Chapter Four

Order and disorder at Mount Morgan: the power of the courts and manipulation of the law

In the British tradition, intervention of police and court action in colonial settlement thwarted the purpose of much violence. The court was also the guardian of laws that defined rights and obligations for social order in domestic, workplace and economic situations. Police magistrates and justices of the peace presided in court practice that enacted the power of the law over local citizens, albeit most people tended to live within the law, perhaps from fear of retribution rather than natural integrity.[1] Thus the courthouse was the theatre where protagonists enacted dramas of law and disorder before the bench, whose role was to ensure that justice was served according to the scripts of legislation that directed every case.[2] The practice of the law protected the rights of most Mount Morgan residents for possession of property, whether money, land under miner's right, a pair of boots, trousers or a horse. Yet, despite the supposed invulnerability of the courts, bench decisions might demonstrate conflict of interest.[3] This chapter presents issues and cases that demonstrated the power of the law at the local level, and others that reflected parameters of law and order in the wider sphere.

Illegal activities that were a microcosm of crime in established towns and cities reflected the urban character of Mount Morgan. At the Small Debts Court and Police

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1 Alan Atkinson, *The Europeans in Australia*: *the beginning*, Melbourne, 1997, pp. 338, 341; Rhys Isaac, *The transformation of Virginia 1740-1790*, Williamsburg, Virginia, 1982, pp. 348, 349.

2 Atkinson, *The Europeans in Australia*, pp. 4-5, 138.

3 Clerk of Petty Sessions Mount Morgan (CPSMM), Deposition Book, 14 November 1887-9 - June 1893, CPS 7B/P1, Queensland State Archives (QSA).

Fig. 17. Mount Morgan courthouse, facing north to town centre. Constructed by 1903, the building included the police precinct.

Court in the Court of Petty Sessions, a visiting magistrate or perhaps several local justices of the peace presided. Courts extended throughout Central Queensland and were not limited to the urban areas of Rockhampton and Mount Morgan. However, pivotal to the Central Queensland legal sphere were the Rockhampton District Court, Criminal Court and Supreme Court that dealt with cases of embezzlement, moral and sexual offences, grand larceny and murder.

By 1901, criminal and civil sittings of the Southern Division District Courts were each held four times yearly at Rockhampton Supreme Court, six times at Brisbane and twice yearly at other towns in central, western and southern Queensland.[4] Officers of the District Court gained increasing influence - Rockhampton Police Magistrates and District Court judges conducted trials by jury to deal with charges from grand theft to murder. Those charged with minor offences at Mount Morgan were brought before the local courts and if convicted and sentenced were committed generally to Rockhampton

[4] Thomas Macleod and T.W. McCawley, *The Queensland Justice of the Peace and Local Authorities' Journal*, vol. V, December 1911, pp. 149-153.

Gaol. The 'lock-up' at Mount Morgan held those charged before hearing, or sentenced for several days in default payment of fines. Others, depending upon the seriousness of offences, were committed for trial at the Rockhampton District Supreme Court after initial hearing of the charge at Mount Morgan. This obvious superiority in court authority, proceedings and representation served to reinforce Mount Morgan resentment of Rockhampton.

Many cases heard at the Mount Morgan court reflected a sub-culture that was much removed in social structure and space from most of the general working-class population. Doubtless, similar petty offenders and criminals existed elsewhere,[5] but the Mount Morgan situation instanced the mobility of miners in an industry notorious for short-lived enterprises. Policing of the law to maintain order was critical to development in a town where many did not aspire to permanence or respectability within the community. When Mount Morgan passed an era of early settlement and town expansion occurred at a distance from the mine, spatial determinants influenced attitudes to the law more noticeably. As pointed out in chapters one and two, early settlements including Tipperary Point, Red Hill and Dee River flats became permanent suburbs while miners' camps tended to relocate periodically according to town development. Moreover, Chinese habitations consolidated south along the Dee River and Horse Creek, while Aboriginal camps were on the outskirts of town.

The local court dealt with charges of drunk and disorderly, obscene language and threat, illegal trading, gambling, drugs, petty larceny and assault, desertion and neglect. At the same time however, not all charges for perceived offences proceeded. Frequently, neither plaintiff nor defendant appeared in court, the charges were dismissed[6] and court expenses incurred were the responsibility of the public purse.

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5 Weston Bate, *Life after gold: twentieth century Ballarat*, Melbourne, 1994, p. 43.

6 CPSMM, Bench record and summons book for the Children's Court (Bench book, Children's Court), 28 September 1905, CPS 7B/S3(a), (QSA). Children's Court Bench books (a) and (b) at QSA are bound with CPS 7B/S3.

Moreover, even if the plaintiff and defendant were present for a case of threat by an individual against another's person, the bench tended to dismiss the case.[7]

The development of Mount Morgan demonstrated that the type and frequency of offences changed little in the passage of a century from first colonial settlement. Perhaps the raw style of Mount Morgan brought excessive numbers of drunk and disorderly, obscene language, and assault charges similar to earliest settlement.[8] Graeme Davison suggests that in the case of Melbourne, the inner-city environment became by the 1880s 'unpleasant and dangerous…[with] rising indices of crime and mortality'.[9] At Mount Morgan also, the location of criminal elements was reflected in the changing facade of the town. In the 1880s, offenders cited addresses as the settlements of Mundic Creek, Burke's Flat, the nearby Dee River area and Tipperary Point. This last, confined by the river was known also as Tipperary Gully or Tipperary Flat where, on St. Patrick's Day, according to local lore, none other than Irish ventured near the narrow lanes and hotels, including the Shamrock across the river and Red Hill.[10] The area might be compared to the 'vigorously Irish' population at Warwick, Queensland, a 'horsey, crude' society where St. Patrick's Day violence at the racetrack was customary. Further, the potato growing village of Bungaree outside Ballarat was known also as 'Tipperary Gully' and 'Irishman country' that boasted a Shamrock Hotel in the 1870s.[11]

The changing locations of the Mount Morgan shopping area, as discussed in chapter three, dictated the place of much petty crime. Moreover, alcohol abuse remained endemic, and charges of drunk and disorderly were not limited to the native-born. Convictions of males for drunkenness in November 1909 included seven

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7 CPSMM, Bench book, Children's Court, 16 January 1906, 7B/S3(a), QSA.
8 Alan Atkinson, *The Europeans in Australia*, p. 199.
9 Graeme Davison, *The rise and fall of 'Marvellous Melbourne'*, Melbourne, 1978, p. 154.
10 Information provided from a private source.
11 Patrick O'Farrell, *The Irish in Australia*, Melbourne, 1987, p. 136.

Queenslanders, nine Irish and two English.[12] The charge for obscene language was prevalent also and in a majority of cases, a single charge arose from these two offences. Charges were not gender specific and most cases against women related to those of a perceived lower class, a circumstance to be discussed later in this chapter. Heading the lists of repeated court appearances were miners, labourers and others whose language was peculiar to their male dominated lifestyle, workplace habits and frequent patronage of pubs and hotels. Conversely, the *public* language of merchants, traders, hoteliers and land agents was usually more restrained, their convictions for language offences, unless combined with drunkenness, numbering few by comparison with those of lower socio-economic status.

The law was critical to town order for which the bench dealt with charges of calumny and assault, acts of cruelty to animals, petty larceny, family neglect and desertion, gaming and prostitution. Assault charges heard at Mount Morgan permitted conviction without a formal inquiry, and in many double charges of assault and abusive language, the latter tended to be struck out.[13] The availability of mixed spirits that local merchants and hoteliers served and bottled in contravention of section 109 of the *Licensing Act 1885* exacerbated the endemic consumption of alcohol.[14] However, charges against victuallers who sold their illegally mixed bulk spirits did little to quell the demand for cheap liquors. Moreover, as observed in chapter three, the improved quality and marketing of beers by 1900 affected the common consumption of spirits and wine.

