THE UNIVERSITY OF HULL

THE REFORM OF PUNISHMENT AND THE CRIMINAL JUSTICE SYSTEM IN ENGLAND AND WALES FROM THE LATE SEVENTEENTH CENTURY TO THE EARLY NINETEENTH CENTURY

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Philip John Rawlings, LL.B.

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This thesis is a study of aspects of change in the system of criminal justice and punishment in the eighteenth and early nineteenth centuries. In Part I it looks at the possible uses of the popular literature of crime as a source for attitudes to crime and criminal justice. This study shows that the literature can be used on two levels. First, it provides a source for the study of the detail of people's lives and deaths in the eighteenth century and the operation of institutions. Second, it can be used as a means of examining attitudes to crime and criminal justice. However, this second use reveals that the literature is not just about crime, but is an aspect of the emergence of an increasingly confident middling section of society which looks critically not only on the labouring people, but also on the ruling elite. The literature, therefore, provides an important source for the study of this neglected section of eighteenth-century society. In Part II the literature is used as one of the source materials for a study of the criminal justice system as a public spectacle, with particular reference to capital punishment. An overview of the theoretical tracts on crime and punishment is also presented, and it is suggested that a breakdown of capital punishment occurred in the middle of the eighteenth century as the result of a concatenation of circumstances, but most immediately because of a crime panic following the peace of 1748. This panic saw the development of a refocussing of the criminal justice system towards the pre-trial process and a vigorous debate on the need for the control of the labouring poor which carried with it an implicit criticism of the existing system of government. It also led to the start of a process whereby the public nature of the hanging was gradually reduced. In Part II there is also a study of capital legislation in the period after 1688. Amongst other things, it is shown that, contrary to the generally accepted opinion, there was debate on many of the capital statutes, and that most of this legislation emerged not from private members, but from the government. The attitudes of the judges to capital legislation is also discussed in theory and in practice, and it is argued that they developed a more scientific approach as a response to their constitutional position and to the challenges to their position. There is then an examination of the prison, and it is suggested that this had a symbolic function in the nineteenth century much the same way as the public hanging had had in the eighteenth century. In the Conclusion there is a general discussion of the nature of historical change based on the work in this thesis. Finally, there is a critical bibliography of the popular literature of crime which should be used with Part I, and a bibliography of the works of Samuel Smith, the Ordinary of Newgate who began the influential serial publication generally called the Ordinary's Account. In its is use of a large proportion of

the available popular literature of crime and in the study of capital legislation this thesis has utilised materials not previously subjected to systematic study.

DECLARATION

A version of Chapter 16 of this thesis was published in book form in C.Harding, W.Hines, R.W.Ireland, P.J.Rawlings, Imprisonment in England and Wales: A Concise History, Croom Helm, Beckenham, 1985.

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CONTENTS

PART I:
The Popular Literature of Crime as a Source for the History of the Criminal Justice System and the Penal Process from the Late Seventeenth Century to the Late Eighteenth Century

Chapter 1: The Popular Literature of Crime and its Readers 1

Chapter 2: Changes in the Literature of Crimeduring the Eighteenth Century 37

Chapter 3: The Assize Sermon in the Eighteenth Century 59

Chapter 4: The Popular Literature of Crime: Questions of Accuracy and Authenticity 75

Chapter 5: The Popular Literature of Crime: A Case Study of the The History of the Remarkable Life of John Sheppard (1724) 127

Chapter 6: Drunks, Whores and Idle 'Prentices 143

Chapter 7: Criminal Literature and History 169

PART II:
The Spectacle of the Criminal Justice System in the Eighteenth Century with Special Reference to Capital Punishment

Chapter 8: A Critique of Recent Writing on Capital Punishment in the Eighteenth Century 231

Chapter 9: Legislators and Lawyers: Criminal Law after 1688, with reference to the Capital Legislation and its interpretation by the Judges 271

Chapter 10: Selection for the Gallows 351

Chapter 11: The Criminal Justice System as Public Spectacle 377

Chapter 12: The Condemned 395

Chapter 13: The Crowd, The Hangman, the Scientists, the Gaolers and the Condemned 430

