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Résumé de l'article

*Au printemps de 1912, les six enfants de Patrick et Minnie McGee moururent de causes mystérieuses à l'Île-du-Prince-Édouard. Accusée du meurtre d'un de ses fils, Minnie McGee fut reconnue coupable de l'avoir empoisonné. Une étude de cas du reste de la vie de McGee passée dans divers établissements publics illustre la relation entre une femme (certes hors du commun) et cette chose amorphe appelée l'État. Si les historiens ont souvent souligné le caractère unitaire du pouvoir disciplinaire de l'État, ce cas met en lumière les défaillances du pouvoir de l'État, en particulier à l'intérieur du système fédéral dans lequel se trouvaient McGee et d'autres comme elle.*

# The Apocrypha of Minnie McGee: The Murderous Mother and the Multivocal State in 20th-Century Prince Edward Island

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*Au printemps de 1912, les six enfants de Patrick et Minnie McGee moururent de causes mystérieuses à l'Île-du-Prince-Édouard. Accusée du meurtre d'un de ses fils, Minnie McGee fut reconnue coupable de l'avoir empoisonné. Une étude de cas du reste de la vie de McGee passée dans divers établissements publics illustre le relation entre une femme (certes hors du commun) et cette chose amorphe appelée l'État. Si les historiens ont souvent souligné le caractère unitaire du pouvoir disciplinaire de l'État, ce cas met en lumière les défaillances du pouvoir de l'État, en particulier à l'intérieur du système fédéral dans lequel se trouvaient McGee et d'autres comme elle.*

*In the spring of 1912, the six children of Patrick and Minnie McGee died of mysterious causes on Prince Edward Island. Minnie McGee was charged for the murder of one son and convicted of poisoning him. A case study of McGee's subsequent life in a series of state institutions illuminates the relationship between one (admittedly extraordinary) woman and the amorphous thing called the state. While historians have often emphasized the unitary nature of the state's disciplinary power, this case highlights the fractured features of state power, particularly within the federal system that encompassed McGee and others like her.*

LIKE OTHER EARLY-20TH-CENTURY MARITIME WOMEN, Minnie McGee lived her life in a number of interwoven contexts: as a poor, Catholic, rural woman of Irish descent; as mother to a brood of children and wife to Patrick; as daughter, and sister, and in-law; as a member of the St. Mary's Road community; and as an unfranchised citizen of Prince Edward Island and Canada. Like many women of her time, McGee's life may have seemed distant, perhaps even divorced, from the formality of the state, its many agents, and its apparatus. She fed the hens and soaked the salt herring. She prepared cornmeal and brewed tea. She sent the children to the store on errands, but rarely to the nearby school. She sent her son to labour on her brother's farm and negotiated work for another son and her husband. She heard of neighbours and relatives leaving for the Boston states. She waited for her husband to come home from the sea or the forest, but he seldom did. She waited for her father, the local mail driver, to drop by from time-to-time, and for another relative or neighbour to occasionally come around. By 1912, although she was only 37 years old,

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she had not left the house in three years. Hers appeared a quiet life but for her eight children.<sup>1</sup>

McGee might have continued such a circumscribed existence except for a series of extraordinary events in the spring of 1912. Her actions that April catapulted her firmly and visibly into the state's disciplinary orbit on a provincial, national, and even international scale. Perhaps nothing illustrated this more clearly than when, in 1914, the federal minister of labour rose in the House of Commons to introduce a bill outlawing the manufacture, import, and sale of matches made from white phosphorous.<sup>2</sup> This legislation marked Canada's adherence to the international Berne Convention of 1906 and was designed in substance and purpose to protect match-factory workers from phosphorous necrosis, or "phossy jaw" as it was more commonly known.<sup>3</sup> The minister noted the workplace danger that phosphorous posed, but also went on to consider the household dangers the chemical presented. The brightly coloured heads of phosphorous matches were attractive to children, who in "not infrequent" numbers, he reported, were sucking on them and poisoning themselves. But then he referred to how phosphorous matches "present also a convenient and inexpensive means of criminal poisoning, and were employed in this way by a brutal parent in Prince Edward Island a little over a year ago for the destruction of her entire family."<sup>4</sup> His reference was to Minnie McGee.

The relationship between women and the state has been the subject of much attention by historians who have sought to understand the ways in which the state has crafted understandings of gender, promoted certain scripts in that regard, and

- 1 The author wishes to thank Mariam Esseghaier and Carolyn L. Taylor for their very able research assistance, G. Edward MacDonald for his comments, and James Moran for entertaining her questions as well as Janet Guildford, Suzanne Morton, and the reviewers for *Acadiensis* for their suggestions. This sketch of McGee's life is drawn from the coroner's inquest and the preliminary hearing transcript published in the local newspaper as well as the trial transcript. See *The Guardian* (Charlottetown): 15 April 1912, 22 April 1912, 23 April 1912, 27 April 1912, 2 May 1912, 3 May 1912, 7 May 1912, 8 May 1912, 11 May 1912, 13 May 1912, 14 May 1912, 15 May 1912 as well as *The King vs. Minnie McGee*, Dept. of Justice, RG 13-B-1, vol. 1547, file cc276, pt. 3, Library and Archives Canada (LAC).
- 2 The bill became 4-5 George V, c. 12, "An Act to Prohibit the Manufacture, Importation and Sale of Matches made with White Phosphorous," and received assent on 27 May 1914. See Dept. of External Affairs, RG 25 a 3 a, vol. 1101, file 1910-117, LAC. For correspondence concerning the act, see "Draft: An Act to Prohibit the Manufacture, Importation and Sale of Matches made with White Phosphorous," Dept. of Justice, RG 13 vol. 1989, file 113; H. Duggan to Deputy Minister of Justice, 12 July 1910, 21 July 1910, 29 July 1910, Dept. of Justice, RG 13, vol. 162, file 1910-972, LAC; and Deputy Minister to Duggan, 2 August 1910, 5 August 1910, Dept. of Justice, RG 13, vol. 162, file 1910-972, LAC. The bill was initially introduced in the 1910-11 session, but had died on the order paper. See Deputy Minister of Justice to the Deputy Minister of Trade and Commerce, 1 February, 1913, Dept. of Justice, RG 13 a 2, vol. 176, file 1913-130, LAC. The minister of labour was Thomas Wilson Crothers.
- 3 For correspondence see Undersecretary of State for External Affairs to Assistant Deputy Minister of Labour, 9 September 1914, Dept. of External Affairs, RG 25 a 3 a, vol. 1101, file 1910-117, LAC; see also the correspondence between the colonial secretary's office in London and the Department of External Affairs in Canada in Dept. of External Affairs, RG 25 a 3 a, vol. 1166, file 1915-1674, LAC.
- 4 Quoted in *The Labour Gazette*, 13-14; clipping deposited in Dept. of External Affairs, RG 25 a 3 a, vol. 1101, file 1910-117, LAC. The Department of Labour had been forwarded McGee's criminal case file, which contained evidence about the effects of phosphorous poisoning from the Department of Justice. See P.M. Coté to Gerald Brown, 8 October 1912 as well as Gerald Brown to P.M. Coté, 11 October 1912, Dept. of Justice, RG 13-B-1, vol. 1547, file cc276, pt. 1, LAC.

regulated behaviour in an effort to produce cultural conformity. Along the way, various other constituents of experience – class and prestige, race and ethnicity, location and region, age and lifecourse, fitness and sexuality – have been seen to shape the particular experience and exercise of gender in a temporal setting. Feminist historians in particular have accented the ways in which women have resisted or manipulated state prescriptions to satisfy their own needs or those of their family or community. In these interpretations, the interplay between the state and its citizenry is better described as a process of consent and accommodation than force and dictation.<sup>5</sup>

This article explores the relationship between one woman – Minnie McGee (born Mary Cassidy) – and the sometimes amorphous thing called the state. McGee’s crime provides the platform for a case study of the reflexive relationship between state and individual; no claims are made, however, that her experience is in any way representative of Canadians in general, or Maritime women in particular. Instead, her case helps illuminate some of the ways that the state, so often taken to be omnipresent, unitary, and mighty, was also fractured and impotent. For if the case of Minnie McGee reveals anything about the relationship between individual and state, it is that the state was sometimes a fragile thing in substance and in its exercise of power. Thus, when feminist historians write about the ability and practice of women pushing back against the state that sought to regulate them, we need to ask how firm this state felt and how strong a push was needed. The resulting knowledge helps us to nuance our historical perceptions of women’s agency and power, and to refine our assessments of state power. If we consider the term “apocrypha” in its profane sense, which means of questionable authority or omitted from authority, it is precisely this point that that is emphasized by an exploration of McGee’s case. While the state certainly enveloped McGee and her actions, its authority was often at least contested, and at times simply limited, by its internal fractures.

### The Crime of Minnie McGee

What had happened in Minnie McGee’s household that would cast her onto the parliamentary stage?<sup>6</sup> In the early winter of 1912, the two youngest McGee children, a toddler and an infant, died of pneumonia. In the space of two days the following April, five of the six remaining children died: their heads, chests, and stomachs pained them; they vomited; their skins paled, pulses weakened, and their lips became bluish;

5 For a catalyst to the body of literature that employs this interpretation see, Linda Gordon, *Heroes of Their Own Lives: The Politics and History of Family Violence, Boston, 1880-1960* (New York: Penquin Books, 1989). The collection of relevant Canadian historical literature that applies here is large. For monographs dealing with women and crime in the 20th century see, among others, Dorothy Chunn, *From Punishment to Doing Good: Family Courts and Socialized Justice in Ontario, 1880-1940* (Toronto: University of Toronto Press, 1992); Tamara Myers, *Caught: Montreal’s Modern Girls and the Law, 1869-1945* (Toronto: University of Toronto Press, 2006); Joan Sangster, *Regulating Girls and Women: Sexuality, Family and the Law in Ontario, 1920-1960* (Oxford: Oxford University Press, 2001); and Joan Sangster, *Girl Trouble: Female Delinquency in English Canada* (Toronto: Between the Lines Press, 2002).