Some bench decisions were not brought down according to court procedure. An anomaly existed in the processing of many charges against mine workers. When the general manager or other senior official of mine management presided on the bench, charges of drunkenness against mine employees were on occasion summarily dismissed

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[12] CPSMM, Bench record and summons book (Bench book), 20 December 1909, CPS 7B/S6, QSA.
[13] CPSMM, Deposition book, 11 November 1890, CPS 7B/P1, QSA.
[14] CPSMM, Bench book, 14 January 1900, CPS 7B/S3, QSA.

with a caution. This situation was not tenable to the Company if offenders were required for shift. For example, on 26 April 1890, managing director H. Wesley Hall, JP, dismissed with a caution seven of eight such charges against mine employees. Manipulation of the law served not only to reinforce employees' obligation to the Company, but might also endorse a miner's larrikin attitude to the law. By contrast, William Hannam, JP, was not associated with the mine and for the same offence, imposed the fine of 20s. or 48 hours jail.[15] This situation also suggests that convicted offenders who could not afford to pay fines were confined to the lockup.

Children to the age of fourteen years at Mount Morgan might be charged as neglected and detained for up to five years at industrial schools or asylums.[16] The addicted and diseased were committed to the Rockhampton Receiving Depot and Lock Hospital for one month.[17] Before incarceration in one of Brisbane's numerous asylums, they were examined and treated at Rockhampton according to terms of the *Contagious Diseases Act*.[18] Parental charges and evidence against their children who were considered wayward and sentenced to imprisonment by the local court suggests a lack of family care at Mount Morgan within sections of a traditionally nomadic mining population.[19] Such committal of adults and children to institutions suggests authority at the local level that Paul Werth declares indicated power from below.[20] Moreover, children were more vulnerable to charges of neglect when the male breadwinner

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[15] CPSMM, Deposition book**,** 26 April 1890, CPS 7B/P1, QSA. A century earlier, convicts were not prosecuted for debt if conviction interrupted the terms of their labour; see R.W. Connell and T.H. Irving, *Class structure in Australian history: poverty and progress*, Melbourne, 1992, p. 39.

[16] CPSMM, Deposition book, 13 December 1897, CPS 7B/P4, QSA; CPSMM, Bench book, Children's Court, 3 November 1907, CPS 7B/S3(b).

[17] J.T.S. Bird, *The early history of Rockhampton*, Rockhampton, 1904, p. 60. The Immigration Depot (later the Rockhampton Receiving House and Lock Hospital) built fronting the Fitzroy River was at the corner of Albert Street, some distance from the town centre. The addicted and sexually diseased were detained and treated for a minimum of one month at the Rockhampton 'Receiving Depot' before committal to a Brisbane institution. The Depot was relocated on swampy land at Depot Hill, south of the town.

[18] CPSMM, Deposition book, 7 July 1898, CPS 7B/P4, QSA. The term 'asylum', also applied to institutions for neglected children, and for habitual inebriates convicted of 'unsound mind'.

[19] *Weekend Australian*, 22-23 April 1995, suggests that more than one hundred and eighty children buried in an early cemetery at Randwick included a large percentage of children placed in the asylum for destitute children when parents left for the goldfields.

[20] Paul W. Werth, 'Through the prism of prostitution: state, society and power,' *Social History*, vol. 19, no. 1, p. 14.

deserted the family, a circumstance that occurred frequently at Mount Morgan. For example, in the four months from June to October 1905, twelve men were convicted of child desertion.[21]

Young boys and girls might be at once agents and victims of their own actions. When compared with the conviction of adults, judgements on juveniles for misdemeanours and offences were more severe in terms of removing them from society for extended periods. For example, the sentence for two boys who stole 10s 6d from miner John Fraser of Limestone Creek in 1905 was three years' imprisonment each in Westbrook Reformatory.[22] In 1906, a case that drew local attention was a charge of theft at Mount Morgan levelled against ten year old Thomas Lloyd, who alleged he found a gold watch valued at £9, which he attempted to sell to various people in the street. The boy saw the owner remove her watch at a football match and he picked it up when it was left on a seat. His mother, who had seven other children, declared in evidence that the boy's father was dead, the boy refused to attend school, and that he was beyond the control of his mother or stepfather. Thomas Lloyd was convicted and sentenced to nine years at Westbrook Reformatory.[23] As convictions against male adults for child desertion increased, the charges of 'neglected child', misdemeanour and petty larceny involved at least twenty-one children in 1908 and 1909. From February to May 1908, boys committed about 70 per cent of the offences dealt with in the Children's Court, but girls who faced charges might also be incarcerated 'for their own benefit'.[24] Female delinquency tended to be defined as sexual misconduct:[25] on 5 May 1908, Thomas Parkes 'charged' his daughter, Christina Parkes with being a neglected child. The girl was found guilty of 'misconduct and having immoral relations' and

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21 CPSMM, Bench book, Children's Court, June-October 1905, CPS 7BS3(a), QSA.
22 *MB*, 26 October 1905.
23 *MB*, 19 May 1906.
24 CPSMM, Bench book, Children's Court, 1908, 7B /S3(b), QSA.
25 Stephen Garton, 'Sir Charles Mackellar: psychiatry, eugenics and child welfare in New South Wales', *Historical Studies*, vol. 22, no.86, April 1986, p. 31.

sentenced to the Industrial School for Girls at Wooloowin for five years. Other girls were sent to Yeronga Girls Reformatory and Holy Cross Retreat Industrial School.[26]

The Police Court dealt with cases against employers who failed to pay wages due to employees and with charges by shopkeepers against customers who refused to pay for goods and services.[27] Convictions were usual for such charges in which refusal to pay amounted to loss of income for the provider. The offence of larceny was serious, however small the amount of money or value of goods stolen; but those of the lower orders who were summonsed frequently, had no skills, and were considered shiftless, suffered little from the stigma of conviction. This suggests that they had nothing to lose in respect or status. On the other hand, some victims found the theft of their possessions or legal tender resulted in financial straits that led to the loss of social standing, assets and employment.

The theft of gold was an ongoing hazard for the Company hierarchy. A case of grand theft to the value of £60 000 from the mine became the centre of court attention for Queensland press and public in 1893, when nine men were charged with stealing and receiving gold from the mine. As early as 1890, a suggestion that theft occurred to overcome wage cutting was published in the *Worker*, but whether Mount Morgan employees rationalised theft against poor wages is not known.[28] Whatever the situation, directors of the original Mount Morgan syndicate were aware in 1884 that two men had stolen gold and sold it at Charters Towers, but the syndicate took no action, in order to prevent publicity that a golden hoard was retrieved from their mine. Subsequently, Mount Morgan Gold Mining Company Limited directors were haunted by their suspicions of gold theft, while rumours abounded over the years that some employees had more money than their wages provided. Yet, the Company took no action until 1893, when retrieval figures were so abysmal that an immediate explanation and

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[26] CPSMM, Bench book, Children's Court,1908-1909, CPS 7B /S3(b), QSA.
[27] *Mount Morgan Argus* (*MMA*), 6 April 1900.
[28] *Worker*, 1 March 1890.

desperate measures were essential.[29] At the same time, a local woman spoke freely of seeing some gold stored beneath the house of a mine employee. With the world's greatest gold mine on Rockhampton's doorstep, it is probable that the population attracted to the district included vagrants or sometime itinerants who moved from rush to rush, mine to mine. However, major theft at the new mine was committed by a group of mine employees and others who were employed by the Company or outside enterprise, and several who were self-employed. Their subsequent trial in the Rockhampton Criminal Court highlighted the vulnerability of security at large mining operations.[30]

In attempts to identify and apprehend thieves, the Company engaged a succession of detectives (unnamed) from the south, but the first to move into the town was identified unexpectedly by a member of a travelling vaudeville troupe. The Company persevered, however, and in August 1893 appointed Thomas Carlton Skarratt to take charge of the gold department where some Assay Office staff were suspects. He was the nephew of Thomas Skarratt Hall, who was manager of the Queensland National Bank at Rockhampton and one of the Hall brothers who held a majority of the mine shares.[31] The Company also retained Sydney detective Frederick William Gabriel who, bearded and dressed as a miner, joined the Assay Office. Ingratiating himself with the thieves and receivers, Gabriel's claim of gold theft in South Africa brought him the promise of a share of gold stolen at Mount Morgan. The thieves' accomplice in Rockhampton was sometime jeweller George Raynor Percy who aspired to politics as one of six nominees from whom the two Labour candidates chosen contested the previous state elections.[32] Percy withdrew from candidature when insolvent *in forma pauperis*, but within weeks, reopened business in William Street, Rockhampton, and continued as receiver and seller of Mount Morgan gold.