Chapter 14: Soldier, Sailor, Rich man, Poor man, Beggar man, Thief: The Mid-Century Crime Panic 477

Chapter 15: Changes in Capital Punishment in the Eighteenth Century: Theory and Practice 560

Chapter 16: Prisoners and Reformers 611

CONCLUSION

Chapter 17: Conclusion 670

Footnotes

Appendices:

(a) Statistics
(b) Descriptions of hangings at Tyburn and Newgate

Bibliographies:

(a) A Critical Bibliography of the Literature of Crime
(b) The Works of Samuel Smith, Ordinary of Newgate
(c) The Accounts of the Prison Chaplains
(d) The Assize Sermon, 1701-1800
(e) Other Contemporary Literature
(f) Modern Sources

Abbrievations used in this Thesis

Bod.	Bodleian Library, Oxford.
B.L.	British Library.
CU	Cambridge University Library.
Guildhall	Guildhall Library, London.
JR	John Rylands Library, Manchester.
N.L.W.	National Library of Wales.

OBSP: The Old Bailey Sessions Paper, a printed semi-official report of the trials held at the Old Bailey which was produced under various titles.

The Ordinary of Newgate, Account: The Ordinary of Newgate his Account of the Behaviour, Confessions, and Last Dying Speeches of the Malefactors that were Executed at Tyburn on... This full title was first used by Lorrain (appointed 1700), however in this thesis the abbreviated title is also used to refer to similar publications by Samuel Smith, John Allen and Roger Wykes from May 1684.

Prison chaplain: this term is used to cover all those clergymen who were appointed to attend, on a regular basis, all prisoners or all condemned prisoners, as opposed to those who visited only certain prisoners. The use of this term is not strictly accurate since it includes Lorrain who although he was the Ordinary of Newgate was not, apparently, the prison's chaplain. The Ordinaries of Newgate for the period covered by this thesis were:

Samuel Smith, to 1698
John Allen, 1698-1700
Roger Wykes, 1700
Paul Lorrain, 1700-19
Thomas Purney, 1719-27
James Guthrie, 1727-46 (deputy to Purney 1725-27)
Samuel, Rossell, 1746-47
John Taylor, 1747-55
Stephen Roe, 1755-64
John Moore, 1764-69
John Wood, 1769-74
John Villette, 1774-

Note: the use of deputies was common, especially in Purney's case. Apart from Guthrie, Rev. Wagstaffe also deputised for Purney. Other clergy were also invited to deliver the condemned sermon by the Ordinary: for instance, Dr. Allen in 1744.

Bibliographical Note: because of the nature of the discussion in Part I the full titles of the books referred to are included in the footnotes (where the book is cited for the first time in that section); in the rest of the thesis only abbreviated titles are given. The full titles are also given in the bibliography. Where a work is cited more than once in a section the place of publication and date is only given in the first citation.

Backward rode FILCH, who Pockets us'd to rifle,
And thought it hard to hang for such a Trifle:
Under the Tree his Scruples he declar'd,
Repeating still, 'Tis hard, tis very hard:
"Were RACKIT with me, I the less should grieve:
"'Till wrong'd by Him, I never took to thieve.
Poor FILCH, I pity Thee, the Parson cry'd:
But by thy Country, Lad, thou hast been try'd:
Thy Crime was evident, and just they Sentence,
And Nothing now remains - but short Repentance.
They poor Petition had no Friends to back it -
Forgive the World, and to his Guilt leave RACKIT.
"Leave to his Guilt! quoth FILCH: Ah, Sir, that's Fine!
"All I would ask, is - to be left to mine.
"But here I come to make a Dying Speech:
Poh! Thou art poor, I say, and RACKIT'S rich:
The Fates decree (and who their Doom can alter;)
To Him an Equipage: to Thee - a Halter.
True, Law condemns the Rich, as well as Poor:
But Wealth from Law can find a secret Door.
Tho' here so many Smugglers have harangu'd,
The Richest of them, doubtless, are unhang'd.
The Guinea-filers spent so ill their Time,
That GAHAGAN had Nothing left - but Rhime:
But Great Sir ROBERT know the Use of Pelf;
He stripp'd the Tr*****y, and sav'd Himself -
Others, of equal Rank, have learn'd as much:
They come not here, who properly can TOUCH.
(Chester Courant, 21 March 1749, pp.319-20. [1])