6 For a short summary of McGee’s crime, trial, and sentencing, see Jim Hornby, *In the Shadow of the Gallows: Criminal Law and Capital Punishment in Prince Edward Island, 1769-1941* (Charlottetown: Institute of Island Studies, 1998), 104-8.

they grew unable to walk; and, ultimately, their hearts failed. Local doctors were convinced the children had ingested some form of poison, but they and McGee seemed at a loss to explain what it was.<sup>7</sup> The coroner empanelled a jury that took testimony, and the provincial health officer conducted autopsies and gathered organ samples that were sent to Montreal for analysis.<sup>8</sup>

Patrick McGee had received word of the children's illnesses and had returned home on Saturday, 20 April 1912, to find three dead. By evening, two more had died. He stayed for the funeral of his five children on Sunday, but returned to work at Hewitt's lobster factory on Monday. Minnie's only remaining child, Johnnie, stayed with her to await the arrival of her brother, who would take the boy back to his farm to work. Two days later, he arrived to find Johnnie had fallen ill. On the strength of mounting suspicions, the attorney general ordered Johnnie's removal to a safe location, but the ten year old soon died at his grandfather's house. A coroner's inquest was then struck and an autopsy performed on the body of Johnnie McGee. Without the benefit of chemical analysis or pathological reports, the attending physicians concluded the boy had died of phosphorous poisoning, and this diagnosis was later corroborated by experts at McGill University.<sup>9</sup> A preliminary hearing determined there was sufficient evidence to proceed to trial.<sup>10</sup>

At the summer sitting of the Supreme Court of Prince Edward Island in Georgetown, Minnie McGee was tried for the murder of her son Johnnie. In his charge to the jury, the judge presented three possible verdicts: guilty, not guilty, or not guilty by reason of insanity. After deliberating for just over a half-hour, the jury found McGee guilty but offered a "strong recommendation to mercy." In the days leading to her sentencing, McGee signed two confessions. In the more detailed of these she acknowledged that she had soaked matches in weak tea and sugar water, which she fed to the five children a few days before they died: "I think I gave the solution only once," she suggested, "but am not sure." She went on to confirm that two days after Johnnie's return home for his sibling's funerals – Johnnie was at his uncle's farm when the first five died – she began administering her lethal brew to him and had purchased more matches with the intent of taking her own life.<sup>11</sup> McGee also exercised her right to speak before sentencing, saying in part: "Take mercy on me. I have had a hard life. In January my head went all astray and worse in February and

7 *The King vs. Minnie McGee*, Dept. of Justice, RG 13, vol. 1547, file cc276, pt. 3, pp. 63-79, LAC. In the trial record, the McGees and their extended family continually refer to the winter deaths of two children, which left six remaining. The 1911 nominal census, however, records nine children: Lewis (sometimes Louis) aged 12, Pansie (sometimes Penzie) aged 11, John aged 9, George aged 7, Bridget aged 5, Thomas aged 4, Albert aged 3, Mary aged 1, and Clara aged 18 days. See 1911 Nominal Census of Canada, Prince Edward Island, District No. 139, p. 10, entry 84. It is the oldest group of children – Lewis through Thomas – that died in April 1912 and who are buried together at St. Paul's Catholic Church Cemetery in Sturgeon, PEI.

8 *The King vs. Minnie McGee*, Dept. of Justice, RG 13, vol. 1547, file cc276, pt. 3, pp. 70-94, LAC; *The Guardian*, 15 April 1912.

9 *The King vs. Minnie McGee*, Dept. of Justice, RG 13, vol. 1547, file cc276, pt. 3, pp. 28-41, 79-94, 94-106, 109-116, LAC; *The Guardian*: 22 April 1912, 23 April 1912, 1 May 1912, 11 May 1912; *The Globe* (Toronto): 22 April 1912, 24 April 1912.

10 *The Guardian*: 2 May 1912, 3 May 1912.

11 McGee Confessions, *The King vs. Minnie McGee*, Dept. Of Justice, RG 13-B-1, vol. 1547, file cc276, pt. 1, LAC.

worse in April. Pain in my head right through away in there. . . . This last four months, pain was dreadful. I was going to do away with my own life; I cannot do away with the pain I have in my head.” She went on to accuse Patrick of beating her, of failing to assist her when she was ill, and of failing to protect the children. “He had four months warning,” she enigmatically suggested. “It was his fault not mine. It was all his fault – I dearly loved the children.”<sup>12</sup> The judge did what he had to do with the verdict in hand, and sentenced McGee to hang the following October.<sup>13</sup>

Despite her horrific crime, the community mounted a petition for clemency on the grounds that McGee was insane – a defence not vigorously pursued at trial and a verdict rejected by the jury.<sup>14</sup> Signed by the local pastor, the attending physicians, relatives, neighbours, and members of surrounding villages, the petition argued McGee was “not mentally responsible for her deed” and that she was “a fit subject for an insane asylum.”<sup>15</sup> The judge forwarded the case file to the federal Department of Justice for review, as was the norm in capital cases, but offered no argument in favour or against commuting McGee’s death sentence.<sup>16</sup> The trial synopsis prepared for the minister of justice noted that there was no evidence to suggest that McGee was insane, but it also allowed that doctors and witnesses confirmed “that the woman is somewhat defective mentally, but nevertheless not irresponsible in the legal sense.”<sup>17</sup> The minister of justice reviewed the file and recommended McGee’s death sentence be commuted, and the governor general granted the mercy. McGee was sentenced to life

- 12 Prisoner’s Statement Before Sentence, 22 July 1912, *The King vs. Minnie McGee*, Dept. of Justice, RG 13-B-1, vol. 1547, file cc276, pt. 3, LAC.
- 13 Judge’s Charge to the Jury, *The King vs. Minnie McGee*, Dept. of Justice, RG 13-B-1, vol. 1547, file cc276, pt. 3, p. 159, LAC. The Canadian historical literature on murderous women (excluding infanticide) includes the following: Karen Dubinsky and Franca Iacovetta, “Murder, Womanly Virtue, and Motherhood: The Case of Angelina Napolitano, 1911-1922,” *Canadian Historical Review* LXXII, no. 4 (December 1991): 505-31; Carolyn Strange, “Wounded Womanhood and Dead Men: Chivalry and the Trials of Clara Ford and Carrie Davis,” in *Gender Conflicts: New Essays in Women’s History*, ed. Franca Iacovetta and Mariana Valverde (Toronto: University of Toronto Press, 1992), 149-88; and Reinhold Kramer and Tom Mitchell, *Walk Towards the Gallows: The Tragedy of Hilda Blake, Hanged 1899* (Don Mills: Oxford University Press, 2002). For Canadian studies that concentrate on women and crime, though not necessarily murder, see, for example, Joan Sangster, “‘Pardon Tales’ from Magistrate’s Court: Women, Crime and the Court in Peterborough County, 1920-1950,” *Canadian Historical Review* 74, no. 2 (June 1993): 161-97.
- 14 Some historical investigations have shown that women who killed men were unlikely to use an insanity defence, but women who killed children were most likely to use such a defence. See, for instance, Pauline Prior, “Roasting a Man Alive: The Case of Mary Rielly, Criminal Lunatic,” *Eire-Ireland* 41, no. 1 (2006): 169. See also Pauline Prior, “Murder and Madness: Gender and the Insanity Defence in Nineteenth-Century Ireland,” *New Hibernia Review* 9, no. 4 (Winter 2005): 22, 25, 35. In this latter article, Prior has also noted that the “use of the insanity defence was highly gendered” (35).
- 15 Petition to the Minister of Justice, Ottawa as well as A.L. Fraser to Minister of Justice, 18 September 1912, Dept. Of Justice, RG 13-B-1, vol. 1547, pt. 1, LAC.
- 16 R.R. Fitzgerald to the Secretary of State, 24 July 1912 as well as R.R. Fitzgerald to the Secretary of State, 1 August 1912, Dept. of Justice, RG 13-B-1, vol. 1547, pt. 1, LAC. On the protocol surrounding the capital case file, see Carolyn Strange, “Stories of their Lives: The Historian and the Capital Case File,” in *On the Case: Explorations in Social History*, ed. Franca Iacovetta and Wendy Mitchinson (Toronto: University of Toronto Press, 1998), 25-48. McGee’s capital case file did not contain a psychiatric assessment even though they were commonly included in the case files from the late-19th century onward.
- 17 Memorandum for the Honourable the Minister of Justice, Dept. of Justice, RG 13-B-1, vol. 1547, file cc276, pt. 2, p. 1, LAC.



## 10 *Acadiensis*

imprisonment in Dorchester Penitentiary in neighbouring New Brunswick.<sup>18</sup> The action placed McGee among 17 or 18 women whose death sentences were commuted between 1867 and 1925 in Canada and saved her from joining the five women who were executed during the same period.<sup>19</sup>

In October 1912, Sheriff Robert Burns and several female attendants escorted Minnie McGee to Dorchester Penitentiary. Built in 1880, Dorchester's women's ward was initially comprised of three cells and a room for the matron.<sup>20</sup> While she seemed destined to spend the rest of her life in such compressed quarters, McGee's time there was nevertheless short-lived. Within four months she had become "violently insane," as a later premier described her, and was returned to Prince Edward Island and its mental asylum, Falconwood Hospital. The institution's superintendent found McGee's arrival and her agitated condition worth noting in his annual report. "Among the cases admitted was that of a woman sent to us from the penitentiary," he wrote. "The aggravation attending a long wait in jail, the tension of a trial, conviction and condemnation to life imprisonment has placed a most destructive and dangerous patient on our hands."<sup>21</sup> When admitted on 20 February 1913, Minnie McGee was 38 years old. She described herself as a fisherman's wife, and Patrick was listed as her next of kin although she would never see him again. Under the column in the registration book where a patient's mental condition was described – and here are recorded diagnoses of hysteria, mania, alcoholism, neurasthenia, and such – McGee's notation simply reads "poisoned all her children."<sup>22</sup> It was as if the act itself had become her mental disease, rather than a product of it.<sup>23</sup>

