Child Employment in New Zealand

ALTHOUGH the legislative achievements of the Liberal governments in the 1890s and early 1900s have been the focus of considerable historical analysis, little attention has been directed towards Liberal concern for the children of colonial New Zealand. This article examines the nature of that concern as it was expressed in statutory enactment during the first decade of Liberal reforming zeal, 1891–1901. Particular emphasis is given to the question of children in employment since it will be argued that neither the Liberals nor their successors prior to World War II fully solved the problem of child labour. Paid employment of minors in industry was certainly curtailed, but the exploitation of children as an unpaid workforce continued unabated. Ironically the Liberals' own legislation was the stimulus for the increase of abuse in the rural sector.

An assessment of the Liberal record needs to take account of the attitudes and enactments which existed before 1890. Provision for the protection and maintenance of children already existed in cases of desertion, neglect, illegitimacy, guardianship, adoption, contracts and assault. Homicide cases apart, youthful offenders against the law could be dealt with summarily by a JP or a Resident Magistrate. Parents who found their children to be uncontrollable could apply to the courts for relief. Most of these laws[1] would never touch the lives of the thousands of young New Zealanders growing up as cheerful, cheeky colonials, but their enactment was critical for the hundreds of children whose formative years were disrupted by parental illness, absence, inadequacy, or death.

These earlier statutes were inconsistent in the legislative definition of childhood. The 1865 Master and Apprentice Act applied to children over the age of 12 years; the 1867 Neglected and Criminal Children Act provided for children under the age of 15; the Offences Against the Person Act of

1 The principal Acts and relevant amendments referred to in this paragraph are: *New Zealand Statutes*, 1867, No. 14, Neglected and Criminal Children Act (amendments 1870, 1873, 1875, 1881); 1867, No. 5, Offences Against the Person Act (amendments 1868, 1874, 1889); 1877, No. 44, Destitute Persons Act (amendments 1884, 1886); 1881, No. 9, Adoption of Children Act; 1882, No. 25, Industrial Schools Act; 1882, No. 15, The Justices of the Peace Act; 1887, No. 4, The Infants' Guardianship and Contracts Act; 1890, No. 21, The Children's Protection Act.

1867 defined child-stealing as applying to boys and girls under 14 years. Under the 1877 Education Act, most children aged from seven to 13 were required to attend school. Legislation passed during the 1880s on a variety of social, judicial and industrial topics reflected a similar lack of uniformity, although 12 was the most commonly adopted age of demarcation. The Liberals' enactments would tend towards regarding 14 years as the threshold to adulthood, but legislative inconsistency continued.

Contemporary attitudes were a much more amorphous influence with which the Liberals had to contend. Parental-community expectations of children were particularly significant. Thousands of youngsters grew up in New Zealand taking for granted that they were part of a family work-unit. Domestic duties, irksome rather than arduous, usually involved care of younger siblings and everyday household chores. Participation in the more demanding economic routine of the family, however, often meant tasks beyond the children's strength and age. Grumbles simply prompted a homily on filial obligation. Was it not 'very hard lines', enquired ten-and-a-half-year-old Andrew Sutherland, that he should have to 'get up very early these cold mornings to go for the cows'? Dot, the children's friend of the *Otago Witness*, gave an answer as comforting as the mid-winter temperatures of which Andrew was complaining: 'It is only right that you should assist your parents in every way possible'.[2] The advent of compulsory education added to the burdens of many a young life.[3] Some parents welcomed the opportunities which the 1877 Act gave to their children; many failed to resolve the dilemmas which it created. Their children attended school physically, but could be too tired to concentrate. The work which was their required contribution to family well-being had taken priority. Sheer economic necessity shaped the outlook of many parents. Others were more concerned with their children's earning capability than with their education.

Political reluctance to interfere in domestic situations also formed a restraint on the Liberals. Despite the public indignation which greeted the revelations of the Sweating Commission in 1890, the Liberals' first Minister of Labour, William Pember Reeves, was to experience considerable difficulty in trying to implement the commission's recommendations concerning conditions for factory workers and shop assistants.[4] The opposition to the idea of governmental interference in the work-place indicated that legislative intervention within the home would be anathema. Later governments were to be no braver politically than the Liberals. Despite evidence of child labour abuse during the 1920s and 1930s, in rural areas especially but not exclusively, politicians were conspicuously reluctant to act. The plight of many families during times of economic stress, the fact that many

2 *Otago Witness*, 8 June 1893, p. 45. I am indebted to Dr Jane Thomson for her generosity in supplying this reference from her manuscript on children's letters.

3 For an extremely useful summary of changes in the school attendance law 1877–1901, see David McKenzie, *Education and Social Structure: essays in the history of New Zealand education*, New Zealand College of Education, Dunedin, 1982, Appendix I, pp. 44–50.

4 K. Sinclair, *William Pember Reeves*, Oxford, 1965, pp. 137–8.

parents did not make unreasonable demands upon their children, and the enjoyment and benefits which many youngsters derived from their before- and/or after-school jobs were all disincentives to further intrusion of the powers of the state into the lives of its citizens.