as for our Common People, many of them must be confess'd to be very rough and savage in their Dispositions, being of levelling Principles, and refractory to Government, insolent and tumultuous: What Gentleman soever then shall have the Misfortune to fall into the Neighbourhood of such Boors, let him never think to win them by Civilities; it will be much more easie for him to teach a Hog to play unpon the Bagpipes, than to soften such Brutes by Courtesie; for they will presently interpret a Man's Gentleness to be the Effect of a timorous and easie Nature, which will presently make them bold and saucy. The best way therefore will be to bridle them, and to make them feel the Spur too, when they begin to play their Tricks and kick... Such Men then are to be look'd upon as trashy Weeds or Nettles, growing usually upon Dunghills, which if touch'd gently will sting, but being squeez'd hard will never hurt us.
(T.Nourse, Compania Felix, London, 1700, p.15)

PART I

THE POPULAR LITERATURE OF CRIME AS A SOURCE FOR THE HISTORY OF THE CRIMINAL JUSTICE SYSTEM AND THE PENAL PROCESS FROM THE LATE SEVENTEENTH CENTURY TO THE LATE EIGHTEENTH CENTURY

The Attention of the Publick is naturally excited towards those, who, by violating the Laws of their Country, are become liable to Punishment. - A Curiosity this, not only laudable, but useful, if confined within its due Limits, and applied to its proper Purpose. But, on the contrary, not only the Crime, but the Connexions and most private History of the unfortunate Delinquents, are eagerly enquired into, and become the Subjects of every Conversation. To be ignorant of, or to have nothing new to offer upon these Topics, almost excludes us from Society, in those Places especially, where a legal Scrutiny into the former happens to be made, or the Person and Family of the Criminals are known. Hence, too commonly, numberless Falsehoods are invented, every Particular that comes to our Knowledge exagerated [sic.], by the various Hands through which it passes.

(Anon., The Authentic Trial, and Memoirs of Issac Darkin, alias Dumas, Capitally Convicted for a Highway-Robbery, near Nettlebed (1761), p.3)

Genteels to you I do present this Book,
Whose mature judgments will upon it look
With an impartial Eye; having read it, then
You'l censur't favourably; whiles vulgar men
Onely peruse the Title-page, then throw't by,
Saying, it is not Hind's, but some new Lye:
Let these say what they will, so it pleases you.
I care not if they count it false, or true;

(Robert Ward, Pill to Purge Melancholy: Or, Merry Newes from Newgate (a life of Capt. Hind) (1652))

let us not forget the impact of the printed work upon readers, the needs of those readers, and how they are met.

(V.E.Neuburg, "The Diceys and the Chapbook Trade", The Library (5th Series), XXIV, p.230.)

CHAPTER 1

THE POPULAR LITERATURE OF CRIME AND ITS READERS

1. The Neglect of the Popular Literature of Crime

During the late seventeenth-century and throughout the eighteenth-century crime provided one of the principal subjects for popular literature. All aspects of crime, criminal justice and punishment came to be included: the crime itself, the investigation, the speech to the grand jury, the trial, the execution, the assize and the condemned sermons, the confession, the last dying speech, the life of the condemned, and controversy over the law and its administration. In their format the works ranged from newspaper articles through broadsheets and pamphlets to large books, sometimes in several volumes. Yet apart from the novels of a handful of authors, such as Defoe and Fielding, the popular literature of crime during this period has largely been ignored by historians.