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29 *MB*, 25 September 1893.
30 *MB*, 25 September 1893.
31 John Kerr, *Mount Morgan gold, copper and oil,* Brisbane, 1982, pp. 88-90.
32 W.J. Long, *The early history of Mount Morgan, Callide and Dawson Valleys*, Rockhampton, 1962, pp. 7-8.

Despite the significance of Rockhampton's role as the regional centre of justice, police force numbers were inadequate to permit officers to travel to Mount Morgan in order to apprehend numerous offenders at one time; the men targeted for arrest were in scattered locations within a radius of 20 kilometres of the mining town. Moreover, the Rockhampton District Court was sitting and a number of constables were required to attend, so were unavailable for police duty. As all arrests were to be simultaneous, ten constables travelled from Brisbane. Communication regarding their arrival in Central Queensland was in telegraphic code,[33] publicity of such information suppressed by arrangement with the press. Although 38 men were suspected, a token number of nine was arrested.[34] They included Duncan Milne, proprietor of the Mount Morgan Mountain View Hotel, where alluvial and bar gold was found in the safe, and Frank Rogel, previously a mine employee who was arrested at his claim at Mount Victoria where he and Milne planned to float a large syndicate. David Hughes, a nightwatchman at the Top Works, was arrested; also father and son, David and Donald McQueen who were miners at Crows Nest near Mount Morgan, and two mine employees, Duncan McGregor and William Rowley, who worked in the 'smelting room'. Another, William Goy, who was T.S. Hall's messenger in earlier years, was a suspect but was not arrested. A long serving employee of the Company,[35] Goy was in charge of the smelting and battery rooms at the mine and had access to the gold from the time it left the charcoal filters to its dispatch to Rockhampton under escort.[36] Reuben Mangin of the Assay Office was a suspect with whom detective Gabriel arranged to transport the stolen gold to Rockhampton. They left Mount Morgan by special coach, the ebullient Mangin providing cigars and brandy for the journey, but finding himself under arrest on arrival at Rockhampton.[37] Police also took gold receiver Percy into custody.

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[33] MMGMC, Telegraphic code, 1893, D15/449, CC/CQU.
[34] Long, *The early history of Mount Morgan,* p. 6.
[35] McDonald, *Rockhampton,* p. 267.
[36] T.S. Hall to Gold Warden and Colonial Secretary's Office, Application for provision of a gold escort, October 1885, M11/915.16, CC/CQU.
[37] *MB*, 25 September 1893.

The involvement of the Mount Morgan police in the operation was simply to guide the Brisbane constables through rugged terrain when they rode out to Mt. Victoria to apprehend Milne. Perhaps the integrity of the Mount Morgan police was suspect in the demand for utmost secrecy to ensure every offender was arrested without time to warn his accomplices. By the time the suspects were removed to Rockhampton, the public display of support for those charged with the serious offence against the Company suggested lack of employee loyalty and a larrikin attitude among miners, as:

> A great crowd was about the Court House [sic] all the afternoon, and as the party left, one individual tried to raise a cheer, which was sharply suppressed.[38]

None of the accused retained legal representation and Percy was the only one to apply for bail, which was refused. Three of the men arrested were found guilty of the theft and sentenced to hard labour at Brisbane Gaol, Rowley for sixteen months, Mangin and Macgregor for seventeen months. The receivers, Percy and the others, were found not guilty. Reuben Mangin's conviction was quashed on the grounds that detective Gabriel admitted certain evidence improperly. It seems the confession he obtained from Mangin was induced under misrepresentation; in this case the fact that as an officer of the police, Gabriel wore plain clothes at the time of the arrest. Clause 64 of the *Evidence and Discovery Act* undoubtedly restrained the authority of officers of the law where a jury might reject evidence in which the conversation between a criminal and a policeman included the taking of a prisoner's confession. Gabriel's submission was seen as 'untrue representation' when he misrepresented himself as a civilian rather than a uniformed policeman. With the letter of the law challenged, the *Criminal Law Amendment Act 1896* replaced the clause citing 'untrue representation' and 'threat or promise' with the provision that if a prisoner was induced by untrue representation to make a confession, such confession could be used in evidence against him. Further, the

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[38] *MB*, 25 September 1893.

amendment required that a confession must be taken by 'some person in authority', rather than under 'any threat or promise whatever' as stated in the previous *Act*.[39]

An aftermath of the court case had far reaching effects on Company policy. During the case one of the accused, David McQueen, declared that management was loose and that the Company should have apprehended those stealing gold long before the current case, from which numerous dismissals resulted and departmental supervision was tightened. Goy was one who, whilst not charged, was probably close to staff and under suspicion when the case was publicised. Typically, however, the full blame for loss rested with management. The directors dismissed managing director Roger Lisle for alleged poor administration; albeit, Board interference in management was entrenched already, suggesting that undermining of Lisle's authority predicated the end of his short term.[40] His departure in 1893 after only eighteen months in the position was not surprising; he carried the blame for gold loss, decline in retrieval figures, management error, and a court case relating to major theft which brought the Company adverse inter-colonial publicity. Additional security measures in the Assay Office by 1896 were described in a letter from Joseph (Joe) Hickman, aged 63, to and old friend, George Haswell, of Birmingham, England:

> I got a situation among the gold in the assay and smelting rooms as a caretaker. This is the place where the gold robberies took place. It would do your eyes good to see about £30 000 worth of gold at a time. Last month we sent three parcels away, I should say about £30 000 in each. In the chlorination process, the solution of gold passes through filters of charcoal. My duties are to burn off this charcoal in furnaces, which takes about 24 hours, the gold dust remaining. This is put into a smelting furnace and refined. The rooms are now constantly locked with two locks. I cannot go in by myself. The overseer has to take his lock off before either of us can go in to fire up and stir the charcoal. We both go in together and come out at the same time. I have a Colt's[sic] revolver beside me all the time.…One week I go on from 4 p.m. till 12 midnight, the next from midnight to 8 a.m.[41]

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[39] *Capricornian*, 12 January 1896.

[40] Mount Morgan Gold Mining Company Limited, (MMGMC), *Annual Report*, no. 13, 1895, D15/271.1

[41] Joseph Hickman to G.H. Haswell, cited in George H. Haswell, A Tyneside worthy, paper prepared and read by Haswell at the Tyneside Club, Birmingham, England, 27 November 1897, Haswell papers, F642, Fryer Memorial Library, (FL).

Given that theft and assault were common offences, the gold Escort from Mount Morgan to Rockhampton seemed to invite attack. The Escort departed Mount Morgan at various times on the order for immediate travel, confirming a clandestine rather than public operation to transport the Company's gold. Harry Holmes was a Rockhampton horse cab driver and drove the Escort in a covered vehicle while two mounted troopers rode in front and two at the rear. In the twelve years 1886 to 1898, an estimated 3.5m ounces of gold valued at almost £14m were escorted from Mount Morgan to Rockhampton. To the surprise of R.L. Dibdin, officer in charge of the Escort, they 'were never stuck up'. After 1898, the Escort comprised two officers who travelled with the gold by train from Mount Morgan to Rockhampton.[42] Oddly, the Escort was never challenged, despite a journey during which slow descent of the Razorback by rack rail provided ample opportunity for interception.

A theme of constant law breaking at Mount Morgan emulated the Rockhampton circumstance. This was evident in the hegemony in working class culture that Connell and Irving suggest saw the rise of a sub-culture in the class based 'push'. The push indoctrinated members, while the strength of numbers and domination of space defined the power of one push to intimidate another.[43] By 1889, the *Daily Northern Argus* at Rockhampton published correspondence that deplored the 'growing nuisance of the larrikin class of youth' who promenaded in gangs of twelve to twenty at the lower end of East Street and whose language 'insulted the ears of respectable residents, particularly females'.[44] The correspondent criticised the Rockhampton police who confined their attention to the business area of the town and left residential areas to 'shift for themselves'. The *Central Queensland Times* took up the issue, claiming that several poorer areas of Rockhampton were similarly plagued and that all municipal ratepayers should have the benefit of lawful protection. Moreover, the leader and some

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[42] M.C. O'Dwyer, Notes on the discovery and early workings of the Mount Morgan mine 1882-1929, typescript, c.1970, pp. 3-4, MMHM.
[43] Connell and Irving, *Class Structure*, p. 415.
[44] *Daily Northern Argus*, (*DNA*), 30 September 1889.

members of the Rockhampton 'East Street push' and known to the press were sons of respectable families. The *Times* suggested increasing the severely inadequate local police numbers in order to 'suppress' larrikinism. Asserting that fear of gaol did not hold terror for the pushes whilst fines were paid by unfortunate parents, the *Times* suggested that:

> two mounted men with stock whips visit the infested quarters of the town, obtain the names of the ringleaders and touch the rascals up 'on the raw' with the greenhide.[45]

This outburst contrasts with Tindall's assertion that in the 1890s, police in the London village of Kentish Town did not enter notorious slum streets unless unavoidable.[46] Perhaps this was also a practice of police at Rockhampton.