Reeves's factory legislation was not, however, the first attempt to regulate the paid employment of children. The 1873 Employment of Females and Others Act, and its amendment in 1874, had restricted factory employment to eight hours of daytime work. A further amendment in 1875 authorized employment of children between the ages of ten and 14, but insisted that they should be employed either in morning or afternoon shifts, or for the whole day only on alternative days. The Royal Commission of 1878, appointed to enquire into the workings of the 1873 Employment of Females Act and its subsequent amendments, found little direct abuse of these child-related provisions.[5] Although one Dunedin witness insisted that the law was being infringed with regard to the ages of children and the half-day work pattern, a standpoint which was corroborated during the hearing, the commissioners did not feel that the extent of child-labour uncovered by their enquiries merited a separate recommendation in their report.[6] The 1881 Employment of Females and Others Act, which replaced the 1870s legislation, stipulated 12 years as the minimum age for factory employment. Curiously the 1881 Act still defined 'child' as a boy or girl aged between ten and 14, a discrepancy rectified by the 1884 amendment which changed 'ten' to 'twelve'. Nevertheless, and this was to be limitation of similar enactments up to World War II, the statutory restrictions applied only to children in full-time employment, not to those engaged on a casual basis.

The financial hardships of the 1880s saw the employment of minors becoming a major social and political issue. The nine-man commission of inquiry into allegations of sweated labour heard evidence in Dunedin, Christchurch, Auckland and then Wellington before reporting its findings in May 1890. Hours of work, conditions of work and poor pay: these complaints were universal. On one issue above all, urban worker representatives were united: 'Nearly every trade complains about the boy- and girl-labour taking the place of adult labour'.[7]

Yet close analysis of the evidence presented before the Sweating Commission reveals that the youthful workers complained of were not children under the terms of the 1881 Act. They were young persons aged 14 to 18 years. Only one inspector had found cases of children under 14 and these 'four or five instances' were minors employed more or less as messengers,

5 Report of the Royal Commission appointed to inquire into the working of the Employment of Females Acts, *Appendices to the Journals of the House of Representatives* (AJHR), 1878, H-2, pp. 7–23.

6 ibid., statements 133, 230; pp. 2–3.

7 Report of the Royal Commission appointed to inquire into the relations between employers and employed in the colony (The Sweating Commission), AJHR, 1890, H-5, statement 1416.

not factory hands as such. One witness cited a specific example of child labour. A second referred to an initially under-age apprentice: a third made a general assertion; a fourth witness made a specific allegation, which was refuted by the manager of the fibre factory concerned but appears to have been upheld by the commissioners.[8] The 12-year age limit was criticized as being too low, and it became clear that employers and inspectors alike were hampered in their efforts to determine the precise age of youthful applicants, especially when parents were less than honest.[9] A birth certificate, medical certificate and minimal educational qualification were all suggested as additional safeguards to prevent the employment of under-age and unsuitable children.[10]

The commissioners found that the 1881 legislation and its subsequent amendments had worked reasonably well in controlling the employment of 12- and 13-year-olds in those factories and work-places liable to inspection. But the limitations on hours of work applied only to 'female and child'. Men and boys aged 14 and over had no protection. Hence the widespread employment of boy-labour. Adult working hours could be and were demanded for those 14- to 18-year-olds. No adult wage was paid in return. Submissions showed that boy-labour was distributed across a wide range of trades, and that some employers made excessive demands upon their more youthful employees. It was also apparent that the apprenticeship system was widely abused.

Since the 1865 Master and Apprentice Act still applied, children above the age of 12 could be taken on to learn a trade. Whether in fact they succeeded in doing so was a moot point. Two tailor's apprentices, for instance, recounted experiences of 15-hour days for wages of 5/- and 9/- a week respectively in their first year. The boys were bound to a tailor who made no attempt to teach them his profession, but 'used to make us mend drawers, darn stockings, do household work, ironing etc.' A young compositor, now 17 but apprenticed at 12, complained that he was not taught the trade in all its branches. Tailors' Union officials saw in the apprenticeship system one of the 'greatest evils' in the business, for many apprentices were dismissed as soon as they had served their time. Other young workers were put to piece work as soon as they began to earn 5/- or 7/6 a week, before they finished their apprenticeship or learned how to make a complete garment. Master craftsmen complained that the legislation itself was a disincentive to apprenticing. Since the period of bondage could last no longer than five years and did not apply once a worker reached 19 years of age, many tradesmen were not prepared to take on apprentices. The Apprentice Act was generally admitted by all employers in every trade to be unworkable.[11]

The commission's recommendations concerning youthful employment

8 ibid., statements 1688, 703, 1307, 1417, 1484, 1561–3; p. iv.
9 ibid., statements 633, 939, 964, 179, 751, 1563, 197.
10 ibid., statements 964, 751, 917, 641.
11 ibid., statements 1387–96, 1788, 1322, 1305, 1411, 1592–3, 1225.

were unexceptional. Fourteen years should be the minimum age for employment; a fourth standard pass the minimal educational qualification; a 48-hour week the maximum for 14- to 18-year-old employees. An improved system of indenture was also suggested, by which employers were bound to teach their apprentices a trade and by which apprentices should remain with their employers long enough to learn it.[12] Yet the 1891 Factories Act applied these recommendations only in part. The 48-hour week became mandatory for youthful workers; their employment was restricted in certain industries believed to be health hazards for youngsters; and persons under 16 could not be employed unless they produced a certificate of fitness granted by the local inspector of factories. A 'child' under the 1891 Act, however, was a boy under 13 years or a girl under 14.[13] The call for an educational qualification was disregarded.