In part this neglect has been due to the attitudes of literary critics: F.R. Leavis wrote that, "in the field of fiction some challenging discriminations are very much called for: the field is so large and offers such insidious temptations to complacent confusions of judgement and to critical indolence". [1] He made these "discriminations" according to his view of what was within "the great tradition of the English novel", and as a result most of the works of popular literature have been excluded from consideration because "few fall within the pale of art." [2] Even some well known authors fail to make the grade according to such

standards: for instance, Leavis regarded Henry Fielding's The History of the Life of the Late Mr. Jonathan Wild the Great as "mere hobbledehoydom". [3] According to this viewpoint the only value which such literature might have is in the assistance it gives to an understanding of those few writers who fall within "the great tradition": as F.W. Chandler put it,

> The literary significance of the criminal biographies has never been recognized. They have suffered neglect for several reasons. Intrinsically they are of small artistic value; as allied with journalism they are largely and fortunately ephermeral; as catering to the vulgar instincts of the vulgar many, they fall below the dignified historian's horizon line;... Nevertheless, they have exerted no inconsiderable influence in the shaping of modern fiction. They have been source books of realism, and their narrative method has instructed great story-tellers. [4]

The view that the popular literature of crime is "bad art" and therefore "below the dignified historian's horizon line" has undoubtedly had an affect on its use as an historical source material, but perhaps even more important than this has been the way in which historians have accepted the view of literary critics that such literature is fiction, written by hired hacks tucked away in garrets in Grub Street and safe from any contact with those about whom they wrote:

> Like Moll Flanders, most of the "true" accounts of the dying words and confessions of criminals, as well as the autobiographies and biographies of criminals were as we might suspect - fabricated despite their authors' claims to the contrary. [5]

Some eighteenth-century writers seem to provide support for

this view, even the author of one criminal biography referred, in 1778, to "the effusions that malice, whim, or caprice... [of] Grub-street writers, or garret pensioners". [6] Since historians have regarded it as one of their principal tasks to sift fact from fiction and to present only the former, popular literature has been discarded: so, for instance, Radzinowicz's history of the criminal law neglects any real consideration of popular literature, other than as a source of the occasional and incidental anecdote. [7]

Why such literature should have been assumed to be fictional is not immediately obvious, but there seem to have been two reasons. First, it appears to have resulted from the criticism levelled at this literature by contemporaries, and, in particular, by authors whose fame has lasted and whose dismissal of such work has, as a result, been accepted without question. The acceptance of such criticism assumes that it was objective, but, as I will show later, personal dislike and commercial and religious rivalry lay behind most of the attacks. Second, the narrative structure of the biographical literature typically reveals the life of the condemned as a linear progress from temptation through immorality, insubordination and crime to the gallows, and the repetition of this plot has led historians to assume that the work must be fictional. Yet this narrative structure might be merely the sort of value judgements based on a particular way

of looking at the world which all historians and biographers employ when considering how to select and organise their material. Merely because later historians no longer regard a particular world view as valid does not automatically mean that the work is fictional.

The rare, and generally inadequate, attempts of modern biographers to write the lives of eighteenth-century criminals were for a long time the only exceptions to the neglect of the popular literature of crime. Unfortunately, with a few notable exceptions, [8] they have used their sources in a sloppy and an entirely uncritical fashion. [9] So there is the paradox of historians ignoring the popular literature because, without thinking, they regard it as unreliable, whilst the biographers, equally without thought, use it as if it were entirely reliable. It hardly needs saying that the writing of history involves the selection of materials, but the disqualification (and equally the acceptance) of a large group of contemporary materials on the basis of poorly considered assumptions is impossible to justify.

However, although no one has previously made a comprehensive study of the popular literature of crime as an historical source, during the last decade or so certain parts have been used by some historians. For instance, Linebaugh has studied the large group of works published by the various Ordinaries of Newgate during the eighteenth-century, and

Langbein and Beattie have used the published reports of trials held at the Old Bailey and the Surrey assizes respectively. [10] While these studies are extremely useful they tend to reinforce the traditional suspicion of popular literature. Linebaugh's principal interest in the Accounts is for the insight they provide into the life of the labouring poor of London, and Langbein uses the Old Bailey Sessions Papers (OBSP) in order to study pre-trial and trial procedures. The nature of their objectives leads them to take great pains to show that the materials they use reliably represent the facts: so Linebaugh checks the biographical information in the Accounts against official records, and Langbein compares the OBSP with notes made by a trial judge. By justifying their use of the literature on the grounds of an estimate of its reliability these historians not only judge its value in terms of twentieth-century notions of accuracy (a point to which I will return), but they also implicitly reassert, albeit in slightly different terms, the fact-fiction distinction and so continue the exclusion of that part of the literature which has not been "verified".