- 18 Minister of Justice to the Governor General in Council, 17 September 1912; Order of Commutation, 18 September 1912; Telegram to Sheriff of King's County, 20 September 1912; Under-Secretary of State to Sheriff of King's County, 25 September 1912; Under-Secretary of State to the Warden, Dorchester Penitentiary, 25 September 1912, all in Dept. of Justice, RG 13-B-1, vol. 1547, file cc276, pt. 1, LAC; Record of Capital Cases Since Confederation, Dept. of Justice, RG 13-B-1, vol. 1397, file 466A (CC276), p. 107, LAC; Disposition of Capital Cases, 1867-1925, "A" ser., Dept. Of Justice, RG 13-B-1, vol. 1404, LAC. As a matter of course, successive ministers of justice did not include an explanation for their decisions to commute or pursue a death sentence in the capital case files. See Strange, "Stories of Their Lives," 31.
- 19 List of Women Whose Death Sentence Has Been Commuted as well as Women Executed Since Confederation, Dept. of Justice, RG 13-1-B, vol. 1397, LAC; Capital Cases Copied From Mr. Gallagher's Book, Solicitor General fonds, RG 73 d 3, vol. 184, files 1 and 2, LAC. In Canada, between 1884 and 1909, including men and women, 235 death sentences were delivered, 92 of which were commuted, and 143 of which were carried to execution. See Death Sentences Commuted or Executed From 1884 to 1909, Dept. of Justice, RG 13-B-1, vol. 1397, LAC.
- 20 Memo for the Royal Commission Investigating the Penal System of Canada, 14 December 1937 as well as Re. Transfer of Female Convicts to Kingston Penitentiary form Dorchester Warden's Office, 29 March 1934, Solicitor General fonds, RG 73 C 1, vol. 149, file "1-21-30," pt. 1, LAC. See also Eddie Gill, interview by Dutch Thompson, in possession of author.
- 21 Saunders to Ernest Lapointe, 16 May 1928, Premier's Office, RG 25, ser. 27 (Saunders Papers), subser. 2, file 25, "L," box 3, Public Archives and Records Office of Prince Edward Island (PAROPEI); *Report of the Trustees and Medical Superintendent of Falconwood Hospital and Provincial Infirmary*, 1913, Falconwood Records, acc. 2363, 6, p. 6, PAROPEI.
- 22 Falconwood General Register, 1900-1929, Falconwood Records, acc. 2363, p. 22, PAROPEI; Names of Patients in Falconwood Hospital and the Date of Admission and Next of Kin, 1923, Premier's Office, RG 25, ser. 26 (Stewart Papers), subser. 1, file 24, PAROPEI.
- 23 A British study has found that women with mental diseases who killed, most often killed their own children. See Prior, "Murder and Madness," 21.

### Falconwood

In the absence of case files and complete institutional records, we know little about McGee's precise mental condition or her specific experience at Falconwood for the subsequent 14 years.<sup>24</sup> Nevertheless, it is possible to reconstruct something of the institutional context within which she lived during that time – a context that ultimately propelled McGee's case to the centre of the state's conversation about constitutional rights and obligations concerning the criminally insane. During those years the institution and its patients were most often under the care of Dr. Victor L. Goodwill.<sup>25</sup> Goodwill's early years in the superintendency were widely praised, both for delivering modern standards of psychiatric medicine to the Island and for his ability to improve and expand the infrastructure of the asylum. Readers of Charlottetown's *The Guardian* discovered "one of the things about which Prince Edward Islanders have cause for felicitation is the fact that the care of the Insane of this Province is in good hands. It is a gem in the crown of our present local administration that they regard these, the most unfortunate of God's creatures, with a compassion and consideration that is creditable to humanity."<sup>26</sup> And according to some, this creditable consideration was none too much and none too soon. As regional migrations to the Boston states drained away promising youth, concern grew about the quality of the human stock left behind. Between 1891 and 1911, the Island population dropped by some 16,000 people.<sup>27</sup> Noting that PEI was "exporting much of its best" and retaining

- 24 On recent trends in the history of psychiatry that seek to prioritize the patient's perspective of experience and treatment, see Lykke De La Cour and Geoffrey Reaume, "Patient Perspectives in Psychiatric Case Files," in *On the Case*, 242-65. The kind of primary sources described by De La Cour and Reaume for the early-20th-century asylum they study do not exist for Falconwood. For studies relevant to the history of Falconwood, see the following: John Sutherland Bonnell with Margaret Bonnell McCuaig-Johnston, "The Case of E.O. Brown," *The Island Magazine* 27 (Spring/Summer 1990): 9-14; Peter E. Rider, "'A blot upon the fair fame of our Island': The Scandal at the Charlottetown Lunatic Asylum, 1874," *The Island Magazine* 39 (Spring/Summer 1996): 3-9; and David A.E. Shephard, "An Island Doctor: The Life and Times of Dr. John Mackieson, 1795-1885," *The Island Magazine* 38 (Fall/Winter 1995): 32-8.
- 25 Goodwill was the son of an Island clergyman and had attended Prince of Wales College. He graduated from Queen's University medical school in 1899 and studied briefly in New York and at Rockwood Hospital in Ontario, formerly the Rockwood Criminal Lunatic Asylum, before returning to Charlottetown. See *The Guardian*, 30 March 1906. On Rockwood, see James Moran, *Committed to the State Asylum: Insanity and Society in Nineteenth-Century Quebec and Ontario* (Montreal and Kingston: McGill-Queen's University Press, 2000), 142. Goodwill served as Falconwood's medical superintendent from 1900 to 1915, when he took a leave of absence to enlist in the military. In 1917 the board of trustees recalled Goodwill to his duties, but he became engaged in a squabble with the trustees over separating the management of the Falconwood farm property from the superintendent's duties. See clipping, Goodwill Bailey Family fonds, acc. 4750, ser. 8, 79.114.332, file "Newspaper Clippings re. Falconwood," PAROPEI; A.E. Arsenaut to V.L. Goodwill, 21 August 1917, Premier's Office, RG 25, ser. 23 (Mathieson Papers), subser. 2, file 4, "Falconwood," PAROPEI. Goodwill resigned from his position, but in 1919 he was reinstated as medical superintendent at Falconwood and his power over the farm was returned. He remained in the position until 1927.
- 26 Clipping from *The Patriot* (Charlottetown), in Goodwill Papers, acc. 4750, ser. 8, 79.114.63b, file "Newspaper Clippings re. Falconwood," PAROPEI; *The Guardian*, 30 March 1906.
- 27 Edward MacDonald, in his *If You're Stronghearted: Prince Edward Island in the Twentieth Century* (Charlottetown: Prince Edward Island Museum and Heritage Foundation, 2000), notes "the outward tide of migration had set in earliest on Prince Edward Island and it flowed perhaps most strongly here" (45).



## 12 *Acadiensis*

“inferior strains,” the eminent psychiatrist Dr. C.K. Clarke<sup>28</sup> reported that Falconwood fulfilled a special position in Canadian psychiatric care: “As might be expected in a community where the best elements emigrate as soon as they mature while the poorer types remain,” he wrote, “the proportion of insane [in PEI] is much larger than would be the case under normal circumstances.”<sup>29</sup>

Like many of his contemporaries who defined insanity as a disease, Goodwill adopted a therapeutic approach that resembled the “moral therapy” of the late-18th- and early-19th-century asylum.<sup>30</sup> Rooted in the idea that the sane and insane differed little in their essential humanity and capacity for ordered behaviour, Goodwill worked from the premise that the insane simply needed “the treatment due to a fellow human being to lead him speedily into the way of conducting himself like one.”<sup>31</sup> Constructive work and the productive use of time was at the heart of this approach. “Industry is the watchword,” Goodwill noted, for the “refreshing fatigue” created by a good day’s work or recreation “induces the mind healing sleep” that was certain to recreate a calm and rested mental station. In the year Minnie McGee was admitted to Falconwood, the patients were busy reading magazines and newspapers, playing cards and checkers, and in winter had enjoyed skating on an outdoor rink. They were also hard at work. Among the products women made that year were 111 chemises, 110 dresses, 4 privately commissioned dresses, 119 pairs of men’s drawers, 282 pillow cases, 283 sheets, 177 men’s shirts, 4,810 pounds of soap, 883 quarts of preserves, 128 quarts of pickles, 30 yards of rag rug, and much more.<sup>32</sup> To Goodwill and similar-minded professionals, patients appropriately fatigued and rendered complacent by their labours required less assertive intervention, were more amenable to gentle direction and kind-hearted discipline, and were better able to endure liberty; for the most compliant of patients, such liberties included temporary absences from Falconwood to visit friends and family. But for all patients, presumably Minnie McGee included, it meant freedom from physical restraints – a symbol of the modernized and medicalized treatment of the insane.<sup>33</sup>

28 Ian Dowbiggin, “‘Keeping this young country sane’: C.K. Clarke, Immigration Restriction, and Canadian Psychiatry,” *Canadian Historical Review* 76, no. 4 (December 1995): 598-628.

29 Report, Goodwill Bailey Family fonds, acc. 4750, ser. 4, 79.114.514.5, file “Correspondence/Report,” PAROPEI.

30 See Moran, *Committed to the State Asylum*, chap. 3. Moral therapy was transported to Maritime asylums by doctors and lay reformers in the 1840s and 1850s. See Daniel Francis, “The Development of the Lunatic Asylum in the Maritime Provinces,” *Acadiensis* VI, no. 2 (Spring 1977): 23-38. For another application of moral therapy in Canada, see Gerry Ferguson, “Control of the Insane in British Columbia, 1849-78: Care, Cure or Confinement?” in *Regulating Lives: Historical Essays on the State, Society, the Individual, and the Law*, ed. John McLaren et al. (Vancouver: University of British Columbia Press, 2002), 66.

31 “Progress in the Care and Treatment of the Insane” (Dr. Victor L. Goodwill Medical Lectures and Notes), Goodwill Bailey Family fonds, acc. 4750, ser. 3, subser. 3153, p. 12, PAROPEI.

32 *Report of the Trustees and Medical Superintendent of Falconwood Hospital and Provincial Infirmary* (1913 and 1914), Falconwood Records, acc. 2363, 6, Annual Reports, 1895-1926, pp. 5-12, PAROPEI. On patient labour see De La Cour and Reaume, “Patient Perspectives,” 253-9, and on patient labour and leisure see Moran, *Committed to the State Asylum*, 93-6.

33 Newspaper clipping, in Goodwill Bailey Family fonds, acc. 4750, ser. 8, 79.114.63b, file “Newspaper Clippings re. Falconwood,” PAROPEI; “Progress in the Care and Treatment of the Insane” (Victor L. Goodwill Medical Lectures and Notes), Goodwill Bailey Family fonds, acc. 4750, ser. 3, subser.