Early reports from inspectors associated with the Bureau of Industries, soon to become the Department of Labour, highlighted a key deficiency in the 1891 legislation. It failed to give protection to the many children working in small establishments of fewer than three employees and, therefore, not coming under the definition of 'factory'. 'That any boy should be allowed to work from daylight till dark, without holidays, without proper intervals for rest and food, and in an impure atmosphere is improper, but at present not illegal.' Many such instances had been called to the attention of Edward Tregear, the Bureau's head.[14]

By 1894 the call for a stricter definition of 'factory' had become urgent. Supervision over small establishments was clearly necessary. 'In one case, a shoemaker in a country town has two lads working for him, and these boys are kept to their stools for 12 hours a day, even their food being eaten without leaving their place of labour. It is an imperfect law which allows two young persons to be killed with overwork and bad air, but which steps in to prevent three being so treated.'[15] The new Factories Act, therefore, covered all workplaces in which two or more persons were engaged in some form of manufacturing. Yet, while the 1894 Act endeavoured to restrict child employment, it did not absolutely prohibit it. A child was defined under section two as a boy or girl under 14 years. Section 56 provided that: 'No child shall be employed in any factory or workroom except in small factories where not more than three persons are employed, and this only in special cases with the sanction of the inspector.' While there were exemptions for those who had arrived in the colony as 13-year-olds or whose distance from school had restricted their formal education, Section 57 prescribed that no person under 16 years of age could be employed in a factory or workroom without proof of having passed Standard Four. Boys under 16, women and girls were again restricted to a 48-hour week and

12 ibid., pp. v–vi.

13 *Statutes*, 1891, No. 32, The Factories Act, Section 50; Secton 56 and Second Schedule Nos 1–5 which sets out the range of restricted employment; Section 53; Section 3.

14 AJHR, 1892, H-14, p. 5.

15 AJHR, 1894, H-6, p. 9.

employment was prohibited between the hours of 6 p.m. and 7.45 a.m.[16] While flaws in the 1894 Act were soon to become obvious, young workers now had at least some protection from the type of employer who admitted that he just looked on his employees as he would a sack of potatoes, concerned with nothing other than their market value.[17]

The introduction of the minimum educational qualification for under-16-year-olds proved to be the most contentious of the child-related provisions in the 1894 Act. Labour Department staff openly acknowledged that the restriction was a cause of hardship in some cases, but Tregear was resolute that a 'certain limit of proficiency in scholastic education should be insisted on before a life of manual labour is commenced'. Such a requirement, in his view, would 'raise the intellectual status' of the working-class, and 'check the greed of some parents, who care more for the shillings their children can earn than for the mental and moral welfare of their offspring'.[18] On this provision the politicians, too, stood firm and the 1901 Factories Act, which amended and consolidated the earlier legislation, maintained both the 14-year minimum age and the Fourth Standard pass for under 16-year-olds. By 1901 also children were required to attend school until either they turned 14 or, as from 1898, they passed Standard Five.[19]

Not all of the 1890 Sweating Commission's youth-related recommendations were to find statutory enactment quite so readily. Neither the 1891 nor the 1894 legislation tackled the apprenticeship problem. Possibly it was felt that employers were already under sufficient pressure to reform their labour conditions. Low wages, educational reforms and union activity all contributed in some measure to a decline in the number of apprentices. The tailoring industry, for example, no longer had an apprenticeship problem by 1898. Political arguments against the 1865 system also changed ground. When Premier Richard Seddon introduced in 1898 a Master and Apprentice Act intended to provide for the compulsory indenture and limitation of apprentices on the basis of one apprentice to every four adult workmen and women, his proposal was attacked as 'cowardly and unjust to the rising generation'. Thousands of boys and girls already in employment would allegedly be displaced; thousands more school leavers would fail to gain employment; trades which relied upon the dexterity of youthful workers would be wiped out.[20] The lobby was successful and the bill defeated. Not until 1923 would the Master and Apprentice Act be repealed and replaced.

On a related problem, however, the Liberals met with more success. In the dressmaking and millinery trades in particular, the practice of children or young persons working for 12 months without payment had persisted unchecked. Ostensibly these young employees, usually girls, gave their

16 *Statutes*, 1894, No. 31, The Factories Act, Sections 2, 56, 57, 58, 54.
17 AJHR, 1894, H-6, p. 22.
18 ibid., 1894, H-6, p. 14; ibid., 1896, H-6, pp. ii, xii–xiii.
19 McKenzie, pp. 44, 46.
20 Report of the Labour Bills Committee on the Master and Apprentice Bill, *Appendices to the Journals of the Legislative Council* (AJLC), 1898, No. 6, pp. 3–5.

service free of charge in return for the opportunity to learn a skill which would stand them in good stead in later domestic roles. By far the greater proportion — Seddon maintained 90% — of these would-be seamstresses were discharged as soon as they became entitled to wages. A fresh group of girls was then taken on, their menial and mechanical tasks making a mockery of employer pretensions and parental expectations that girls so placed would acquire 'an accomplishment which all women should possess'.[21]

A bill to prevent the employment of boys and girls without payment was finally given a full debate in the House in 1899. Many speakers supported the principle that for services performed there should be adequate financial return. The minimum wage proposed was 5/- per week for boys and 2/6 for girls, an inequality which was constantly condemned: 'we encourage too much of this difference in the payment for work between the sexes'. Legislative Councillors excelled themselves in a lengthy debate, very little of which related directly to the measure in hand. For one councillor at least, the idea of paying young people raised the spectre of family destruction. 'What you want is to teach children to be home-loving and respectful, and to give them opportunities to learn a trade; but do not teach them from the very start to earn money, because by that means you will instil bad habits and engender a feeling of independency which will deprive the parents of all control over them.'[22] Wiser counsels prevailed. The 1899 Employment of Boys and Girls without Payment Prevention Act provided that all boys and girls under the age of 18 who were employed in any factory or workroom should be entitled to a minimum weekly wage of 5/- and 4/- respectively. The payment of a premium to secure employment was expressly forbidden.[23]