Activities of push members were evident at Mount Morgan in 1893. The Company metallurgist, George Anderson Richard, JP, presided at the Court of Petty Sessions when James Fitzgerald, together with Patrick Currin, both known to the police, were before the Bench charged with assaulting Alfred Picking. Witness to the attack was H.L. Eastwood, proprietor of the *Mount Morgan Chronicle*, who provided a substantial deposition against the offenders who, although convicted, were fined only 10s. each - perhaps because both were labourers at the mine. Fitzgerald's police record revealed previous convictions and fines for fighting at Rockhampton. He was leader of the 'Fitzgerald' push at Lakes Creek,[47] location of the vast abattoir and meat processing plant of the Lakes Creek Meat Export Company, employers of a large labour force.

The activities of several larrikin pushes at Mount Morgan were indicative of the urban character of the town, and typically, pushes might frequent union gatherings or picnics.[48] The 'breaking of the Sabbath' took various forms at Mount Morgan; for some

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45 *Central Queensland Times* (*CQT*), 5 October 1889.
46 Gillian Tindall, *The fields beneath: the history of a London village*, London, 1985, p. 194.
47 CPSMM, Deposition book, 2 December 1893, CPS 7B/P2, QSA.
48 Connell and Irving, *Class Structure*, p. 416.

this was the playing of sport. Others created public nuisance and on Sunday match days for rugby union players in 1900,[49] a club report read:

> Sacrilegious youths gave vent to their blasphemous epithets, although the Rugby Union did their utmost to suppress larrikinism and foul language at their matches and clear themselves of connection with the 'Sabbathbreakers'.[50]

The 'Harries' push in 1898 had singular criminal significance in the town. Known to police and residents who lived at the Two Mile (named officially 'Baree') on the track north towards Rockhampton, the push included six young men, the leader Harries, also Smith, Knudson, Clements, Roberts alias Cruikshank alias 'Prawn', and another, a 'half Chinaman'. Harris formed the push after belonging to the weaker 'Horsey' push, and to the 'Mare and Foal' push. His father was a cordial manufacturer at the Two Mile, where young Harris, who did not live at home, worked at the factory, washing bottles, corking the horehound and making deliveries by cart. He was dissatisfied with the work and weekly wages of 15s., and faced an assault and robbery charge on his arrest in May 1898. Arresting constable Patrick Welch deposed that when Harris was not working, he was 'always about hotels when pays are on and is nearly always under the influence of drink. He certainly can't live cheaply'. Welch stated also that on the night of the arrest, he witnessed Harris' attempts to fight, first with one man and later, another. Harris' objective was to lure men out of a hotel into the rear yard in order to 'allow his mates the opportunity of picking them up'.[51]

Charles Smith was another charged with the assault and robbery. Police received regular complaints about Smith from hotels and railway works on the Rockhampton to Mount Morgan line, where he worked on the construction for a short time. He was known to police as having no lawful means of support, of being a suspected thief, associating with suspected thieves, and of 'knocking about places drinking and doing a

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[49] Sabbatarianism is discussed in chapter five.
[50] *MMA*, 3 August 1900.
[51] CPSMM, Deposition book, 2 June 1898, CPS 7B/P4, QSA.

bit of fighting'. William Bartlem was a baker and recent resident in the town who declared that on 18 April, he saw all the members of the Harris push 'except the Chinaman' at the remote Razorback Hotel.[52] They were dancing and drinking until 10 p.m., when hotelier Mitchell closed the dining room.

Two drunken men, one named Morgans, were on the hotel verandah. Harris and Roberts threw the men's swags about and knocked Morgans down the stairs. The money in Morgans' pockets rattled, Harris called 'jingles' and, with Smith and Roberts carried the man to a place about 40 yards to the rear of the premises. While Smith and Roberts held Morgans, Harris robbed him of £8, after which Harris divided the money amongst the push, albeit unevenly, handing 3s. to Bartlem, saying 'that is your bloody share'. Smith took Morgans back to the hotel verandah and Knudson asked Bartlem, 'Are you going to put us away? It's no use putting us away, we are all Kenties'. Knudson's words were a thinly veiled threat that an informer might expect retribution from 'a mob of bad characters' - the feared Kent push in Rockhampton.[53] Ironically, a seeming lack of evidence caused dismissal of the charges, although some of the defendants were habitual offenders. For example, within six months, Smith was before the court once more. Charged with insufficient means of support and 'generally knocking about the streets and hotels and following up drunken bushmen', he was sentenced to two months in Rockhampton gaol.

The rise of labour associations and union activities in the 1900s saw pushes fade at Mount Morgan and Rockhampton as elsewhere.[54] At Mount Morgan, the outcome emphasised increasing working-class solidarity in the Company town. In 1908, a political argument that arose between drinkers on the verandah of the Leichhardt Hotel developed into a fight. The perpetrators were referred to as a push, but whilst the fight was stopped, they were not charged. At Rockhampton, with its diverse workplaces and

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[52] See Fig. 1, chapter one.
[53] CPSMM, Deposition book, 22 November 1898, CPS 7B/P4, QSA.
[54] Connell and Irving, *Class Structure*, p. 417.

communities, residents were aware that 'strong joints' continued to 'roll sleepers'. In an audacious daylight robbery, a group of 'young guns' attacked and robbed a man who was under the influence of liquor, the thieves making no attempt at concealment from passers-by in the busy main street.[55]

Police records cited European names, whether spelt correctly or otherwise; but recording names of Chinese was at best haphazard. This suggests the ongoing problem of a language barrier and a sinophobic European attitude toward Chinese. Reference to a lone 'half Chinaman' of the Harris push is indicative of the lack of consequence European police accorded Chinese at Mount Morgan. On 19 October 1891 before B.F. Bunny, JP, and G.A. Richard, JP and Company chlorinator, a Chinese storekeeper and market gardener, Hop Kee, was charged at the Mount Morgan Police Court with murdering fruit hawker Lee Ying and committed for trial in April 1892 at the Rockhampton Supreme Court.[56] Seven Chinese were called as trial witnesses, each blowing out a match to indicate oath taking. Evidence revealed that about six weeks before the fatal attack, Lee Ying and Hop Kee were in Hoeng Kee's shop when Lee Ying accused Hop Kee of taking his fruit. Hop Kee countered with the assertion that Lee Ying robbed him of business by selling fruit at the place where Hop Kee sold his own produce.[57] The men fought, but were separated by other Chinese.

Lee Ying, who slept in a hut at Hoeng Kee's garden, suffered a fractured skull and injury to the brain and membranes from several blows to the head from a sharp instrument, suggested as the bloodied tomahawk found at the attack scene. The investigating constable forced Hop Kee to kneel in front of the dying Lee Ying, who the constable coerced into identifying Hop Kee as his assailant. Lee Ying died later in hospital. Although Chinese were sleeping in huts within three metres of the scene and others were watering the cabbages in Hop Kee's garden at the time of the attack, none

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55 *Critic*, 27 November 1908.
56 *DNA*, 21 October 1891.
57 *MB*, 22 April 1892.

called as witnesses admitted to hearing any noise from the hut or noticing anyone in the vicinity. Despite a great deal of blood at scene, there were no signs of a struggle and no blood was found on Hop Kee or his clothes when the constable apprehended him shortly after the attack.