Though Goodwill and the Island public took some pride in the improved treatment regimes in place at the hospital, a consistent and persistent challenge faced the institution. Falconwood was built in the late-19th century (1877 to 1879) to replace the existent provincial asylum that served double duty as mental institution and poorhouse. When it opened in 1879, Falconwood had space to accommodate somewhere between 120 and 140 mental patients. By 1899, the institution was described as extremely overcrowded and the government funded the construction of a new wing, which brought the capacity to approximately 250 patients by 1903.<sup>34</sup> When McGee was admitted in 1913, Falconwood averaged 268 patients in care; despite the addition of the new wing ten years earlier, quarters were cramped. “Our wards are completely filled and at times it is difficult to find suitable accommodation for certified patients who must be cared for,” Goodwill wrote. He was turning away voluntary admissions – those who attempted to admit themselves or whose family attempted to admit them without referral from a physician. This was no easy thing to do, as these “borderland cases” as Goodwill called them were paying patients (often requesting private apartments) who suffered episodic rather than chronic mental illness. Even with the doors closed to such coffer-enriching patients, Goodwill argued the space was too limited. Yet Goodwill also regarded this overcrowding as a positive

3153, file 6-7, p. 12, PAROPEI. Both the local press and Goodwill touted the success of the restraint-free asylum. To reporters from *The Guardian*, the condition of Falconwood patients improved visibly after restraints were abandoned in 1900. To Goodwill, the earlier practice of restraints had worsened the condition of inmates, prompting “viciousness” from them. Freedom from restraints, he argued, had so calmed the patients that visitors to Falconwood were now complaining that the worst and most spectacular specimens of insanity were being held back from public viewing. See *The Guardian*, 30 March 1906 as well as “Progress in the Care and Treatment of the Insane” (Dr. Victor L. Goodwill Medical Lectures and Notes), Goodwill Bailey Family fonds, acc. 4750, ser. 3, subser. 3153, file 6-7, p. 11, PAROPEI. See also “Insanity – a Disease” and “Mental Hygiene on Prince Edward Island” (Dr. Victor L. Goodwill Medical Lectures and Notes), Goodwill Bailey Family fonds, acc. 4750, ser. 3, subser. 3153, files 4 and 10, PAROPEI. In lieu of jackets and mitts, shackles and boots, Goodwill employed the “continuous bath” and electrical devices on the most excited patients. The former of these, hydrotherapy, saw a patient placed in a hammock and lowered into a tub of warm water, perhaps for hours, though the theory held that days or weeks of submersion worked best to soothe nerves. See “Bathtub the New Insanity Cure” (clipping), Goodwill Bailey Family fonds, acc. 4750, ser. 3, file 75, PAROPEI; “Instructions for the Continuous Bath” (Victor L. Goodwill Medical Lectures and Notes), Goodwill Bailey Family fonds, acc. 4750, ser. 3, subser. 3153, file 16, PAROPEI; Report, Goodwill Bailey Family fonds, acc. 4750, ser. 4, 79.114.514.5, file “Correspondence/Report,” PAROPEI; and *Report of the Trustees and Medical Superintendent of Falconwood Hospital and Provincial Infirmary, 1924*, Falconwood Records, acc. 2363, 6, Annual Reports, 1895-1926, p. 6, PAROPEI.

34 The sources differ in their assessments of patient capacity by about 20 persons. See V.L. Goodwill, “Mental Hygiene on Prince Edward Island” (Dr. Victor L. Goodwill Medical Lectures and Notes), *The Bulletin* 4, no. 2, in Goodwill Bailey Family fonds, acc. 4750, ser. 3, subser. 3153, PAROPEI; Dorothy E. MacDonald, “Treatment of the Mentally Ill in Prince Edward Island, 1845-1980,” acc. 3324, 1, PAROPEI; and *The Guardian*, 30 March 1906. The cost of the main building and west wing amounted to \$105,926.50 and the addition of the east wing cost \$40,305.84. See “Statement Showing Cost of Falconwood,” Goodwill Bailey Family fonds, acc. 4750, ser. 4, 79.114.328a, PAROPEI. On the early foundations of asylums in the Maritimes, see Francis, “The Development of the Lunatic Asylum in the Maritime Provinces,” 245-60; Prince Edward Island receives relatively less treatment than Nova Scotia or New Brunswick. See also Lorne C. Callbeck, “Economic and Social Development since Confederation,” in *Canada’s Smallest Province: A History of PEI*, ed. Francis W.P. Bolger (PEI: Prince Edward Island 1973 Centennial Commission, 1973), 331.

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sign. He was not convinced insanity was on the rise or particularly endemic to PEI; rather, he suggested, public confidence in the institution had increased and those formerly cared for at home or left to wander were now sent in by family and community.<sup>35</sup> Despite Goodwill's positive interpretation of the predicament, the success of moral therapy (and its historical descendants as applied at Falconwood) depended on a physical atmosphere conducive to the treatment: a well-maintained, calming, and commodious space as well as an exemplary staff-to-patient ratio.<sup>36</sup>

Over the subsequent 14 years of McGee's incarceration, however, the population of Falconwood continued to increase. By 1919 patients were doubling up in beds, dining rooms had been converted to dorms, the attendants were working under harsh conditions, and the patients were suffering. It could not have helped that in that one year alone the institution went through three different medical superintendents before Goodwill's return from war, the nearby infirmary had suffered an outbreak of smallpox, and Falconwood was hit by a third wave of influenza (the first wave had infected nearly all the patients and male attendants while the second had infected the nursing and housekeeping staff).<sup>37</sup> By 1926 Falconwood had reached a daily average of 316 patients, fully 26 per cent above its intended capacity.<sup>38</sup>

Despite its early years of promise and modernization the hospital was clearly deteriorating, with tremendous implications for the basic health and safety of patients. The water supply to the institution, for instance, was inadequate; the pressure was so low it could not clear the sewer line so sewage was backing up into the basement of the asylum.<sup>39</sup> Amidst a deteriorating physical context and the instability associated with resultant staff turnover, patient resistance, remedy-seeking, and politicization was on the rise.<sup>40</sup> At least one patient took it upon herself to write to the premier to

35 *Report of the Trustees and Medical Superintendent of Falconwood Hospital and Provincial Infirmary* (1913 and 1914), Falconwood Records, acc. 2363, 6, Annual Reports, 1895-1926, pp. 5-12, PAROPEL. Of the patients recorded for 1913, nearly half (47 per cent) were women – a proportion that remained quite consistent over time.

36 See Francis, "The Development of the Lunatic," 252-3, 256 and Moran, *Committed to the State Asylum*, 67-9.

37 *Report of the Trustees and Medical Superintendent of Falconwood Hospital and Provincial Infirmary* (1918, pp. 3-9 and 1919, pp. 5-7), Falconwood Records, acc. 2363, 6, Annual Reports, 1895-1926, PAROPEL. According to the report, 147 men occupied 130 beds, and 140 women occupied 126 beds. The Provincial Infirmary, which shared the Falconwood grounds and the medical superintendent, was a home for the aged and infirm.

38 *Report of the Trustees and Medical Superintendent of Falconwood Hospital and Provincial Infirmary* (1926), Falconwood Records, acc. 2363, 6, Annual Reports, 1895-1926, p. 5, PAROPEL.

39 *Report of the Trustees and Medical Superintendent of Falconwood Hospital and Provincial Infirmary* (1922), Falconwood Records, acc. 2363, 6, Annual Reports, 1895-1926, PAROPEL.

40 In such a context, it is perhaps unsurprising that there was a steady turnover in staff. It proved nearly impossible to keep a matron of women or superintendent of nurses and head housekeeper in place. In part this had to do with opportunities available to women during the war and the custom of women leaving their positions to marry. But also it had to do with rates of pay. And on this issue it was not just the supervisory staff who had complaints but also the nurses, who saw to female patients, and the male attendants, who had charge of the men. Indeed, in 1915 the premier stated there had been 39 resignations and dismissals in the last two years. The common complaint was that wages at the asylum were not competitive with those at other institutions and so the staff bled away to similar positions, for better pay, at other institutions. They took whatever experience they had with them. Marginal improvements to wages and working conditions, such as the fitting up of smoking rooms for the

seek compensation for her losses and labours while at Falconwood. In addition to the 25 cents she sought for “a patient tearing the rim of my straw hat,” she listed and costed a series of items that had been stolen from her: clothing, soap, paper and pencils, and other meagre possessions. She added to the list charges for her labour: scrubbing floors, making beds, carrying food, and such.<sup>41</sup> Another group of eight inmates petitioned the leader of the opposition, protesting in particular the reinstatement of an attendant who had, two years earlier, been dismissed by Goodwill only to be reappointed by the patronage-brandishing government. As the press reported it, “The allegation included lack of discipline in the Institution, tormenting and persecuting blind men; allowing scandalous conduct, fighting and quarrelling; money being stolen by inmates; insufficiency of bed-clothing; ill-treating inmates without cause; refusing visitors to see inmates; cutting off food allowance to those protesting; and ‘grafting of all kinds’.”<sup>42</sup> Others reported the hanging of a dog in front of patients, suicides, and escapes.<sup>43</sup> And when unreasoning minds, fear, or lack of resources prevented patients from advocating on their own behalf, they found champions in their midst. A.S. McGill, a nurse at Falconwood, wrote to the premier complaining that a male attendant had keys to the rooms in the women’s wards and had “visited” them.<sup>44</sup> Amidst such unsettling descriptions of life in Falconwood there is one that pertains specifically to Minnie McGee. It is from a man, young and courting at the time, who went with his girlfriend to visit the asylum. There, he claims, he saw McGee, “crawling around the floor, dirty, [and] sitting on the floor.”<sup>45</sup> As went the physical environment, so went the therapeutic regime.

Goodwill and his supporters maintained that the provincial government was the rightful target for criticisms directed to deteriorating conditions at Falconwood because of its weak support and underfunding for the institution. Indeed, throughout the 1920s

attendants and reading rooms for the nurses, were not enough to anchor them at Falconwood. See *Report of the Trustees and Medical Superintendent of Falconwood Hospital and Provincial Infirmary* (1913-1926), Falconwood Records, acc. 2363, 6, Annual Reports, 1895-1926, PAROPEI; William Taylor et al. to the Superintendent and Trustees of Falconwood, 14 February 1918, Premier’s Office, RG 25, ser. 24 (Arsenault Papers), subser. 1, file 12, Falconwood, PAROPEI; newspaper clipping, *The Patriot*, and newspaper clipping (source unknown), Goodwill Bailey Family fonds, acc. 4750, ser. 8, 79.114.332, file “Newspaper Clippings re. Falconwood,” PAROPEI.

41 “In Account with Minnie Finlayson to Articles Lost,” 29 December 1924, Premier’s Office, RG 25, ser. 26 (Stewart Papers), subser. 1, file 24, “Falconwood Hospital,” PAROPEI. For accounts of patient resistance see Ferguson, “Control of the Insane,” 65. For the economic contributions of work therapy to the finances of the asylum, see Moran, *Committed to the State*, 93-5.

42 Newspaper clipping, Goodwill Bailey Family fonds, acc. 4750, ser. 8, 79.114.332, file “Newspaper Clippings re. Falconwood,” PAROPEI. On the use of patronage in Island society, see MacDonald, *If You’re Stronghearted*, 23. On the use of patronage in the asylum, see Moran, *Committed to the State*, 67.