By the turn of the century, then, the Liberals had curtailed the worst excesses of child employment in factory and workroom situations throughout the colony. Only one other group of children were already similarly protected, those whose 'employment' had come under the conditions of the Children's Protection Act of 1890. This measure controlled the appearance of children in licensed premises and public entertainments, and expressly prevented a boy under 14 or a girl under 16 from being used as a mendicant.[24] Given the focus of public attention on the sweating controversy, and the commitment of the Liberals to their urban worker political base, the emphasis on industrial reform was understandable. Yet the impact of

21 *New Zealand Parliamentary Debates* (NZPD), 1899, 107, p. 507 (Seddon), p. 491 (Hutcheson).

22 ibid., p. 491 (Hutcheson), p. 505 (Morrison), p. 492 (Flatman), p. 388 (Shrimski).

23 *Statutes*, 1899, No. 11, Employment of Boys and Girls without Payment Prevention Act, Sections 2, 7.

24 ibid., 1890, No. 21, The Children's Protection Act, Section 5 detailed that no such boy or girl should 'be in any street for the purpose of begging, or receiving alms, or of inducing the giving of alms whether under the pretence of singing, playing, performing, offering anything for sale, or otherwise'.

such legislation on the working lives of the majority of child workers in New Zealand was negligible. The 1891 Census, detailing statistics for European children only, had listed 9319 breadwinners under the age of 15. Of these only 2046 were industrial workers. Although total numbers were reduced by 1901 (8477 breadwinners) the proportion of industrial workers was much the same (1632). In dealing with the child-employment problem, the Liberals had remained socially and politically circumspect. Their legislation did not deal directly with the 4032 under-15-year-olds who were breadwinners in the agricultural and pastoral sphere in 1891, nor with the 1691 in domestic service. By 1901 the comparative figures were 3988 and 1100 respectively. Hard-working and unprotected too were the sons, daughters or relatives classified in the census as performing domestic duties for which no remuneration was paid. In 1891 4317 were so noted, in 1901, 4324. Almost all were girls.[25]

TABLE I
Breadwinners Under 15 Years of Age.

	1891		1901	
	Male	Female	Male	Female
Total Breadwinners under 15 years	7022	2297	6512	1965
Sub-totals for selected classes				
(a) Industrial	1597	499	1237	395
(b) Agricultural & Pastoral	3689	343	3464	524
(c) Domestic	289	1402	149	951
Sub-total: domestic service by son, daughter or relative, classified as an occupation, but for which no remuneration is paid	173	4144	15	4309

Source: *New Zealand Census*, 1891, 1901.

More stringent school attendance regulations were the single most important factor in restricting the growth of paid, child employment. In 1877 children who did not qualify for any of the legal exemptions were required to attend school for at least one-half of the period in each year during which the school was usually open. In 1894 attendance had been tightened to at least six half-days in any week in which the school was open nine half-days. By 1901 the requirement was made more rigorous. In all but one aspect, the range of legal exemptions remained much the same from 1877 to 1901: ill-

25 *New Zealand Census*, 1891, Table VII, pp. 264–77; ibid., 1901, Table X, pp. 342–78. The census classified as a breadwinner a person engaged in activities for which remuneration was usually paid. A breadwinner was not necessarily the principal income-earner in a family.

health, impassable roads, efficient and regular instruction elsewhere, or the attaining of a Standard Four pass (Standard Five after 1898). Compulsory attendance did not apply to any child whose home was more than two miles from school until 1901, when the exemption was restricted to a child under ten who had to walk more than two miles between home and school, or between home and local public transport. Children over ten years of age were similarly exempted if they had to walk more than three miles.[26]

The Liberals' education reforms also brought Maori and handicapped children under closer supervision. Whereas the 1877 Act had provided for neither, the 1894 Act made Maori children subject to the same general provisions and exemptions as European children. Powers for dealing with truant children and/or their parents/guardian were also increased in the measures of 1894 and 1901. School inspectors would still find evidence that parents were 'treating their children's education as a thing of minor importance'. Parliamentarians would still argue over the right of the state to compel parents to do without their children's assistance during school hours,[27] but with the 1901 School Attendance Act making compulsory attendance up to 14 years of age, the growing social unacceptability of youthful breadwinners was reinforced by educational enactment.

During the Liberal era, considerable legislative attention was given to another group of children whose welfare appeared to be at risk. Under the terms of the 1867 Neglected and Criminal Children Act and the 1882 Industrial Schools Act there was statutory provision for infants to be placed in some form of institutional care if necessary. The Children's Protection Act of 1890 allowed the police to intervene in cases of wilful ill-treatment, neglect, abandonment or exposure of a child, but the problem remained of trying to secure appropriate conditions in which very young children could be cared for. Conditions at such institutions as Caversham Industrial School were not designed for infants, and disease and mortality rates were high.[28] The move to fostering inaugurated by the 1882 Industrial Schools Act[29] provided improved conditions for children in state care but the fate of many infants left to neighbourhood resources was often appalling. The embryonic free kindergarten movement provided some relief for working mothers desperate for some reliable form of daytime supervision of infants but most at risk were illegitimate or unwanted infants. The isolated cases of baby-farming which received public attention through police prosecution

26 The 1901 attendance requirements were: at least four half-days in any week in which the school was open six half-days; six half-days if the school was open eight; eight half-days in any week during which the school was open ten half-days. Details of educational changes cited in these two paragraphs are taken from McKenzie, pp. 46–49.