In summing up, Mr. Justice Lukin reminded the jury of the difficulty in gaining accurate evidence through an interpreter. He also emphasised the lack of incriminating evidence against Hop Kee, and laid the blame for this on the prosecuting constable as an 'unintelligent and most inaccurate witness'.[58] At the same time, Lukin charged the jury to consider a decision for murder or manslaughter. The twelve-man jury retired for one hour and brought a guilty verdict against Hop Kee, who was sentenced to hang.[59] Within two days, the detailed trial evidence was analysed through the columns of the *Daily Northern Argus* and the decision of the court declared untenable.[60] Subsequently, lack of incriminating evidence in the case resulted in the verdict being overturned and the sentence commuted to life imprisonment.

Subsequently, when Sergeant Michael O'Sullivan transferred to Mount Morgan he became interested in the case, prompted perhaps by a press report that suggested the court's injustice against Hop Kee. Mount Morgan merchants who knew him also questioned the validity of flimsy prosecution evidence. O'Sullivan moved to re-open the case and challenged the conviction on the evidence presented. He claimed that the Chinese witnesses were unfriendly towards Hop Kee who was from a different province in China to Lee Ying. Moreover, perhaps O'Sullivan became aware from court records that Hop Kee was not among the more than 30 Chinese brought before the local court between 1886-1892 on gambling, drug, liquor and moral charges.[61] Not only that, O'Sullivan declared from subsequent evidence that other Chinese at Mount Morgan

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58 *MB*, 23 April 1892.
59 *DNA*, 23 April 1892.
60 *DNA*, 25 April 1892.
61 CPSMM, Bench book, 1887-1892, CPS 7B P1, QSA.

were aware Hop Kee did not kill Lee Ying, but lied deliberately to cover the guilt of one of their own clan.[62] Hop Kee was released and no further action transpired in the case, despite evidence of intra-racial conflict revealed in depositions by Chinese in subsequent cases at Mount Morgan court in 1892. Hop Kee returned to his garden at Mount Morgan.

Whilst Chinese comprised about 0.75 per cent of the European population, charges of assault between Europeans and Chinese were less than between Chinese only. However, the anti-Chinese attitudes in Central Queensland (discussed in chapter three) heightened a fear that cultural practices by ethnic 'others' were suspect. Police pursued all law-breakers, but monitored Chinese for their very difference, perceived untrustworthiness and their cohabitation with fringe-dwelling Aborigines and others. One Chinese, Kin Lin, in his own defence against the charge of gambling, declared that just as Europeans gambled and fought amongst themselves, Chinese acted similarly.[63] Moreover, Chinese from geographical locations as close but diverse as Canton and Hong Kong confirmed the generic and cultural issues of kin and birthplace.[64]

Chinese at Mount Morgan drank gin and brandy,[65] but cultural practices that many Europeans considered depraved included gambling and smoking opium.[66] A police raid on a Chinese store led to charges against Yang Kee for conducting an opium den and gambling table and selling liquor to other Chinese. His premises and garden were on land in the Company paddock. He paid rent to management for the garden area located at the river end of East Street near the Happy Valley bridge. The hut at the garden comprised three separate compartments; one was an opium room, another a bedroom that was also a gin store. A gambling table a metre high was in the centre of the third

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62 A.E. Christmas, History of the Chinese in Mount Morgan, typescript, c.1990, pp. 6-7, Mount Morgan Historical Museum (MMHM).
63 CPSMM, Deposition book, 24 January 1898, CPS 7B/P4, QSA.
64 CPSMM, Deposition book, 21 January 1898, CPS 7B/P4, QSA; F.G. Clarke, *Australia: a concise political and social history*, Sydney, 1992, p. 139; *MMA*, 18 July 1901, 11 November 1901.
65 CPSMM, Deposition book, 1 February 1892, CPS 7B/P2, QSA.
66 F.G. Clarke, *Australia*, p. 137.

room, where some Chinese were 'lying around the walls' and about fourteen others were standing around the table where they were playing Fantan. The 'owner' of the room was the banker who held the wagers and kept a percentage of all winnings. He was Yang Kee, who was unlicensed but sold gin for 4/6d. per bottle.[67] Ten Chinese were charged with participation in illegal practices, but the court bench was cautious in accepting evidence, declaring that the oral depositions and court evidence of non-English speaking Chinese delivered through an interpreter were open to misunderstanding in translation. Notwithstanding, when the court considered the defence evidence of all the accused, the charges were substantiated and brought heavy fines of £16 in each case, comprising £10 for the offence and the remainder for professional, interpreter and court costs.[68] Probably for the reason that they would not be imprisoned with or cared for by Europeans, Chinese were not privy to the option of gaol that accompanied most convictions against Europeans in the Court of Petty Sessions. Moreover, in July 1901, six separate assault charges between Chinese were struck out but by November, six Chinese accused of grievous bodily harm against a seventh were convicted as charged.[69]

Whether Chinese at Mount Morgan kept houses of prostitution is not known, but in 1903, an establishment reportedly operated in Alma Street, Rockhampton, a short distance from the centre of town. A woman and three young girls aged from eleven to sixteen years were in the house kept by Chinese. Some twenty-five Chinese lived in an adjacent dwelling.[70] At Mount Morgan, where prostitutes including some Aboriginal women worked the miners' camps, women who cohabited with Chinese were ostracised, threatened and named as prostitutes. Chinese gardener Louie Kee and his non-Chinese wife Laura Kee lived along the Upper Dee River. Their neighbours were mine furnace worker Alexander Salzman and his wife Helena, who charged Laura Kee with 'insulting words', claiming that when they were walking home Kee was on the verandah of the

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67 CPSMM, Bench book, 2 January 1892, CPS 7B/S1, QSA.
68 CPSMM, Deposition book, 27 January 1898, CPS 7B/P4, QSA.
69 CPSMM, Police Charge Bench book, 11 November 1901, 7B/S16, QSA.
70 *Critic*, 3 June 1903.

Campion Hotel and castigated Alexander Salzman for his past relationship with her. At his response, 'Who are you talking to you bloody Chinese whore'? Laura Kee swore, threw a stone at Salzman and repeatedly referred to his wife as 'whore', and 'whore's child'. Salzman assaulted Laura Kee, was reported to police and fined for assault. The court dismissed her charge against him for obscene language and a similar charge against Laura Kee for verbal abuse of Helena Salzman.[71]

The law dealt carefully with aspects of European public behaviour categorised as sexually immoral. The matter of prostitution was a double-edged challenge to lawmakers and keepers of the peace. Their dilemma was whether to outlaw the enterprise simply for what it was, or to take token action against the practice to placate the sense of outrage that rose periodically above a generally unspoken public tolerance. Whilst the Protestant church cavilled and the courts denigrated women whose morals were perceived as less than pure, the press alerted readers to the threat of prostitution to young women and girls.[72] Moreover, cases of verbal abuse that proceeded through the court demonstrated that name-calling was endemic in the public lexicon of the lower orders and many others at Mount Morgan. Alan Atkinson suggests that animal imagery prevailed in the language of loathing used in Britain at the time of New South Wales settlement;[73] but at Mount Morgan, the term 'whore' provided ultimate public denigration in terms of abusive language. Further, by the 1890s the demeaning term 'flash' alluded not only to larrikins, but also to prostitutes and other females who associated with push members.

Early locations of prostitution at Mount Morgan were typically near hotels and billiard saloons or 'boarding houses' adjacent to miner's tents and humpies. Miners' camps and shanty areas remained a part of the Mount Morgan landscape, where town

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71 CPSMM, Bench book, 13 December 1898, CPS 7B/P2, QSA.

72 Raymond Evans, '"Soiled doves" prostitution in colonial Queensland', Kay Daniels (ed.), *So much hard work: women and prostitution in Australian history*, Sydney, 1981, p. 135.

73 Alan Atkinson, *The Europeans in Australia*, pp. 121-123.

development and extension of settlement perimeters forced relocation of some camps. Charges including carnal knowledge and prostitution, and the non-gender specific 'assault' were laid against dwellers on the outskirts of town.[74] This occurred elsewhere; Janet McCalman suggests that respectable Shaftsbury Park Estate near London was 'ringed by unrespectable working-class life' in which drunkeness and prostitution flourished.[75] In the case of Mount Morgan, Court of Petty Sessions records revealed that within the sub-culture of the poor 'other' was a network of people who lived amid violence and abuse. For many, a lifestyle of close proximity, lack of privacy and poor conditions in mean habitations was an environment perceived to perpetuate generic misery and immoral practice. At miners' camps, the seemingly banal title of 'dining room' was a misnomer for tents and humpies where meals were available.