43 Newspaper clipping, Goodwill Bailey Family fonds, acc. 4750, ser. 8, 79.114.332, file “Newspaper Clippings re. Falconwood,” PAROPEI.

44 A.S. McGill to Premier, no date (c.1924), Premier’s Office, RG 25, ser. 26 (Stewart Papers), subser. 1, file “24, Falconwood Hospital,” PAROPEI; see also *By-laws of Falconwood Hospital and Regulations and By-Laws of the Provincial Infirmary*, Premier’s Office, RG 25, ser. 26 (Stewart Papers), subser. 1, file 24, p. 15, Falconwood Hospital, PAROPEI, which forbade male attendants, servants, and patients from entering the female wards “except in discharge of duty or with adequate authority.”

45 Jim MacLean, interview by Dutch Thompson, in possession of author.

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the Island government spent only \$1,000 per year on health care, apart from Falconwood. There was, for all intents and purposes, no organized public health system on the Island until 1931, when the government established the Department of Health and Education.<sup>46</sup> Dr. C.K. Clarke castigated the PEI government, arguing that low taxation had become a cultural expectation among the Island citizenry and a mantra of politicians. “Be that as it may,” he wrote, “it is evident that Prince Edward Island is following a penny wise and pound foolish policy in keeping some of its social institutions in a state of impoverishment that renders it impossible to get results, which modern science demonstrates as easily attainable under ordinary circumstances. In other words, an unwise economy frequently proves a dear proceeding when its ultimate results are considered. Take, for example, the Falconwood Hospital for the Insane.”<sup>47</sup>

Despite the province’s initiatives to win increased dominion subsidies, successive Liberal and Conservative Island governments were disinclined to tax in favour of social infrastructure or to divert funding to Falconwood in particular. This resistance to taxation has been corroborated by historians.<sup>48</sup> But, beginning in 1924, the government did engage in a concerted effort to collect fees – current and retroactive – for patients at Falconwood from family members. The government listed a fee of \$6.00 per week for the keep of the insane, but in actuality applied a sliding scale. For those who had some form of insurance backing them, the fee was \$10.00. The letters to relatives were direct and aggressive, enquiring about fixed assets that could be liquidated if family members were unwilling to cover their relative’s debt and threatening a patient’s eviction from the asylum if the monthly bills were not paid.<sup>49</sup> This initiative, though, did little to improve Falconwood’s financial anaemia or patient congestion. The next year, the premier suggested to Goodwill that either Falconwood needed a further expansion, which he advised was decidedly improbable, or that Goodwill needed to send home more patients “who could safely be disposed of in that way . . . .”<sup>50</sup> And Goodwill did.

### **Prison, Asylum and Home**

In December 1927, some 14 years after her placement in Falconwood, Goodwill released Minnie McGee. His reasons for doing so are unknown, though one might

46 See MacDonald, *If You’re Stronghearted*, 125-7, 230. Most public health work on the Island had been taken up by the Red Cross. In the latter half of the 1920s, the government of Prince Edward Island’s expenditures on Falconwood ranged from a low of \$105,579 in 1926 to a high of \$132,152 in 1927, and averaged \$115,350 between 1926 and 1929. See *Journals of the Legislative Assembly of the Province of Prince Edward Island: 1926*, pt. I, p. 7; 1927, Public Accounts, p. 7; 1928, Public Accounts, p. 7; 1929, Public Accounts, p. 7.

47 Handwritten notation, C.K. Clarke, A.W. Mitchell fonds, acc. 3466, hf 79. 114.514.53, file “Report, Falconwood,” PAROPEI.

48 MacDonald, *If You’re Stronghearted*, 121; Douglas O. Baldwin, “Volunteers in Action: The Establishment of Government Health Care on Prince Edward Island, 1900-1931,” *Acadiensis* XIX, no. 2 (Spring 1990): 121-47; J.M. Bumstead, “Sir Louis Henry Davies,” *Dictionary of Canadian Biography*, XV, [http://www.biographi.ca/009004-119.01-ephp?&id\\_nbr=7805&interval=25&&PHPSESSID=8906gatc2nm54i431ieaclp132](http://www.biographi.ca/009004-119.01-ephp?&id_nbr=7805&interval=25&&PHPSESSID=8906gatc2nm54i431ieaclp132).

49 Premier’s Office, RG 25, ser. 26 (Stewart Papers), subser. 1, file 24, “Falconwood Hospital,” PAROPEI. McGee’s family was not targeted in this campaign.

50 Premier to Dr. V.L. Goodwill, 27 February 1925, Premier’s Office, RG 25, ser. 26 (Stewart Papers), subser. 1, file 24, “Falconwood Hospital,” PAROPEI.

surmise he believed she was now sane (or, in the context of economic restriction and overcrowding, now sane enough). McGee sought and found work at the nearby Prince Edward Island Hospital under a false name. Her cover lasted six weeks before co-workers discovered who she was. The hospital trustees were outraged that she was circulating among the public and the premier had her recommitted to Falconwood in response. But the asylum jig appeared to be up for McGee. Arguing that she was now ready for prison, and on the strength of medical testimony in support of that idea, the premier arranged for her transfer to federal penitentiary.<sup>51</sup>

Dorchester Penitentiary had closed its female ward in 1923 and Kingston became the closest prison for female federal offenders from the Maritimes. McGee made her way to Kingston in the company of escorts, a trip that cost the equivalent of nine month's stay in Falconwood.<sup>52</sup> The main building of Kingston's women's prison complex was surrounded by walls, with lawns on three sides and a garden on the fourth. There was access for people and horses through a series of gates and cages. A tower stood in the north-west corner. The convicts' quarters were upstairs, accessed through a central staircase with a barrier door at the top. The elevation provided many of the women with a good view of the goings-on in the yard as well as beyond their gates to the roadway, chapels, keepers hall, and the general prison complex.<sup>53</sup> But from all angles, the symbols of their incarceration were complete: gates, walls, and tower. It was a prison proper.

Once at Kingston, it is likely the 53-year-old McGee was searched for contraband and then sent to the antiseptic baths where her height – 5'2", weight – 135 pounds, and distinguishing marks – varicose veins, were noted. She was given a prison uniform, photographed and fingerprinted, and read the rules of the prison. The requisite inclusions were made in her file: she had not heard from Patrick in nearly 16 years, so her sister was listed as next of kin. Her brown eyes and "iron grey" hair were noted. So too was the fact that she had spent the past 14 years in an asylum.<sup>54</sup>

Over the following eight weeks, McGee was the subject of intense surveillance and scrutiny. Among her assessors was Dr. Edward Ryan of the Rockwood Hospital. By his diagnosis, McGee was insane "and has been insane for many years." Now diagnosed as suffering from manic depression and mania, he attributed the roots of her

51 Premier Saunders to Ernest Lapointe, 16 May 1928, Premier's Office RG 25, ser. 27 (Saunders Papers), subser. 2, file 25, "L," box 3, PAROPEI.

52 Memo to the Royal Commission Investigating the Penal System of Canada, 14 December 1937; Re. Transfer of Female Convicts to Kingston Penitentiary from Dorchester Warden's Office, 29 March 1934; Dorchester Penitentiary, Cost of Transportation of Female Convicts to Kingston Penitentiary; all in Solicitor General fonds, RG 73, C1, vol. 149, file 1-21-30, pt. 1, "Female Convicts Including Transfer Generally," LAC.

53 In 1921, the women's prison was the subject of an investigation about the behaviour between the women and male guards, notably those making their way to the tower. See "Report on the State and Management of the Female Prison at the Kingston Penitentiary by W.F. Nickle," Solicitor General fonds, RG 73, vol. 105, file 4-1-14, LAC; for a description of the women's penitentiary specifically, see pp. 1-3.

54 From Matron, Kingston Prison for Women re. Superintendent of Penitentiaries Circular, 3 April 1934, Solicitor General fonds, RG 73 C1, vol. 149, file 1-21-30, pt. 1, "Female Convicts Including Transfer Generally," LAC; Kingston Penitentiary New-Comer's Questions, Dept. of Justice, RG 13-B-1, vol. 1547, file cc 276, LAC.



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condition to heredity. Upon hearing this news, Goodwill's replacement, Dr. J.W. MacIntosh, noted that McGee "was in good normal condition when she was sent away from here. Possibly," he suggested, "it may be a reversion of her old trouble." By order of the federal minister of justice, McGee was sent back to Falconwood.<sup>55</sup> She was delivered to the hospital on 1 October 1928 by the warden of Kingston himself, who thanked MacIntosh for receiving her late at night. "After a long train and boat journey," he remarked, "it was indeed a relief to be able to hand over this woman on arrival."<sup>56</sup> McGee would spend the rest of her life under the mantle of Falconwood. She died there in January 1953, a month shy of her 78th birthday.<sup>57</sup>

The Falconwood to which McGee returned was little different from the one she had left the winter earlier. There was, of course, a new medical director and another one would soon follow. The institution remained overcrowded in 1929, perhaps reaching a high of some 360 patients in house and a low of a hundred less.<sup>58</sup> In 1931, Premier J.D. Stewart and his minister of health invited the Canadian National Committee for Mental Hygiene to visit PEI. Stewart asked the group to report on current problems in mental health services and to outline a longer-term strategy for improvement. Concerned largely with Falconwood and its operations, the committee developed three themes in its findings. The first addressed the long-standing problem of funding for the hospital. While the committee found the cost of maintaining an inmate at Falconwood fell within Canadian standards – 90 cents per day in a national context that ranged from 66 to 94 cents per day – they found the revenue collection mechanisms problematic. While it cost \$6.30 per week to maintain a resident at Falconwood, for instance, fee-paying patients supplied only \$5.00 weekly. The committee was convinced the rate needed adjustment, that better assessment of a patient's (or their family's) ability to pay needed to be made at intake, and that the minister of health needed to pursue and collect these fees on behalf of the institution. Similarly, they argued, the province needed to pursue the federal support that was available to provincial institutions that housed the criminally insane. This right was clearly provided for under Section 56 of the Penitentiary Act, and the federal government was now offering \$1.50 per day in support of such inmates.<sup>59</sup>

The committee's second theme addressed the rate of incarceration in PEI's asylum. One in every 320 Islanders found themselves in Falconwood. This meant PEI had the

55 Edward Ryan to Warden of Kingston, 13 August 1928, Solicitor General fonds, RG 73, c1, vol. 73, acc. 80-81/253, file S-143, LAC; Minister of Justice to Attorney General of PEI, 30 August 1928 and Saunders to Minister of Justice, 5 September 1928, Premier's Office, RG 25, ser. 27 (Saunders Papers), subser. 2, file 25 "L," box 3, PAROPEI.