27 AJHR, 1900, E-1B, p. 25; NZPD, 1910, 152, pp. 235–6 (Massey, Arnold); p. 238 (Pearce).

28 P. J. Whelan, 'The Care of Destitute, Neglected and Criminal Children in New Zealand, 1840–1900', M.A. thesis, Victoria University, 1956, p. 132.

29 New Zealand Foster Care Federation, *100 Years of Foster Care, 1883–1983*, Auckland, 1983, pp. 1–3.

aroused expressions of indignation and shame.[30] Not until 1893 was police agitation for greater powers to deal with this problem successful. The Infant Life Protection Act aimed to eliminate the situation whereby children 'either by advertisement or otherwise are placed in most unsuitable homes, where it is perfectly well understood that the sooner the child dies the better pleased all concerned will be'.[31] As the celebrated murder trial of Minnie Dean revealed,[32] however, the 1893 legislation was not sufficiently rigorous. The new Infant Life Protection Act of 1896, therefore, covered infants up to the age of four years and required all prospective care-givers and their homes to be subject to close scrutiny before a licence was granted. Full records had to be kept, annual reapplications were mandatory, and licensees knew from the outset that they could lose their means of livelihood should they be found guilty of cruelty to any infant, maintaining an excessive number of children, or failing to give notice of an infant's death. For the next decade, this Act was to give a hitherto extremely vulnerable group of children a substantial amount of protection.

Illegitimate and adopted children also came under the Liberals' purview. An 1894 Act legitimized children born out of wedlock if their parents subsequently married and registered their offspring. However the Legitimation Act did not allow cases where, for the parents, a legal impediment to marriage existed at the time of the child's birth. Between 1894 and 1900, 345 children benefited from this measure, but by far the greater number of illegitimate children did not.[33] The fate of many of these was of growing concern to the police. As the 1893 report on baby-farming had noted: 'Another system of disposing of infants is by so-called adoption, where children are taken for a lump sum entirely off their mothers' hands, provided no more questions are asked. Sums from £6 to £20 are paid down as a premium, and for such helpless infants there is absolutely no protection.'[34] Adopted children had their position subjected to parliamentary scrutiny in 1895. Whereas the 1881 Adoption of Children Act had provided for youngsters under the age of 12, the new legislation of 1895 concerned children under 15. Considerable care was taken with the definition of

30 P. Levitt, 'Public Concern for Young Children', Ph.D. thesis, University of Otago, 1979, pp. 74–75.

31 AJHR, 1893, H-26, p. 3; NZPD, 1893, 82, p. 800 (Buckley, Walker). Care-givers were to register annually and keep records which would be open to police inspection at any time. The Act also specified that details of any entry or removal of an infant were to be forwarded to the Commissioner of Police within three days; and that notification of the death of an infant must be given within 24 hours. No infant under three years of age could be buried without a coroner's authorization.

32 A. H. McLintock, ed., *An Encyclopaedia of New Zealand*, Wellington, 1966, I, p. 455.

33 *New Zealand Official Year Book* (NZOYB), Wellington, 1901, pp. 280–2; ibid., 1902, p. 339. The rate of illegitimacy rose from 32 per 1000 births in 1885 to 46 per 1000 in 1901. In absolute numbers this meant 602 illegitimate births in 1886, rising to 937 in 1901. Andrée Levesque, 'Prescribers and Rebels', in Barbara Brookes, Charlotte Macdonald and Margaret Tennant, eds, *Women in History*, Wellington, 1986, p. 4.

34 AJHR, 1893, H-26, p. 3.

'deserted', a thoroughness which suggests that the greater number of children available for adoption were deserted rather than orphaned.[35] Possibly following the precedent of single parent fostering, which had developed under the 1882 Industrial Schools Act, the 1895 Act made it possible for children to be adopted by a wide range of prospective parents provided appropriate consent from natural parents or guardians was forthcoming.[36] As in 1881, the 1895 Act also provided for an institutional adoption, a situation which would cater for those children bereft of any alternative form of security. 'Backyard' adoption doubtless continued but the illegality of such a practice was presumably some deterrent.

Such measures give a glimpse of a society that was far from the ideal for a minority of the children within it, an impression reinforced by such proposals as the Juvenile Suppression Bill of 1896 or the Young Persons Protection Bill, debated late in 1897.[37] Both measures lapsed. Although the Liberals also failed to legislate the larrikin problem out of existence,[38] persistence did win out in some contexts. Seddon's Juvenile Smoking Suppression Act of 1903 was to make it an offence for any youth under 15 to smoke in a public place (unless the offender could produce a medical certificate to prove that he was smoking for the benefit of his health!). Other issues were dealt with somewhat reluctantly. Only after sustained lobbying for women's groups were the politicians persuaded to raise the age of female consent to 16 in 1896.[39] The 1869 Contagious Diseases Act, which applied to all females deemed prostitutes, was not to be repealed until 1910, the campaigns of 1893 and 1896 proving to be unsuccessful.[40] Yet other necessary social reforms affecting children were left outstanding. Although Justice Department officials had protested vigorously against the public

35 *Statutes*, 1895, No. 8, Adoption of Children Act. Margaret Tennant notes that the majority of children in orphanages of the early twentieth century were not full orphans at all. See Tennant, 'Brazen-faced Beggars of the Female Sex', in Brookes, Macdonald and Tennant, p. 38. The admission registers for Auckland institutions give the same result for the late nineteenth century. See CW-A1 A22 Items 1 and 2, Registers of children at the destitute home 1870–76, 1875–82, National Archives of New Zealand, Auckland Office; Orphan Home Trust Board: Children in Homes, Register of Admissions, 1862–1928, Anglican Church Diocese of Auckland Archives.

