crimes Act 1908. Likewise deathbed depositions made by women would be admissible only if taken according to the rules laid out in section 166 of the Justices of the Peace Act 1908. The Act required that the person accused by the dying woman must be aware the deposition would be taken, have an opportunity to consult with legal counsel beforehand and be present with counsel at the time the deposition was taken, and the witness must be able to be cross-examined by the accused person's counsel.

25 This was particularly the case when accomplices gave evidence for the prosecution, that their evidence should be corroborated. See John Jervis, *Archbold's Pleading, Evidence and Practice in Criminal Cases*, London, 1922.

26 Richmond Fell to Minister of Justice, 18 June 1919, J1 1919/762 Rex v. F. — Indemnifying Witnesses for the Crown 1919, ANZW.

27 Richdale, pp.156–57.

28 For a thorough exposition on the limitations of witness testimony for historians see Emma Jones, 'Abortion in England, 1861–1967', PhD Thesis, Royal Holloway, University of London, 2007, pp.26–36.

29 See, for example, Trial of J.H., 10 August 1923, DAAC/D256/329 Aug 1923 No. 3, Archives New Zealand, Dunedin (ANZD); Trial of M.A.G., 11 February 1926, CH239/Box 9 T3/1926; Trial of L.D., 5 May 1937, CH24/Box 219 T3/1937, Archives New Zealand, Christchurch (ANZC).

30 Trial of M.C., 7 March 1928, DAAC/D256/397 March 1928 No.3, ANZD.

31 *ibid.*

32 Trial of H.I., 11 May 1923, DAAC/D256/328 May 1923/3, ANZD.

33 Richdale, pp.162–68. See also Otago Daily Times (Dunedin), 21 March 1923, p.3; *New Zealand Truth* (Auckland) (NZT), 7 November 1929, p.5.

34 Richdale, pp.166–68; Brickell, 'Court Records', pp.40–41.

35 See, for example, NZT, 26 November 1921, p.5; see also Inquest File J 46 1921/1330, ANZW.

36 See, for example, Inquest File J 46 1929/819, ANZW.

37 For discussion on the conduct of coroners' inquests into deaths that were not necessarily the result of illegal abortions, see Richdale, ch.6.

38 See Richdale, pp.226–27, for a brief discussion about the role of the press in supporting police investigations.

39 Some women gave evidence as witnesses to support the Crown's argument that the accused was an abortionist with an established clientele. See, for example, *New Zealand Herald* (Auckland), 6 February 1926, p.13.

40 Richdale, ch.5.

41 The lack of testimony might affect the coroner's ability to bring down a verdict indicating death was the result of illegal abortion. See Richdale, ch.6.

42 Inquest File J 46 1935/896, ANZW.

43 See, for example, Inquest File J 46 1929/1017, ANZW.

44 Pool, Dharmalingam and Scats, pp.57–59.

45 For discussion about these anxieties see Brookes, 'Reproductive Rights'; Mein Smith, ch.7.

46 See, for example, Jones, pp.26–36; Brickell, 'Court Records'; Stephen Robertson, 'What's Law Got to do with It? Legal Records and Sexual Histories', *Journal of the History of Sexuality*, 14, 1/2, 2005, pp.161–85.

47 Chris Brickell, *Mates & Lovers: A History of Gay New Zealand*, Auckland, 2008.

48 Brickell, 'Court Records', p.35. For example, using court records and other sources Brickell has charted the emergence of the term 'Queen' during the early twentieth century. See Brickell, *Mates & Lovers*, pp.83–84.

49 Robertson, pp.166–67, 180–85.

50 Female jurors were not allowed until the passing of the Women Jurors Act 1942. Female lawyers at that time were few, and the first female judge, Dame Augusta Wallace, was appointed in 1975. For more on women in the New Zealand legal profession see Gill Gatfield, *Without Prejudice: Women in the Law*, Wellington, 1996.

51 All names of individuals involved in these court cases have been changed to meet the conditions of access to legal archives. I chose to apply the same process to the names of people identified at inquests.

52 NZT, 26 April 1928, p.5.

53 Trial of G.T., 19 October 1937, CH273/Box 6 T2/1937, ANZC.

54 Trial of R.S., 18 May 1936, CH273/Box 5 T4/1936, ANZC.

55 Trial of L.D., 5 & 6 May 1937, CH24/Box 219 1937/5, ANZC.

56 Trial of D.C., 14 May 1935, CH273/Box 5 T7/1935, ANZC.

57 Trial of M.M., 30 July 1929, CH24/Box 217 T3/1929, ANZC.

58 NZT, 5 May 1935, p.8.

59 Inquest File J 46 1935/637, ANZW.

60 Richdale, pp.67–71.

61 Trial of M.M. In this case the illness that caused Annie's death was found to be the result of a ruptured ectopic pregnancy rather than her attempt at abortion.

62 Trial of L.D.; NZT, 5 May 1935, p.8; Inquest File J 46 1935/637, ANZW.

63 Brickell, 'Court Records', p.35.

64 Phillips, pp.217–60.

65 See, for example, Trial of H.I.; Trial of W.M., undated, CH239/Box 13 T3/August 1927, ANZC. See also Richdale, pp.123–26.

66 Deborah Montgomerie, *Love in Time of War: Letter Writing in the Second World War*, Auckland, 2005, p.134.

67 NZT, 4 September 1935, p.11.

68 *Press* (Christchurch), 7 June 1923, p.5.

69 Trial of H.G., 5 August 1920, DAAC/D256/326 6/1920, ANZD; Inquest File J 46 1920/774, ANZW. See also NZT, 10 July 1920, p.5.

70 Trial of M.C.

71 Trial of H.G.

72 Trial of M.C.

73 Trial of D.C.

74 Divorce and Matrimonial Causes Act 1921–1922, s.2. See also Divorce and Matrimonial Causes Amendment Act 1920, s.4.

75 NZT, 13 February 1930, p.7.

76 *ibid.*

77 NZT, 4 March 1926, p.4.

78 Trial of R.S., 18 May 1936, CH273/Box 5 T4/1936, ANZC.

79 Inquest File J 46 1931/1166, ANZW.

80 Inquest File J 46 1930/969, ANZW.

81 NZT, 25 July 1929, p.8. See also Inquest File J 46 1929/875, ANZW.

82 Trial of L.D.

83 *ibid.*

84 Inquest File J 46 1927/808, ANZW.

85 NZT, 9 December 1926, p.1. See also Inquest File J 46 1926/794, ANZW.

86 Inquest File J 46 1929/309, ANZW.

87 Kate Fisher, *Birth Control, Sex, and Marriage in Britain, 1918–1960*, Oxford, 2006, p.65. See also Simon Szreter and Kate Fisher, *Sex Before the Sexual Revolution: Intimate Life in England, 1918–1963*, Cambridge, 2010, pp.225–26.

88 Jones, p.118.

89 Brickell, 'Court Records', p.41.