56 Warden at Kingston to MacIntosh, 8 October 1928, Solicitor General fonds, RG 73, c1, vol. 73, acc. 80-81/253, file S-143, LAC; Superintendent of Penitentiaries to Chief of Remissions Branch, 9 October 1928, Dept. of Justice, RG 13-B-1, vol. 1547, file 1, LAC; Falconwood General Register, Falconwood Records, acc. 2363, 22, General Register, 1900-29, entry 3021, PAROPEI; Falconwood Discharges Journal, Falconwood Records, acc. 2363, file 10, Journal 1900-34, no. 42, PAROPEI.

57 Filed under "Mc, McGee, Dorchester," Dept. of Justice, RG 13, vol. 1401, Capital Case Book, vol. II, p. 276, LAC.

58 MacIntosh to A.C. Saunders, 8 January 1930, Premier's Office, RG 25, ser. 27 (Saunders Papers), subser. 2, file 77, "Falconwood 1929," PAROPEI.

59 Canadian National Committee for Mental Hygiene (CNCMH), "Survey of Falconwood Hospital and Mental Hygiene Conditions of PEI, 1931," Falconwood Records, acc. 2363, file 54, pp. 1-3, PAROPEI.

second highest rate of incarceration in all of Canada, surpassed only by British Columbia. Furthermore, its admission rate (those assessed and admitted versus those declined admission) was also the second highest in the country, surpassed only by Nova Scotia. The implication was clear: Falconwood was taking in too many patients and, unless earlier suggestions that Islanders were more given to insanity were, in fact, correct, Falconwood was simply accepting those who belonged in other institutions or placements. The committee presented evidence of this. They examined the cases of a number of the recent arrivals at Falconwood and determined that while some of these arrivals were clearly suffering mental disease others were not. They cited the case of two brothers. One was admitted because he needed physical care and attention to a chest problem; his brother seemed to be there simply to keep him company. In another case, the matron of the Protestant Orphans Home could not manage three of her boy charges and sent them to the Provincial Infirmary. The infirmary expected two boys and one girl and had made accommodations for such, but when three boys arrived at the doorstep the excess one was shipped off to the asylum.<sup>60</sup>

The committee's third theme concerned the conditions within Falconwood and the treatment of patients. In a blunt assessment, the report simply recorded "Falconwood Hospital does not compare favourably with other mental hospitals." The building was dirty, it needed paint, and it required a new plumbing system. The farm buildings were too close to the hospital itself and the lack of screens on the windows meant the place was infested with flies. The toilets were "foul" and "the whole building is full of offensive and nauseating odours." Wiring was exposed, doors were bolted, men were held in basement cells and the attic, and there were no plans on how to move patients in the event of an emergency. "One hesitates to think of what might happen in case of fire," the committee warned.<sup>61</sup> It was an unfortunate portent. In December that year, Falconwood caught fire and much of the building was destroyed. Flames spread through a dumb-waiter shaft, trapping a number of male patients in the attic, sent there to sleep because of overcrowding. Six men died in the fire, and at least one fell or jumped to his death.<sup>62</sup>

The committee's assessment of patient treatment fared no better. The medical superintendent was the target of sharp criticism, not the least because he had no training in psychiatry. As a result, psychiatric care within Falconwood had essentially ceased to exist. "There is no adequate psychiatric treatment, organized occupational treatment is non-existent, and hydro-therapy is practically not used," they reported. Large numbers of patients were being placed in seclusion, and cells had recently been constructed in the basement to restrain male patients, who were "kept under lock, key and bar." Only 35 of some 260 patients were employed in the rest-provoking labour Goodwill had earlier advocated. And if treatment protocols had been suspended, so too had any record-keeping and case-file management – "which are required if cases are to be properly treated" – although it remains unclear to what extent these had ever existed. "The only medical record is a diagnosis," the committee wrote, "which is kept in a ledger." There were no written orders for staff to carry out, had they been so

60 CNCMH, "Survey of Falconwood," 4-5, 22.

61 CNCMH, "Survey of Falconwood," 12-13.

62 Testimony of Superintendent MacLauchlan, Falconwood Fire Investigation, Attorney General fonds, RG 22, ser. 2, Attorney General Files, subser. 8, J.D. Stewart, file 16, "Falconwood Fire," p. 2, PAROPEI.

inclined, and no prescriptions for treatment.<sup>63</sup> For all intents and purposes, Falconwood had become a venue of incarceration rather than treatment.

The committee made 44 recommendations in all, but the fire laid waste to any immediate plans to improve the existing Falconwood.<sup>64</sup> Patients were transferred to the nearby infirmary, to rented housing, and to jails and other facilities. It is not known where McGee was placed. But as the institution was rebuilt, she and others made their way back. A surviving Daily Report ledger from the mid-1940s offers a glimpse into hospital life during this time period. Patients watched movies in the auditorium, small groups were taken to visit the local exhibition, and limited numbers of women were at work making beds and polishing floors, sewing, and working in the kitchen. During the same time period, the ledger records multiple incidents of patients destroying property and being violent toward one another and the nurses. By this time, the use of restraints was clearly back in place and commonly employed. Indeed, roughly six to ten women were in restraints each day (some of them recurrently).<sup>65</sup>

On at least one occasion in 1945 Minnie McGee was put in restraints. She had been “disagreeable all day, to other patients” and was immobilized until suppertime. By virtue of the one surviving Daily Report ledger, one can actually get some sense of McGee’s specific experience of the asylum in 1945 and 1946. It mentions, for instance, that the 70-year-old McGee “wandered away from the hospital” on a June evening in 1945 in the company of a friend. The two trekked up to the nearby cemetery and were collected by a nurse and bus driver. In early November of the same year, McGee left the institution to visit her sister for two weeks. She returned to Falconwood ahead of schedule, brought in by the RCMP. A few days later the matron made note that she had been noisy and disruptive all day. Early in the new year McGee had become “disturbed and abusive while at mass” and had been returned to her ward. In March she went to town in the afternoon to visit with friends, and in May she was described as “very disturbed and troublesome all day.”<sup>66</sup>

It is impossible to know if this was an unusual year in the institutionalized life of Minnie McGee or an extraordinary one. But two things about the portrait disclosed by this document stand out. This first is that it runs counter to the recollection of some of those who knew and worked with McGee in this period and earlier. They remember her not as refractory and restive, but as pleasant and gentle. Grace Thompson MacCallum, who nursed at Falconwood in the 1930s and 1940s, recalled “Oh I remember Minnie. She was a kind old soul. Minnie wouldn’t hurt ya. . . . We liked Minnie.”<sup>67</sup> Rosella McCarron Gallant, whose father worked as an attendant at Falconwood, remembers her father taking McGee out to visit with his family. She would stay for a few days and help to prepare meals. Gallant, a child at the time,

63 CNCMH, “Survey of Falconwood,” 6, 21-5.

64 CNCMH, “Survey of Falconwood,” 11-12, 16-18, 33 and testimony of Henry Jenkins (1-3) and Charles Jenkins (4), Falconwood Fire Investigation, Attorney General fonds, RG 22, ser. 2, Attorney General Files, subser. 8, J.D. Stewart, file 16, “Falconwood Fire,” PAROPEI.

65 “Daily Report, 1945-47,” Falconwood Records, acc. 2363, file 20, PAROPEI.

66 “Daily Report, 1945-47,” 17 June 1945-28 May 1946, Falconwood Records, acc. 2363, PAROPEI. On patients “taking walks” as a form of recreation and leisure, see De La Cour and Reaume, “Patient Perspectives,” 249.

67 Grace Thompson MacCallum, RN, interview by Dutch Thompson, in possession of author.

remembers she “thought she was awful friendly” and McGee “used to laugh and tell us stories and was nice to us.” She was, says Gallant, “always friendly, jolly. . . . I liked Minnie, she was jolly, always smiling. . . . She had a funny little way about her . . . I thought she was just herself.”<sup>68</sup> By this time the diagnosis of manic-depression and mania had been replaced in Falconwood’s recordbook with the attribution “undiagnosed psychosis.”<sup>69</sup> Whether this was a rejection of the Kingston diagnosis or simply a slippage in paperwork over time is uncertain.

The second characteristic worth noting is the freedom given to McGee to leave the institution. Formally discharged in 1927 only to be readmitted, McGee seems to have spent a good deal of time thereafter coming and going from Falconwood. “She was on one of those paroles,” recalled Thompson MacCallum. “She could go out walking around on by herself then she’d come in” by ringing a bell.<sup>70</sup> Additionally, her longer-term visits to family seem to have been quite frequent. In 1934, the federal Department of Justice received news of one such release. The superintendent of penitentiaries wrote to the chief of remissions enquiring whether some formal arrangement, namely a ticket-of-leave, had accommodated McGee’s absence. In her circumstances she did not seem to qualify for this freedom. She was, after all, probably insane, was a convicted murderer sentenced to life imprisonment, and was likely (and still is it seems) Canada’s most prolific female murderer. Indeed, Falconwood’s journal of discharges shows no record of her release, and that no ticket-of-leave was authorized by the Department of Justice. The director of the Remissions Branch described the lapse as “a very bad case,” and he was then ordered to contact Falconwood to find out how it happened.<sup>71</sup> In response, Falconwood Medical Superintendent R.D. MacLauchlan reported that in the autumn of 1933 McGee “had been pleading with me to let her go and visit her father who was ill,” and so he agreed to release her for “a week or two.” Some eight weeks later, she “returned voluntarily.” MacLauchlan concluded his defence by writing “She was pleading so hard to visit her aged father that I took it upon myself to let her go. She is quite sensible and is not dangerous to others. The visit did her much good, and she is more reconciled since coming back.”<sup>72</sup> After the fact as it was, Department of Justice officials decided there was little they could do to rectify the situation.<sup>73</sup>

### **Minnie McGee and the Multivocal State**

But something had slipped by the notice of Department of Justice officials. While MacLauchlan had accounted for McGee’s absence from Falconwood in the autumn of

68 Rosella McCarron Grant, interview by Dutch Thompson, in possession of author.

69 “Recordbook, 1924-1944,” Falconwood Records, acc. 2363, file 16, “Recordbook,” p. 151, PAROPEI.