36 Esther Zander, 'Early Foster Mothers', *Foster Care*, p.3. For both boys and girls, a husband and wife could jointly adopt a child. A married women alone could adopt a female child, a married man alone a male child, provided that in either case the written consent of the other spouse was given. A female child could be adopted by an unmarried woman at least 18 years her senior or by an unmarried man at least 40 years older than the child. Male children could be adopted by unmarried men at least 18 years older than the children, or by unmarried women at least 40 years their senior.

37 NZPD, 1896, 94, pp. 319–31; ibid., 1897, 100, pp. 7–8, 832–5 for examples of the arguments for and against such measures.

38 See P. A. Gregory, 'Saving the Children in New Zealand: a study of social attitudes towards larrikinism in the later 19th century', M.A. research essay, Massey University, 1975, pp. 7–23.

39 *Statutes*, 1896, No. 7, The Criminal Code Act Amendment Act, Section 3.

40 Charlotte Macdonald, 'The "Social Evil"', in Brookes, Macdonald and Tennant, pp. 15, 29.

scandal of children being committed to colonial gaols (in 1890, 20 aged under ten and 54 aged ten to 15), the practice was only gradually discontinued.[41] The 1894 Indictable Offences Summary Jurisdiction Act specifically provided for a prison sentence of no longer than one month for any seven- to 12 year-olds who were found guilty of the crimes with which they had been charged. Moreover, although the Alcoholic Liquors Sale Control Act of 1893 forbade the scale of liquor to any child apparently under 13 for consumption on licensed premises, not until the Licensing Acts Amendment Act of 1904 was it illegal to send a child under the age of 13 to a licensed house for the purchase of liquor.

Obviously it can be argued that the Liberals made a valiant effort to legislate for both majority and minority interest groups as far as children were concerned. The education reforms catered for the thousands, the social reforms for the hundreds whose need was none the less real for being shared by relatively few. Given the political and constitutional difficulties of the Liberals during their first term of office, it is scarcely surprising that children feature so little. The second term, from the end of 1893 to the end of 1896, was substantially more fruitful. Reeves was curiously evasive when referring to this spate of legislation. In *The Long White Cloud* he commented: 'There were some who connected the appearance of women in the political arena with the passing of an Infants' Life Protection Act, the raising of the age of consent, the admission of women to the Bar, the appointment of female inspectors to lunatic asylums, factories and other institutions, improvements in the laws dealing with Adoption of Children and Industrial Schools, a savage law against the keepers of houses of ill-fame, and with the liquor laws and the prohibitionist movement which is so prominent a feature of New Zealand public life.'[42] He did not deny the suggestion. Given that many colonial women were politically at their most active at this time, the election campaign of 1893 should have brought home to many Members of Parliament an awareness that women voters had their own set of political priorities. The unsuccessful campaign for the repeal of the Contagious Diseases Act was one example; the introduction of the Juvenile Depravity Suppression Bill was most probably directly related to requests from the Society for the Protection of Women and Children. As P. A. Gregory has noted, the proliferation of women's societies at this time was a critical reason for community and governmental attention being drawn toward the behaviour of young people.[43]

41 AJHR, 1891, Session II, H-14, pp. 2, 7; ibid., 1891, H-13, p. 3; ibid., 1900, H-20, pp. 2, 18. See also ibid., 1893, H-45, 'Juvenile Offenders: Return of cases brought against children under fifteen years of age'.

42 W. P. Reeves, *The Long White Cloud*, 4th ed., 1950, Auckland, p. 314.

43 Gregory, pp. 17–18. On the question of juvenile immorality alone, resolutions or deputations were sent to the government by the Society for the Protection of Women and Children, the Canterbury Women's Institute, the Auckland Rescue Society, the Auckland Women's Democratic Union and the Women's Political Association. The Society for the Protection of Women and Children was itself the outcome of a movement inaugurated by the Women's Christian Temperance Movement to consider means for the prevention of juvenile depravity.

Without a detailed examination of personal papers it is difficult to tell whether many of the Liberal cabinet ministers had a particular concern for children. When Reeves, in his dual capacity as Minister of Labour and Minister of Education, promoted reforms in 1894, the Factories Act specified 14 years as the minimum age of employment while 13 years remained the age of exemption from school. It has been suggested that the age difference was not an oversight, that this was Reeves's method of trying to raise the school leaving-age without alarming political interests which might have objected to a universal increase of one year in the school attendance-age.[44] Yet child-related issues were not a significant part of Reeves's own writings. Education did not merit a chapter in *State Experiments* and the relevant provisions of the Factory Acts were given limited attention. Although children received incidental mention in *The Long White Cloud*, Reeves's interest was such that his biographer had no need to include the words 'child' or 'children' in the book's index. Further research may well reveal Edward Tregear to be the persistent driving force behind the Liberals' legislative achievement concerning young industrial workers, for the annual reports of the Department of Labour certainly reflect a constant concern for child welfare.[45] Seddon, too, applied his political persuasiveness on behalf of the colony's children. Measures as diverse as the Infant Life Protection Act, the attempted labour reforms of the late 1890s, and the 1903 Juvenile Smoking Suppression Act all bore the hallmark of the Premier's advocacy. The dividing line between personal concern and political advantage may have been indistinct at times but when an over-zealous Devonport policeman handled suspected child pranksters in a manner more suited to hardened criminals, Seddon's sense of outrage and indignation seemed genuine.[46]