Much accommodation available at canvas, bark or timber 'boarding houses' was suspect when the proprietors were notorious in the area. For example, non-Europeans well known to police were Alice Carlon and Mary Ann Bray. Carlon's habitual drunkenness and bawdy behaviour caused male boarders to leave her establishment. Carlon denied this in court, when charging Aboriginal tent dweller, Annie Patten, wife of Albert Patten, with abusive language. Patten called her a 'drunken Indy' and accused her of 'walking the flags in Rockhampton'.[76] On an earlier occasion, Patten charged that Patrick Currin came to her tent and abused her for calling him names. Annie Patten ordered him away, but he said 'I'll not go out for a bloody black gin', at which they scuffled, Annie Patten knocked Currin down and ran off. Currin was convicted and fined 48s. and costs in default fourteen days in prison.[77] Mary Ann Bray charged or counter-charged men – and women - who used or abused her. For example, when Bray had a verbal altercation with John Warry, who accused her of 'raising [your] children by

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[74] CPSMM, Deposition book, 12 December 1887, CPS 7B/P1, QSA.
[75] Janet McCalman, 'Respectability and working-class politics in late Victorian London', *Historical Studies*, vol. 19, no. 74, April 1980, p. 116.
[76] CPSMM, Deposition book, 13 November 1889, CPS/7P1, QSA.
[77] CPSMM, Deposition book, 13 August 1888, CPS 7B/P1, QSA.

prostitution' and 'living on the earnings of prostituted children', her response was 'you got your daughters married and you are living on their whoring'.[78]

Catherine West was the licensee's wife at the Miners' Arms Hotel on Mundic Creek near the mine Works and was in charge of the hotel when her husband attended a camp of Queensland Volunteers at Emu Park in 1890. Mrs. West had a an obscenely verbal and violent altercation, including stone-throwing, with miner William Daniels who camped across the river and had meals at a tent kitchen nearby. Both accused the other of sexual depravity and immoral behaviour. The case at the local Court of Petty Sessions brought appearances of numerous witnesses including several public citizens. Each of the protagonists was fined £2 or seven days, suggesting that whilst some court judgements might be gender specific, fines were not.[79] Repetitive charges against women for drunkenness, abusive language or assault were amongst those struck out when the plaintiff or defendant or both did not attend the hearing, or if the Court refused to hear the case . Emily Peut, who figured in numerous charges, was wife and mother in a notorious family at North Calliungal. The Peuts held numerous blocks of land and were associates of Patrick Currin and possibly Fitzgerald, mentioned above. Between 1887 and 1905, numerous plaintiffs brought successful charges against all members of the Peut family for offences from damage to property, cruelty to and killing of domestic animals, drunkenness, obscene language and assault.[80] Charges against women at Mount Morgan for indecent exposure, whether at Burke's Flat or the Company 'paddock' or camps did not feature in the press. However, a Rockhampton journalist assumed the guardianship of public opinion and asserted that parents should monitor the activities of their daughters, otherwise it was the duty of police to curtail the:

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78 CPSMM, Deposition book, 2 February 1893, CPS 7B/P3, QSA.
79 CPSMM, Deposition book, 14 April 1890, CPS 7B/P1, QSA.
80 CPSMM, Deposition book, 13 August 1888, 16 October 1890, CPS 7B/P1, QSA; CPSMM, Bench book, 7 June 1906, CPS 7B/S4, QSA.

> bold and unashamed manner of girls between fifteen and seventeen years in Rockhampton who parade the streets and buttonhole youths and sometimes grown-up men.[81]

In citing the 'intolerable nuisance and eyesore and the singularly suggestive language of short-frockers' the press reflected a double standard in public moral attitudes and the function of the law. Prostitution might be denied or ignored, whether to protect men or their families, but it seems that Queensland magistrates of the era tended to dismiss rape charges without committal to trial.[82] At Mount Morgan, charges of indecent assault against a female, perhaps as young as twelve or fourteen years, rarely passed the Bench. For example, in 1902, the court found a male offender guilty of the charge, but at the point of sentence, the presentation of alleged significant evidence – heard in closed session - brought dismissal of the case.[83]

Women went to Mount Morgan in the 1880s and 1890s to work as prostitutes, and perhaps a second generation followed. It seems that prostitution was the purpose of the Misses Miller, O'Brien and Maher who arrived in the town in 1890. Their four month lease on a cottage in Gordon Street adjacent to the town hospital was at a weekly rent of 15s., twice the usual charge for a similar dwelling. The absentee owner lived at Gladstone. Charles Shannon was his attorney and John Lowry was Shannon's agent. Both men had convictions for acts of violence in the street and illegal liquor trading.[84] Immediately the cottage lease expired, the women left the town as quickly and quietly as they had arrived. If they were in the town for purposes of prostitution, their brief residence begs the question whether the town could or would accommodate a bordello.

At Mount Morgan the denigrating term 'whore' might destroy the reputation of another, given the imagery evoked in use of the word. Seemingly, use of the term

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81 *Critic,* 27 November 1908.
82 Gail Reekie, 'Women, region and the "Queensland difference"', Gail Reekie (ed.), *On the edge: women's experiences of Queensland*, St. Lucia, 1994, p. 20.
83 *MMA*, 2 February 1902.
84 CPSMM, Deposition book, 11 February 1891, CPS 7B/P1, QSA.

became more widespread with Victorian social divisions of the later nineteenth century and early 1900s. The role for women of the rising middle-class was defined as 'respectable' - faithful to God and family, morally pure and caring of others. Similarly, many working-class women with pride in home, hearth and community values, perceived themselves on the periphery of the middle-class and much distanced from the lower orders. These issues will be discussed in chapter eight, but it is suggested here that social attitudes tended to perpetuate moral corruption within a 'respectability' that defied growing despair in sections of the public sphere. By 1909, the Catholic Church and Labor press declared:

> The worst thieves in the community are the capitalists who pay their unfortunate female slaves so very little that they have to sell their womanhood to live.[85]

Whilst urbanisation increased with population shifts to outer spaces of towns and cities, most places of prostitution remained in older inner urban locations, although 'houses' were not only the operations of 'an amoral criminal class'.[86] The seeming wealth of 'flash girls' tempted others who were led to prostitution as a panacea to poverty and harsh family life, while younger siblings of flash girls experienced *rites de passage* in the sex trade. Yet, as Chris McConville points out also, girls who succumbed were perceived as weak in mind and character.[87] At Rockhampton, the radical *Critic* tilted cynically at prostitution, deriding street activities in versified dialogue between a naïve stranger and a local:

> Just one more question and I've done - the ladies in East Street
> I see have mostly escorts when they promenade discreet,
> But surely it is scarcely safe, and surely hardly right,
> To let them go escortless when they promenade by night?
> Our streets are safe, I murmured, rather puzzled, I must own,
> And our nocturnal maidens are quite used to walk alone,
> But should you deem it harmful, offer escort, and I guess
> Some timid damsel may be found quite charmed to answer 'Yes'.[88]

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85 *Catholic Press*, n.d., cited in *Worker*, 30 May 1909.
86 Chris McConville, 'The location of Melbourne's prostitutes 1870-1920', *Historical Studies*, vol. 19, April 1980, p. 97.
87 McConville, 'The location of Melbourne's prostitutes', p. 96.
88 *Critic*, 2 May 1903.

At Mount Morgan, as elsewhere,[89] prostitution was an issue that simmered below the surface of moral rectitude. Girls who frequented soft drink bars in the early 1900s and spoke in loud voices became targets for press criticism that scarcely veiled the threatened stigma of immorality.[90] Flash women frequented particular streets and the vicinity of hotels in the poorer, disreputable areas.[91] Whilst some hotels held licensed dances on their premises, the entrenched cultural stigma suffered by women or girls who frequented hotels or dances unescorted continued into the 1900s. Mount Morgan court records of the period suggest a percentage of these females were charged with immoral practice, although evidence suggests that unless known prostitutes disturbed the peace, police tended to ignore their activities, or simply caution offenders.[92]

Places of prostitution were not identified and charges for licentious behaviour were limited to offences that occurred in public. For example, at the Company 'paddock', opposite the mine, 'common prostitutes' might be charged with indecent exposure.[93] As pointed out in chapter two, sporting bodies were granted use of section of the 'paddock' and other sections might be leased to respected traders. However, a portion of the paddock close to the mine and used periodically by itinerants and others led to notoriety of that space. Progressively, the court dealt more strictly with offenders; Ada Williams was charged as a 'common prostitute' in 1901 but was dismissed with a caution. By contrast, 'known prostitutes' Rachel Murphy and Rebecca Newton who frequented the 'paddock' and acted 'obscenely' were convicted as charged in 1907 and each fined £5 in default one month in the Rockhampton gaol.[94] Links between prostitution and larrikinism at Mount Morgan were evident, and illegal activity occurred in the town and remote places like the Razorback Hotel, as mentioned above.