70 Grace Thompson MacCallum, RN, interview by Dutch Thompson, in possession of author.

71 Superintendent of Penitentiaries to Chief of Remissions, 28 February 1934 and Ormond, Chief of Remissions to Gallagher, Superintendent of Penitentiaries (handwritten note), 2 March 1934, Dept. of Justice, RG 13-B-1, vol. 1547, pt. 1, LAC; Discharges, Journal, 1900-34 and Discharges, Journal, 1934-52, Falconwood Records, acc. 2363, files 10 and 11, PAROPEI; Memo to the Deputy Minister of Justice from the Superintendent of Penitentiaries, 24 February 1934, re. Crawley and McGee, Solicitor General fonds, RG 73, vol. 79, file 1-21-44, “Instructions re. Insane Convicts,” LAC.

72 Medical Superintendent of Falconwood to M.F. Gallagher, Remissions Branch, 8 March 1934, Dept. of Justice, RG 13, vol. 1547, pt. 1, LAC.

73 Memo to Gallagher (handwritten notation), 15 March 1934, Dept. of Justice, RG 13, vol. 1547, pt. 1, LAC.

1933 – an absence undetected by the Department of Justice – he had said nothing about McGee’s 1934 release about which the department had been alerted initially and about which it had enquired of MacLauchlan. What motivated the federal department’s attention in 1934? One might assume that officials were concerned that prisoners serve the terms of their sentence without interference from provincial authorities. Nevertheless, it was not the defence of power and jurisdictional rights that prompted the department’s actions in this case (or at least not solely so). It was also about money. Just as McGee had become a touchstone for the implementation of the Berne Convention ratification concerning the use of phosphorus in matches, she became an example *in situ* of the tangle between federal and provincial authorities over the state support of insane criminals and the right to discharge them.

The issue revolved around Section 53 of the Penitentiary Act of Canada, which dealt with jurisdictional responsibilities for insane convicts. The conundrum – largely one of interpretation – surfaced in 1924, having been the subject of earlier battles.<sup>74</sup> Under Section 53, if a person sentenced to a federal prison was found to be insane shortly after his or her arrival at prison, the prisoner was to be sent back to provincial authorities and presumably placed in an asylum. Once returned to the provincial domain, the financial responsibility for the prisoner’s upkeep fell to the province. This was the working paradigm surrounding McGee and others like her in the early-1920s. But what if the prisoner regained his or her sanity before the expiration of their sentence? Was the province free to release the person? Was the federal penitentiary required to take them – and the financial responsibility for their upkeep – back? In 1924, the superintendent of penitentiaries announced that, when transferred back to provincial authorities under Section 53, the documents should show that the insane prisoner was relocated to the provincial or municipal gaol, which would then secure placement in an asylum. Federal authorities had no further obligation to, or command over, the convict either in an asylum or a provincial jail.<sup>75</sup> Essentially, once insane convicts were moved back under provincial purview they stayed there, and provinces could do with them what they liked.

But a year later the issue arose again. In 1925 provincial authorities, still struggling with the matter, found themselves caught between the conflicting interpretations of federal agents. The position of the superintendent of penitentiaries seemed clear: the dominion government washed itself clean of any responsibility once the prisoner returned to the province’s jurisdiction. But the federal deputy minister of justice was now insisting that if an insane criminal regained his or her sanity before the expiration of their sentence, he or she needed to complete the sentence. If there was a squabble, he advised, the courts should sort it out.<sup>76</sup> He drew on a series of precedential findings and, in the end, determined that federal prisoners who regained their sanity should be

74 See Moran, *Committed to the State*, 147-50, 163. The struggles over Section 53 date from the early-1850s, following an amendment to the Penitentiary Act.

75 Memo for the Minister of Justice re. Insane Inmates, Section 53, 26 June 1924; Memo for the Superintendent of Penitentiaries re. Insane Inmates from Deputy Minister of Justice, 9 July 1924; Circular from the Superintendent of Penitentiaries re. Insane Inmates Transferred Under Section 53, 11 July 1924; all in Solicitor General fonds, RG 73, vol. 79, file 1-21-44, “Instructions re. Insane Convicts,” LAC.

76 Superintendent of Penitentiaries to Deputy Attorney General of Alberta, 19 May 1925, Solicitor General fonds, RG 73, vol. 79, file 1-21-44, “Instructions re. Insane Convicts,” LAC.

returned by the province to the federal penitentiary from whence they came. The interpretation had financial implications, since the federal Department of Justice would now keep the prisoner on its roll, and the “care and maintenance” of the insane convict, even within the provincial asylum, would be charged back to the dominion government by the provinces.<sup>77</sup> With such conflicts in interpretation, the matter remained unresolved in application.

The effort to resolve this issue resulted in a tremendous flurry of paper. Given that only three of Kingston’s prisoners were affected by the ruling – McGee and two men – the labour devoted to the issue might seem disproportionate.<sup>78</sup> But this was, in substance and practice, a significant interpretive issue with constitutional implications. Indeed, in 1931, when the question surfaced again, the British North America Act was invoked. In a memo prepared for the federal minister of justice, his advisor argued that the power to interpret the meaning of Section 53 rested in that portion of the BNA Act – Section 91, subsection 28 – that assigned power over penitentiaries and their management to the federal jurisdiction. The aide went on to argue that federal interpretation of Section 53 allowed the dominion government to absolve itself of any responsibility to prisoners who were insane at the time of sentencing (or who became insane soon after). The department was, at this point, attempting to stave off the challenges of two provinces: New Brunswick, which argued the national government was attempting to offload prisoners onto the province and its resources, and Alberta, which argued the process of determining sanity in the federal penitentiaries was flawed. Prisoners found sane at trial were suddenly pronounced insane after their arrival in penitentiary, and thus shuffled back to the province and tucked into its purse.<sup>79</sup> In August of the same year, as the dislocation of the Great Depression added to the human congestion in institutions across the country, the policy of the dominion government paying for the upkeep of insane prisoners in provincial asylums was reasserted by officials within the solicitor general’s office. Department of Justice officials scoured departmental logs and confirmed with provincial authorities just who fell under its responsibility.<sup>80</sup> A year later, the decision was reversed, or seemed to be, and the provinces were again assigned the financial upkeep of those transferred under Section 53.<sup>81</sup> And a year-and-a-half after that, the

77 Memo for the Deputy Minister of Justice, 23 June 1925, re. Penitentiary Insane as well as Superintendent Hughes to Warden, Stony Mountain Penitentiary, 2 July 1925, Solicitor General fonds, RG 73, vol. 79, file 1-21-44, “Instructions re. Insane Convicts,” LAC.

78 Warden of Kingston to Superintendent of Penitentiaries, 26 January 1931, Solicitor General fonds, RG 73, vol. 79, file 1-21-44, “Instructions re. Insane Convicts,” LAC; Kingston Penitentiary, Inmates in Mental Hospitals (c.1931), Solicitor General fonds, RG 73, vol. 48, file 1-1-36, pt. 1, LAC. In 1926, five prisoners were held under Section 53. In 1930 the number doubled, dipped to one in 1932, and then remained steadily around the ten-person mark through the late-1930s. See Memo from The Superintendent to the Deputy Minister of Justice re. Incarceration in Asylums under Section 53 and 56 for Fiscal Years Ending March 31, Solicitor General fonds, RG 73, vol. 79, file 1-21-44, “Instructions re. Insane Convicts,” LAC.

79 Memo for the Minister of Justice re. Insane Inmates of Penitentiaries, 19 January 1931, Solicitor General fonds, RG 73, vol. 93, file 2-21-14, LAC.

80 J.C. Ponsford to Hughes, 25 August 1931, Solicitor General fonds, RG 73, vol. 79, file 1-21-44, “Instructions re. Insane Convicts,” LAC.

81 Memo from Superintendent of Penitentiaries, 11 August 1932 re. Inmates Returned to Provinces Under Section 53, Solicitor General fonds, RG 73, vol. 79, file 1-21-44, “Instructions re. Insane Convicts,” LAC.



responsibility was again taken to be within the dominion's purview. The superintendent of penitentiaries acknowledged the tremendous confusion that surrounded the larger issue of jurisdiction.<sup>82</sup>

In February 1934 it was McGee's absence from Falconwood that had directed attention to the issue again. "An interesting case in regard to this came to notice yesterday in respect to 977, Minnie McGee," wrote the superintendent of penitentiaries. The province had stopped billing the Department of Justice for McGee's upkeep, and this prompted an investigation. When departmental officials found McGee had been released without the formal ticket-of-leave and without a pardon, they were concerned. And they detected a flaw in the system that could lead – and indeed had led – to such a predicament. When a prisoner was returned to the province under Section 53, there was no policy that required a copy of the sentencing papers to be handed over to the asylum management. According to the account offered by the province, the medical superintendent of Falconwood was unaware McGee was a convict, and thus ignorant of the ramifications of her release. This claim appears suspect, given that Prince Edward Island was a small province, Falconwood Hospital was a large institution within the province, and gossip and information about such matters were as apt to circulate on the Island as anywhere. But apart from a memo advising that a copy of sentence papers ought to accompany prisoners dispatched under Section 53, the Department of Justice pursued no action. Its rather passive response was limited to financial exigency: "I may say that I shall inform the Deputy Provincial Treasurer of the Province of Prince Edward Island that this department is not in any way responsible for the maintenance of Minnie McGee during the period that she was out of a Penitentiary," wrote the superintendent.<sup>83</sup> In the view of this state official, whose office was enrobed in a rich fabric of law and policy, McGee had become a mere financial matter (though admittedly a complicated one).

The interpretation of Section 53 remained unresolved in formal constitutional arrangements during McGee's lifetime. A 1938 report from royal commissioners tasked to investigate the condition of Canada's penal system declared "the procedure involved [in invoking Section 53] is irrelevant" and advised that the most prudent path forward was through the negotiation of individual federal-provincial agreements "rather than by a strict determination of constitutional rights." But the potential successes of such negotiations were undermined by a series of grievances that still existed between the dominion government and its provincial counterparts. The provinces claimed that Section 53 fell outside the national government's power, that the application of the clause was "arbitrary and drastic," that if a jury had rejected an insanity defence a federal medical officer should not be empowered to essentially overrule the verdict, and that the provinces should not bear the costs of tending to the criminally insane. The commissioners were sympathetic to two of the provinces'

82 Memo to the Deputy Minister of Justice from Superintendent of Penitentiaries, 24 February 1934, re. Crawley and McGee, Solicitor General fonds, RG 73, vol. 79, file 1-21-44, "Instructions re. Insane Convicts," LAC.