Legislative concern for children was not a vote-winning policy before 1893. Once women were enfranchised, the position changed. It would have been impossible for the Liberals to have remained oblivious to demands for social reform from women's groups. Neither Reeves nor Sir Robert Stout, for example, could help but be informed of some of the leading issues as far as women were concerned, given the active involvement of their own wives in the feminist movement. Yet the political involvement of women may also have made Liberal political calculations a little more complicated. A measure such as the Domestic Servants Half-Holiday Bill would have brought some improvement to the working conditions of an occupational group in which a thousand child employees were involved, many of them having been placed out to service by Church agencies.[47] The proposal lapsed

44 J. D. S. McKenzie, 'Reluctantly to School', Paper presented to NZARE Conference, November 1980, pp. 29–31, cit. Howard Lee, 'Playing the Wag: the anatomy of truancy, 1902–1917', M.Ed. thesis, University of Otago, 1983, p. 82.

45 For example, AJHR, 1897, H-6, p. ix.

46 NZPD, 1893, 81, pp. 341–2.

47 ibid., 1896, 94, pp. 297–302. See, for example, the details concerning children placed out to service as noted in the Orphan Home Trust Board: Register of Admissions 1862–1928.

but not before the debates revealed a clear gulf in attitudes which would have been echoed in the community. The enthusiasm of domestic servants for the reform would not have been shared by their mistresses.

The lack of legislative consistency continued. Throughout the decade, official statistics concerning arrivals and departures continued to classify persons aged 12 years and over as adults,[48] while both the industrial and educational reforms suggested that childhood extended at least until the attainment of 14 years of age. While the age of consent for marriage remained 12 years for a girl,[49] the age of female consent for sexual liaison, which had changed from 12 to 14 in 1889, was confirmed as 14 in 1893, raised to 15 in 1894 and settled at 16 in 1896.[50] Meanwhile 14 years remained the age at which a boy could marry or a male be charged with rape or attempted rape.[51] Yet, if there were no uniformity, there was at least a slowly emerging consensus that, in the public sphere at least, 14 years was the minimum age at which adult responsibilities should be imposed upon children.

However, as the post-1901 sequel to this investigation shows, the Liberals did not effect any major change in parental attitudes. Nowhere was this more obvious than in the rural sector. The phenomenal growth of dairy farming, which refrigeration, an economic upswing, the 1892 Lands for Settlement Act, and the 1894 Advances to Settlers Act had fostered, led to the establishment of thousands of family farms. Consequently, thousands of children were drawn into what one child welfare officer was later to describe as 'the grinding routine of the shed'.[52] As early as 1898 school inspectors in dairying districts were expressing concern at the evidence of 'parental indifference or neglect and excessive work required from children of very tender years'. Not all observers were convinced that the 'necessitous circumstances' of the parents gave rise to the trouble: 'More often we believe the cause is greed of gain, and a culpable ignorance of the needs and demands of the growing body.'[53]

Such involvement of children was not confined to dairying. In 1900, for example, the Nelson school inspectors found that the extension of small fruit- and hop-growing had had its adverse effects on school attendance and

48 As an example of the lack of consistency, see NZOYB, 1895, p. 82 (population arrivals and departures), cf. p. 103, where an article on death-rates of married men discussed orphaned children under the age of 15 years.

49 ibid., 1901, p. 288.

50 *Statutes*, 1889, No. 17, Offences Against the Person Act, Section 2; 1893, No. 56, The Criminal Code Act, Section 196; 1894, No. 41, The Criminal Code Act Amendment Act, Sections 2, 3; 1896, No. 7, The Criminal Code Act Amendment Act, Section 3. Although most references cite 1893 as the year in which the age of consent was raised from 12 to 14, the wording of section 196 of the Criminal Code Act repeats almost exactly Section 2 of the 1889 legislation. My interpretation is that the age of consent was raised in 1889.

51 NZOYB, 1901, p. 288; *Statutes*, 1893, No. 56, The Criminal Code Act, Section 191.

52 Tom Brooking, 'Economic Transformation', in W. H. Oliver and Bridget Williams, eds, *The Oxford History of New Zealand*, Wellington, 1981, p. 229; Child Welfare Officer, Invercargill, to Superintendent, Child Welfare Branch, Wellington, 7 November 1936, CW1 4/10/1, National Archives (NA).