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89 Davison, *The rise and fall of 'Marvellous Melbourne'*, pp. 236-238.
90 *Critic*, 24 March 1911.
91 McCalman, 'Respectability and working-class politics', p 14.
92 McConville, 'The location of Melbourne's prostitutes', p. 98.
93 CPSMM: Deposition book, 1 March 1898, CPS 7B/P4, QSA; Deposition book, 12 September 1901, CPS 7B/P5, QSA; Bench book, 27 May 1907, CPS 7B/S4, QSA.
94 CPSMM, Bench Book, 7 December 1908, CPS 7B/S4, QSA.

It is perceivable also that, rather than risk discovery of sexual association with local women, some Mount Morgan men might visit brothels at Rockhampton. One such 'house' was attacked vociferously as to its purpose by Rev. R. Smith, the incumbent of the Methodist Church at Rockhampton.[95] He expounded from the pulpit that, during a Leichhardt West Football Club social attended by about one hundred and twenty men, a number of cabs plied between the hall 'and a notorious French brothel' in the vicinity of the Methodist church and manse. The 'Paris Villa' was an establishment on the corner of Cambridge and Campbell Streets, where four 'registered women' operated: Emma Duvallet, who conducted the place and three other women who professed French names.[96] The Leichhardt Club publicly repudiated the accusation that was based on hearsay, while the Rockhampton press castigated Smith for his moralistic dogma and the attempt to denigrate the character of all who attended the sporting club social.[97] The matter faded, perhaps from bourgeois influence; but subsequently, the conviction of 'the keeper of a house of ill-fame' at an inner area of the town brought a fine of £20 and costs. The case triggered strident press demands for Rockhampton police action to close several 'joy-houses' in the interests of social improvement in the immediate neighbourhood.[98] Ambiguity in press moves for closure of 'several', rather than 'all' hints at selectivity, for example, the Paris Villa was located near the Range, the most prestigious suburb at Rockhampton.

Notwithstanding the various pockets of crime at Mount Morgan, 'respectable' residents attempted to perpetuate high moral repute for their town. To this end, they harboured pride in their own space and social milieu, ignoring or denying awareness of locations that were reputed centres of unlawful activity and indifferent morals. Moreover, an individual might be at pains to hide any suspect activity from the law, and

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95 *Critic*, 27 April 1903.
96 A. Douglas Graham, *The Queensland Law Journal*, 17 June, 5 August 1901, Brisbane, 1901, pp. 28-34.
97 *Critic*, 24 July 1903.
98 *Critic*, 27 November 1908.

also to protect a public persona. John B. Cleary, editor of the *Mount Morgan Argus* figured as the defendant in a police prosecution for dishonest dealings. He obtained money in Rockhampton under false pretences by forging and issuing several cheques, one for the amount of £2 passed to a jeweller for the purchase of a gold brooch. Cleary was refused bail, undefended in the Rockhampton Police Court, convicted and fined. The *Argus* was adamant that despite the 'certain painful occurrences', his dealings at Mount Morgan were honest and his position in the community honourable. Cleary severed his connection with the newspaper and Mount Morgan, declaring he could not return to a place where he had enjoyed the respect of the town. In fact, he had the newspaper a mere three months when charged.[99] Charles Briggs, mortgagee of the *Argus* repossessed the newspaper premises, sold the book debts and operated the press.

Briggs was charged in August 1908 with journalistic malpractice. In what seemed a flagrantly irresponsible action, he published a personal letter from Lucy Walsh to Edward Hempenstall, auctioneer, agent and accountant.[100] The case that followed was more complex than the charge predicated. As early as 1896, Hempenstall acted as Briggs' clerk, became a partner for a time and subsequently conducted his own auctioneering and accounting business in premises adjoining Briggs' offices.[101] In 1905, and according to the *Licensing Act 1885*, Lucy Walsh obtained a prohibition order against her husband William for twelve months from 1905 to May 1906.[102] Lucy Walsh took out a loan from Hempenstall and in 1908, wrote disputing his interest rate of *sixty* per cent. When the *Argus* published the letter, Hempenstall brought a defamation charge of £1 000 against Briggs and printer John Geddes Hay, partners in the newspaper.[103] Ambitious Rockhampton solicitor T.J. Ryan acted for the plaintiff when the case came before Justice Virgil Power in the Supreme Court in November 1908.[104]

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99 *MMA*, 3 April 1900; 6 April 1900, 20 April 1900.
100 *MB*, 7 November 1908.
101 *MB*, 21 November 1908.
102 CPSMM, Deposition book, 14 July 1905, CPS 7B /P6, QSA.
103 *MB*, 26 June 1908.
104 *MB*, 4 September 1908.

Conducted during the immediate aftermath of the second multiple, fatal accident at the mine in two months, the case might have been expected to receive diminished press attention. This did not occur. The public followed avidly every aspect of the case in which the law descended heavily upon Briggs. His fine was £250, but for Hay it was the token farthing. The public anticipated a verdict favouring the defendants, but after Justice Power summed up, the jury believed the defendants acted maliciously in publishing the letter and found for the plaintiff.[105] The case reflected the specifics of the law when the court declared Briggs the journalist guilty, rather than Briggs the auctioneer.

Justice was served, the press and public lost interest, but Lucy Walsh's reputation was ruined. This was evident during a subsequent court action at Rockhampton at a hearing of a case of fraudulent dealing. The prosecution caused derisive laughter in the court when a defence witness identified a person named Walsh in evidence. The prosecution challenged the indentification with 'Not the famous Lucy Walsh?'[106] For his part, Briggs might have suffered financially, if briefly - he sold his Deeside Boarding House - yet his reputation seemed almost unscathed, as evidenced in his election to Council.[107] He built an impressive private residence near the Big Dam - which Briggs pretentiously termed 'the Lake' - and became a member of the Rockhampton Harbour Board by 1916. He retired from Mount Morgan, relocating his large residence to the Athelstane Range in Rockhampton, where he died in 1918.

A variance in misrepresentation was the matter of fraudulent practice in regard to consumer products. A suspect system of trading at Mount Morgan saw some traders practising short weight and adulteration of perishables. Official inspection of weights

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[105] *MB*, 7 November 1908.
[106] *MB*, 27 November 1908.
[107] *Daily Record* (*DR*), 4 November 1908.

and measures operated at Rockhampton in 1908, but not at Mount Morgan.[108] Local inspection of meat for freshness and quality continued, but no official authority at Mount Morgan ensured that after inspection, the butcher sold uncontaminated meat and in legal weight, that the baker delivered quality and full weight in bread, and that the hotelier poured full strength and quality beer. Shop weighing of bulk products provided the opportunity for stores to sell short weight, including the staples of sugar and flour if not the more expensive commodity, tea. At the same time, and in an era before the commonality of refrigerated storage, no frequent and random inspection and sampling of milk occurred at places of sale.

Dilution of the 'morning milk' sold to unwitting customers was common practice at Mount Morgan, to the extent of dilution with 25 per cent water. A female milk-seller convicted of fraudulent practice was one of many others who faced similar charges and fines. Prosecutions touched only the periphery of the fraud problem,[109] but local apathy accepted trading injustices until fraud was so blatant that neither townspeople nor the law could disregard it. Mild local interest tended to subside quickly after convictions or fines for dishonest trading, and monitoring of business practice rested again, perhaps for years.[110] This suggests that public interest in the details of local court action rather than concern for local victims of unfair trading. Moreover, seeming apathy might hide a certain fear of retribution for complaints against suppliers with connections to mine management.