83 Memo to the Deputy Minister of Justice from Superintendent of Penitentiaries, 24 February 1934, re. Crawley and McGee; Memo to the Deputy Minister of Justice from the Superintendent of Penitentiaries, 17 March 1934; Superintendent of Penitentiaries to Wardens, Circular 34, 20 March 1934, re. Movement and Discharge of Convicts Under Section 53; all in Solicitor General fonds, RG 73, vol. 79, file 1-21-44, "Instructions re. Insane Convicts," LAC.

claims: that the powers of the medical officers were too sweeping and autocratic and that the federal level of government was indeed obliged to pay for the care and upkeep of the criminally insane in provincial asylums.<sup>84</sup>

Revisions to the Penitentiary Act a year later limited the power of medical officers to unilaterally reassign the criminally insane to provincial jurisdiction; instead, the issuing of such warrants now rested within the purview of the chairman of the Penitentiary Commission. Additionally, the requirement that sentencing papers accompany a prisoner relocated to a provincial asylum was formally entrenched as procedure, as was the directive that, should the patient recover his or her sanity, she or he should be returned to the federal penitentiary to serve out the sentence.<sup>85</sup> These minor manoeuvres did little to remedy the central contest over jurisdiction and attendant obligations. Nor did small tinkering with the act in 1952-53 and 1958. In 1961 the federal government offered an extensive rewriting of the Penitentiary Act, this time codifying what had become a customary practice of agreement-making between each of the provinces and the federal minister of justice. Those individual agreements would shape how an insane prisoner of a federal penitentiary was handled and, in the absence of an agreement, the federal minister was empowered to return the prisoner to the province he or she came from. The fiscal arrangements were implied within this revised Penitentiary Act: while serving time in a provincial asylum the insane prisoner was assumed to be “in a penitentiary” and thus still within the financial realm of the federal authorities.<sup>86</sup>

## Conclusion

McGee had travelled a long way from her chicken coop and kitchen on St. Mary’s Road to the desks and filing cabinets of various agents in the federal Department of Justice. In the former, her hands had sorted through straw in search of eggs, scribbled lists for the local store, touched and brushed and wiped eight children, and put matchstick after matchstick into a brewing pot. In the latter, she was an abstraction, a woman who had violated the most sacred law, and a curious policy dilemma with financial implications that alerted state officials to lapses in legal interpretation and muddled procedure. And in various institutions – Dorchester Penitentiary, Kingston Penitentiary, and Falconwood Hospital – she was an obvious charge of the state: numbered, observed, categorized, and incarcerated (albeit sometimes in the loosest of ways). Yet in each of those spaces, McGee’s life was deeply embedded within her larger cultural milieu and sharply etched by the regulatory state. The presence of schools she chose not to send her children to, the delivery of mail and the construction of the roads that carried her mailman father upon them, the import regulations that shaped the products available in the local stores and the brand of matches in her pot, the unrestricted trans-border movement that carried Patrick to another province and family to New England: each of these things remind us that the state was wedged into the dailiness of ordinary lives like McGee’s in ways so ubiquitous as to become unnoticed.<sup>87</sup>

84 *Report of the Royal Commission to Investigate the Penal System of Canada* (Ottawa: King’s Printer, 1938), 150-8 (quotations 150, 155).

85 Penitentiary Act, 1933 George VI, c. 6 (s. 58 & 61).

86 Penitentiary Act, 9-10 Elizabeth II, c. 53 (s. 19).

87 This is particularly true of a modern society because, as Marx advised, “the abstraction of the *state as such* belongs only to modern times, because the abstraction of private life belongs only to modern

McGee's crime, however, elevated her engagement with the state to realms neither ubiquitous nor unnoticed. By her most unfathomable act, McGee brought upon herself the state's full array of disciplinary apparatus. There were the state's agents: medical officials, sheriffs and the RCMP, jail keepers, lawyers and judges, penitentiary officials, asylum officials, premiers and provincial ministers, bureaucrats in the Department of Labour and the Department of Justice, the prime minister, and the governor general. There were state institutions: coroners' juries and inquests, courts, jails, penitentiaries, and the asylum. And there was the corpus of national law: the Criminal Code of Canada, the ratification of the Berne Convention, the Penitentiary Act, the British North America Act, and so on. Given the extraordinariness of McGee's act and the barrage of state responses it provoked, she became an extraordinary subject of the state. It would thus be foolhardy to suggest that her experience was more broadly representative of the relationship between the state and its usual citizenry.

Yet while McGee cannot be read as a representative historical figure, her experience does serve to illuminate an important dynamic in the workings, and misfirings, of state power. For some period of time, historians emphasized the tremendous power the state wielded over its citizenry. Institutions (both governmental and private), the laws that created them, and the agents that sustained them were seen to exert an inescapable disciplinary and didactic power that served to delimit the "good" citizen from the "problematic" one. In its crassest form, which only rarely appeared, social control theorists saw the state as wielding a bludgeon of authority that rendered deviant all who did not fall to its brute force.<sup>88</sup> More recently, those who favour the concept of moral regulation placed greater weight on the didactic and pedagogic efforts of the state and private reform sector to shape human behaviour, aspiration, and "right-conduct" among the citizenry.<sup>89</sup> And even more recently, historians and social theorists have emphasized the internalization of state and socially prescribed standards of action and desire that help produce the self-regulating, "worthy" citizen. This they refer to as governmentality.<sup>90</sup> Regardless of the particular nuance or shading of approach they have adopted, most historians have

times. The abstraction of the *political state* is a modern product." Cited in Philip Corrigan and Derek Sayer, *The Great Arch: English State Formation as Cultural Revolution* (Oxford: Blackwell, 1985), 3 (emphasis in original).

- 88 See, for instance, Stanley Cohen, *Visions of Social Control: Crime, Punishment and Classification* (Cambridge: Polity Press, 1985); Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage Books, 1977); Anthony Platt, *The Child Savers: The Invention of Delinquency* (Chicago: University of Chicago Press, 1969); and David Rothman, *Discovery of the Asylum: Social Order and Disorder in the New Republic* (Boston: Little Brown, 1971).
- 89 See, for example, Corrigan and Sayer, *The Great Arch*; Alan Hunt, *Governing Morals: A Social History of Moral Regulation* (Cambridge: Cambridge University Press, 1999); and, for a review of and challenge to the debate surrounding this theme, Hannu Ruonavaara, "Moral Regulation: A Reformulation," *Sociological Theory* 15, no. 3 (November 1997): 277-93.
- 90 For the formulation of the concept of governmentality, see Michel Foucault, "Governmentality," in *The Essential Foucault: Selections from Essential Works of Foucault 1954-1984*, ed. P. Rabinow and N. Rose (London: The New Press, 2003), 229-45; Michel Foucault, "Security, Territory and Population," *The Essential Foucault*, 259-62; and Michel Foucault, "The Birth of Biopolitics," *The Essential Foucault*, 202-7. See also the influential work of David Garland, "Governmentality and the Problem of Crime: Foucault, Criminology, Sociology," *Theoretical Criminology* 1, no. 2 (1997): 173-214; Kevin Stenson, "Beyond Histories of the Present," *Economy and Society* 27, no. 4 (1998): 333-52;

taken care not to present the state as omnipotent. Indeed, neo-Marxist and feminist scholars in particular have resisted any notion of an unchallenged or uncontested state apparatus or relation of rule. Instead, they have argued that ordinary people – and extraordinary ones too – have shown themselves capable not only of thwarting the rules, systems, and institutions that sought to control and regulate them, but also that they are able to turn that very apparatus to their own advantage in order to meet individual needs, family needs, and community needs. We can see evidence of this in the context surrounding McGee. A community-based petition for clemency, a letter from a patient at Falconwood asking for compensation for stolen items and labour, McGee's pleas that she be freed from the asylum to visit her ailing father: each of these and many other possible examples represent the ability of the state's subjects to push back against the laws, institutions, and programs that sought to constrain them. In turn, their activism shaped elements of the state – particularly by loosening its perceived rigidity and softening its seeming strictness.<sup>91</sup>

If the broader context of McGee's experience encourages us to see historical actors as capable of shaping the state, the particular experience of McGee points to another conclusion or, at the very least, to another set of questions. If the agency of historical actors has illustrated the ability to contest and challenge the hegemony of the state, it has also pointed to weaknesses in state structure. Such actors, and the historians who write about them, have successfully challenged the notion of a state that was cohesive, unitary, unquestionably powerful, and purposefully acting – one that sought, at every turn, the regulation and governance of its populace. What McGee's experience serves to illuminate is the disparate and unresolved nature of state rule: the fractured, conflicted, confused, and apocryphal character of state regulation and response. Here, the state floundered as often as it forced. As one group of historians has put it, the state was less a leviathan and more a chameleon.<sup>92</sup> Who should have paid for McGee's keep at Falconwood? Were provincial authorities permitted to free her if sane? Was it within the purview of asylum officials to authorize leaves? The muddled and inconsistent responses to questions such as these – when the questions were even asked – point to the lack of a unitary voice belonging to the state. Instead, they direct us to the notion of a multivocal state, where the messages are many, often conflicting, and sometimes confused. In part this had to do with bureaucratic structure, and in part with the nature of federalism.<sup>93</sup>

Kevin Stenson, "Sovereignty, Biopolitics and the Local Government of Crime in Britain," *Theoretical Criminology* 9 (2005): 265–87; and Nikolas Rose, *Governing the Soul: The Shaping of the Private Self*, 2nd ed. (London: Free Association Books, 1999). For a collection of Canadian studies that explore themes of social control, moral regulation, and governmentality, see Amanda Gleesbeek, ed., *Moral Regulation and Governance in Canada: History, Context and Critical Issues* (Toronto: Canadian Scholars Press Inc., 2006).

91 See, for instance, Eileen Boris, "On the Importance of Naming: Gender, Race, and the Writing of Policy History," *Journal of Policy History* 17, no. 1 (2005): 75.

92 McLaren et al., "Postlude," in *Regulating Lives*, 305.

93 See, for instance, Boris, "On the Importance of Naming," 75. For an extended case study of the interplay between local and national in the American context, see Andrew Polsky, *The Rise of the Therapeutic State* (Princeton: Princeton University Press, 1991). See also McLaren et al., "Introduction," *Regulating Lives*: "The historical study of law, society and the state must reflexively negotiate the boundaries between centre and periphery, local and global and province and nation" (6).

Secondly, McGee's experience foregrounds the disjuncture between the *theory* of state application and the *reality* of financial investment that would carry the state's agenda. While the provincial government may have touted the benefits of modern psychiatric care at Falconwood, for example, it was unwilling to make the financial investments in the institution that would have sustained a facility or staff suited to carry on such work. And while the national level of government took criminal law and punishment under its mantle, it was clearly willing to surrender financial responsibilities for the upkeep of some prisoners when opportunities presented themselves. In this regard, McGee's experience reveals the disparity between how states have conceptualized punishment and treatment and how they have practiced it.