53 AJHR, 1898, E-1B, p. 8; ibid., 1906, Session II, E-1B, p. 14.

children's progress.[54] Maori children also suffered the consequences of their parents' decision to interrupt schooling for weeks at a time.[55] For three decades teachers, inspectors and educational organizations would protest and petition, and school medical officers would challenge the popular assumption that country children were healthier and better cared for than town children.[56] The inequity would persist for decades: 'Our legislation rigidly prohibits the employment in a factory of a child under fourteen years of age and yet there is nothing in the statute book to prevent a farmer or labourer from making his children do half a day's work before they come to school and another quarter day's work after they return home.'[57] Although the 1936 Agricultural Workers Act was to forbid the employment of children under 15 as agricultural workers, nothing in that Act would apply to a farmer's own children. Administrators recognized the seriousness of the problem but felt powerless in the face of it: 'Our main difficulty is to intervene between parent and child where the labour is as it were within the family.'[58] New Zealand's state wards were the only minors to be expressly protected, for the regulations governing their foster care made it impossible for those of school age to be used as cheap labour units on a dairy farm.[59]

Other gaps in the legislative protection were to emerge in the early twentieth century. Throughout the 1920s and 1930s, for example, there was a growing incidence of urban children whose before- and/or after-school employment rendered them unreceptive to their more formal education. Newspaper-vending in the streets, early-morning deliveries, and children working on milk carts were the most popular jobs. The employees were usually, but not invariably, boys.[60] As casual employees or contractors their conditions of work were covered, in isolated instances only, by local body by-laws and Arbitration Court awards. Apart from relevant sections in the 1908 Infants Act and the 1925 Child Welfare Act, there was 'very little legislation dealing with the employment of children'.[61] Provision did exist under the 1925 Act for the Governor-in-Council to regulate the

54 ibid., 1900, E-1B, pp. 24–25.

55 NZPD, 1901, 117, pp. 121 (Pirani), 123–4 (Carroll).

56 See, for example, Memo for Director General of Health from Medical Officer, Health, New Plymouth, 22 October 1936 forwarding two enclosures from Miss G. Bayly, Mere Mere School, Hawera, 5 October 1936, H 35/75, NA. Karl Marx Miller, Aongete School, Katikati, to Hon. Peter Fraser, Minister of Education, 20 November 1936, CW1 40/48/1, NA. Memo from the Census and Statistics Office, Wellington, to the Director of Education, 13 May 1937, p. 2, E1 40/48/1, NA.

57 AJHR, 1919, E-2, Appendix B, p. iii.

58 Secretary, Education Board of the District of Wellington to Dr A. G. Paterson, 28 October 1930, H35/75, NA.

59 J. Beck, Superintendent, Memo for all Child Welfare Officers, 13 July 1937, CW1 40/48/1, NA.

60 CW1 40/48/1, NA, cites many instances of street trading and the employment of child labour during the period 1930–40 and details the adverse effects on the children involved.

61 W. Latrobe to Minister of Education, 8 August 1935, CW1 40/48/1, NA.

employment of children in street-trading, but this power was not to be exercised while economic fluctuations continued. Welfare officers would wait in vain for conditions to become 'more nearly normal'.[62]

The arguments advanced during the debates of the late 1890s highlighted the ambivalence of attitudes which were disseminated throughout the community at large. For most working-class families, the minimum educational qualification demanded by the state was qualification enough. While there would always be the inspired exceptions, most urban working-class parents encouraged their children to leave school as soon as they were entitled to. Boys were expected to earn a living, the return from which became a significant part of the family income. Girls were to find gainful employment within or without the home to fill in the interim until they married. Careers, qualifications, freedom, independence: the goals of the middle-classes were rarely to be realized by those less advantaged. Any legislation which impeded gainful employment by school-leavers and limited the opportunity of young workers to meet their obligations towards their parents was not seen as helpful to the working-class. Yet a government sympathetic to that cause could not allow such children to be exploited by employers.

The measures dealing with factory employment had been successful for three main reasons: the employment of children and youthful workers directly threatened the livelihood of adults; the political moves were in response to a popular clamour for reform; the problem was relatively small-scale and not a recurring one, given the secondary place of manufacturing in the colonial economy. Child labour in the rural sector was quite a different matter. It was primarily a matter of family business; children were unpaid and, therefore, not officially working; and many parents were perfectly moderate in the demands which they made upon their children.[63] To legislate against the practice because of those who were unreasonable would be to undermine the very source of survival, let alone profitability, of many of those family farms. To threaten the livelihood of the dairy farmers would be to threaten a key export industry itself.

For thousands of children, New Zealand was a good place in which to be born and raised. They grew up secure in the knowledge that they were loved and cared for. Their parents valued their children's education more than their potential earning capability and made every effort to ensure that their children took advantage of educational opportunities which the parents had never had. The evidence from oral history and genealogical resources alone testifies to that and provides an important counterweight to the negative impression which a focus on exploitation can bring. Yet, given the incidence of child employment, paid and unpaid, during the last decade of the nineteenth century and beyond, some significant questions do merit

62 Memo for Secretary, Department of Labour, from Director, Child Welfare Branch, Department of Education, Wellington, 7 November 1931, CWI 40/48/1, NA.

63 Memo from G. V. W. to Mr Lambourne, Department of Education, Wellington, 7 January 1937, E1 40/48/1, NA.

further research. One, certainly, is the extent to which working-class prosperity in colonial New Zealand actually depended upon child labour. Did the insistence that children attend school more regularly cause economic difficulty in many urban and rural households, especially when older children were needed to look after younger family members while a parent took paid employment? Equally, did the casual earnings of many of those urban children in particular mean that there was a tight financial margin for survival in many of the homes affected by economic recessions? The most basic set of questions, however, relates to attitudes towards children generally. The Liberals did not effect a revolution in public opinion. In many ways they were prisoners of their own outlook and that of the society of which they were a part, a society which actively pursued its belief in the moral superiority of hard work and assumed that children should be imbued with that ethic at an early age.

JEANINE GRAHAM

University of Waikato