In the interests of a regulated society, Council by-laws extended to every section of the community. In comparison to punitive action for moral offences, a civil function of the court was the licensing not only of enterprise, but also public and community activities. Licensing Justices Dr. S.J. Richard and Dr. G.L. Murray also issued compulsory licences for the conduct of private hospitals, and to associations and public

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[108] *MB*, 10 September 1908.
[109] *Critic*, 10 September 1908.
[110] *Critic*, 24 March 1911.

functions irrespective of time, place or promotion, and whether for entertainment at a charity ball, saloon or pub.[111] Moreover, the court charged licence fees of more than £20 on occasion for the right to conduct liquor booths at race meetings and other sporting events. Such a figure, perhaps seven times the average weekly wage, suggests that, given the price of sixpence for a glass of beer, a vast amount of liquor must be sold to make a profit after defraying the cost of the licence.

The *Workers' Compensation Act 1905* introduced a new concept of economic survival for families who suffered the loss of a breadwinner by death or injury incurred at the workplace or on employment related work. Whilst the danger of mining and the alarming number of deaths by accident at Mount Morgan is addressed in chapter six, the legal settlement of some cases of worker's compensation is addressed here. Although the Company denied responsibility for accident or death of employees at the mine or outside, they were prepared to pay high fees for counsel who might defeat a claimant's case. The *Additional Compensation Regulations Act* introduced in August 1908 provided for the standard rate of £380 compensation for a breadwinner's death by accident. In November 1908, the police magistrate at the Mount Morgan Court of Petty Sessions apportioned monies awarded by the Company to the dependants of miners killed in the two underground accidents at that time. The several cases discussed here reflect the meagre sums of compensation and their possible consequences. In the case of a widow and son awarded £380, two-thirds of the compensation was for the benefit of the son of the deceased and was invested with the Commonwealth Bank in the name of the court registrar. The first interest instalment of 30s. was paid to the widow for the maintenance, education and benefit of her son. Similarly, another widow was paid a total of £1. 1s. 3d. per month for the benefit of four children, so each received weekly compensation of 1s. 4d. The widow received no compensation in her own right and the threat of poverty that confronted the family indicated that her gainful employment or

[111] CPSMM, Deposition book, 23 March 1898, CPS 7B /P4, QSA.

other income was essential. This would continue until the children were strong enough to work and complement the low wages a woman received for menial work.[112]

The Company could not afford to lose a case where a precedent would be set if they admitted responsibility in a claim for worker's compensation. Chairman Archer conferred with the board whether counsel was necessary regarding the case of an employee named Phillips who brought a compensation claim of £28 against the Company for copper poisoning at the mine. Archer was adamant that they should not take any risk, and suggested retaining a barrister from Brisbane. Dr. Cameron attended Phillips at the time he allegedly became ill, but Cameron left town and Dr. Richard, whose evidence might be counted 'in the Company's favour', attended Phillips three months later. Phillip's medical witness was Dr. O'Brien who, according to Archer, 'would swear to anything,' and his barrister was T.J. Ryan who acted in several blackmailing cases during the previous twelve months. Archer considered the Company needed a good advocate against Ryan who was 'a very able man and perfectly unscrupulous'.[113] Edwin Lilley accepted the 'moderate' fee for representation at forty guineas per day, and went to Mount Morgan with Archer and Company solicitor Robert Gamble Brown to study the evidence, including the effects of smelter fumes. They returned after establishing that smelter fumes showed 'absolutely no copper', and that the dispenser at the Mount Morgan Hospital was prepared to prove that Phillips' records were dated a fortnight after the day his claim indicated he was poisoned.[114] Ryan withdrew from the case after hearing the evidence against Phillips. In the event, the Company won the case and protected its paternalistic image by the payment of £20 to Phillips as 'an act of charity', some compensation perhaps, but paid without Company precedent.[115]

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[112] Connell and Irving, *Class structure*, p. 107.
[113] R.S. Archer to W.R. Hall, 16 February 1907, Letter Book 1904-1912, Archer Collection, K1014, Mitchell Library, (ML).
[114] Archer to Hall, 1 March 1907, K1014, ML.
[115] Archer to Hall, 12 March 1907, K1014, ML.

Andrew Burrowes claimed compensation for mashed fingers and the Company denied liability, but paid compensation of £1 11s. 8d. and required Burrowes' signature on a receipt 'in satisfaction and discharge'. His fingers recovered, but, after frequent medical treatment, they remained stiff, and he claimed for additional compensation. The Company refused, declaring that his signed receipt indemnified them from further claim. Indeed, they suggested in court that he was less than honest in claiming more. The press reported that Burrowes' barrister, F. McLaughlin, declared in court:

> It is a remarkable thing that a concern like Mount Morgan Gold Mining Company should descend to making such a petty point against one of its workmen.[116]

Paradoxically, Burrowes continued at the mine, resuming work that required the use of a hammer for which his partially paralysed hand was a constant handicap.

The annual reports of the Company claimed that strikes were unknown and industrial unrest was not an issue at Mount Morgan. However, it will be seen in chapter six that workplace unrest was entrenched from 1908. Progressively, union cases against the Company relating to wages and conditions went to arbitration, and compensation claims for death or injury moved through the courts. A consequence of mine closure, whether for strike or lockout reflected a lack of solidarity between union and members, whereby the latter remained liable for the payment of union dues although they were not working. Moreover, union militancy against its own was manifested in legal action against non-working members who were on sustenance. The Australian Workers' Union at Mount Morgan had no compunction in charging defaulting members, mostly labourers, who did not renew their annual subscriptions, or could not afford to. During the 1921 closure of the mine, to be addressed in chapter six, thirteen charges laid in February 1921 were heard in the local Small Debts Court, where each union member defendant was fined £3 5s 6d. including court and professional costs, in default seven days imprisonment at Rockhampton goal.[117]

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[116] *MMC*, 9 January 1914.
[117] CPSMM, Bench book, 8 February 1921, CPS 7B/S10, QSA.

Matters of radical or illegal practice were endemic in a Company that nurtured a public image of wealth and paternalism whilst the town, whose only share in the Company was a name, found support and empathy in tradition and myth that surrounded the mine. A latent ideology that prompted strikes in the 1900s and the consequence of such action is discussed in chapter six, but police involvement in industrial confrontation at the mine is questioned here. It seems that police were either ineffective or perceived as superfluous at large gatherings of disgruntled mine workers. During the closure of the mine in 1925, in the midst of industrial unrest that erupted into a bitter argument for wages and conditions, the Company closed the mine, an act that the men asserted was a lockout. The press described miners' action as 'terrorism' when, on 9 September about one thousand union led mine workers marched to the Works, and in the manner of 'mob law' swarmed into the offices of the Company. The police provided a presence, but did not act when crowds of men marched to the residence on the mine site of general manager Adam Boyd and created a disturbance. While Boyd declared it would be a fight to the finish, the assistant manager was chased from his office by 'a howling mob', only evading his pursuers by running into a long tunnel.[118] The men took control of Company property and ordered everyone off the site. The police stood by as observers. A 'mob' of striking mine workers threatened Company advocate R.E. Hartley as they prevented him from entering the mine site. If he resisted, they declared, 'that will be your last smoke'. Hartley retorted that he would prepare his case for the court, but an AWU representative named Dunstan said that Hartley 'need not bother about papers', adding that that the union claims would be withdrawn as:

[118] *MB,* 10 September 1925.

> It is war to the knife. Men can't get what they want from the court. They are going for direct action, so you need not bother, it is no good bothering.[119]

When fire broke out in the mine three days later, some mine workers who came to the site immediately to fight the blaze in the shafts were hampered by the actions of some unionists. The situation reached flashpoint, yet the low-key role of local police throughout demonstrations and threats of violence suggests that police were instructed to take a pragmatic approach to confrontation. In the succeeding years, the men and their town were left wanting as they watched the Company, whilst acting within the law, subside into liquidation.

Legal authority and government legislation implemented at the local level protected the rights of generations at urban Mount Morgan, a mining town where the majority lived within the law. Most were unaware or untouched by the vicissitudes of laws that were enforced, ignored, abused or manipulated. For this population, the influence of police and the courts, symbols for social order, simply blended into the backdrop to everyday life.

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[119] *DR*, 10 September 1925. QSA.