There have been other recent studies, but these have been extremely selective in their use of material, basing theories on little evidence and tending to view the literature either as forgotten fiction or as a part of an inevitable progress towards the novel. Sharpe's recent essay

on seventeenth-century "dying speeches" at least treats this section of the literature as worthy of examination on its own merits. However, he assumes that it "constituted an important point of contact between official ideas on law and order and the culture of the masses." [11] From this he concludes that the literature was an instrument of ideological control in much the same way as was, according to Hay, the public hanging. Elsewhere Sharpe has argued that, "the objectives of this literature might include a desire to titilate or shock, but its underlying purpose is to reinforce the values of "straight" society." [12] He entirely passes over questions of the production and the readership which might have a direct bearing on his conclusions: for instance, he argues that the text is meant to have an effect on the reader, basing this view on the unquestioned assumption that the reader is both a member of the labouring classes and a passive receptacle. Moreover, the idea that literature simply reflects ruling class ideology is problematic since it does not tell us why that ideology was presented in this form rather than, for instance, as a straightforward list of ruling class values? Looked at another way, regarding the literature as simply a conveyor belt for such ideology does not explain why it was popular. Presumably the reason lies in the fact that the ideology was presented in the form of a narrative, and this means, assuming for a moment that the literature presents ruling class ideology (an assumption

which cannot automatically be made), the author has to translate that ideology into a narrative form. So the interpretation of the literature is not a simple process of "reading off" ruling class ideology; it is necessary to analyse it as it is presented within the narrative.

In the first part of this thesis I will look at the use of the popular literature of crime as a source for the history of the criminal justice system and penal process. I will argue that the literature was popular with a particular section of society, that there is plenty of reason for overturning the assumption that the biographical literature was simply the product of a hack's imagination, that contemporary criticism of some sections of the literature should be regarded with scepticism, that the literature, rather than being immutable as has been assumed, underwent important changes during the eighteenth-century, and that it did not present a true ruling class ideology. I do not intend to claim that the literature ought to be reassessed as fact; instead I will suggest not merely that we reconsider what is meant by "fact", but also whether the fact-fiction distinction is not something of an irrelevancy. I will argue that the literature as whole - whether it is classified as "fact" or as "fiction" - provides an insight into the assumptions and concerns which informed the attitudes of the rising middle classes to crime and to the criminal justice

system. I will illustrate my arguments through a case study of a work by Daniel Defoe, and I will then show that this work was representative of the literature as a whole and, more generally, of socio-economic texts of the period. I have chosen Defoe primarily because the massive body of work which he has left behind on all areas of politics, economics and sociology allows easier access to the ideas embedded in his criminal biographies. In brief my argument is that the literature of crime pursues the theme of the breakdown of authority, but that Defoe's comment that "Subordination seems to be at a Crisis" [13] was double-edged in that it was not simply that the labouring classes were escaping from authority and into crime, but also that the existing forms of authority allowed this to happen. Crime emerges, therefore, as a symptom of a deeper crisis, and in the end the literature and the whole debate on the criminal justice system were as much about the emergence of the increasingly confident middle classes and of their critique of the landed gentry's system of government as about immorality and crime amongst the labouring classes. At the same time there is an element of criticism of the middle classes for although Defoe sought to establish subordination through the economic hegemony of the middle classes, he regarded apprenticeship as the ideal tool for achieving this, but he felt that the middle classes were undermining apprenticeship. So the literature, by virtue of its support for apprenticeship as a

means of reasserting social control, was critical of the radical element in the middle classes who sought wealth to the exclusion of what some regarded as their civic responsibilities. However, to a large extent the problems of moral breakdown were believed to be endemic amongst the poor irrespective of age or sex so that the discussion of apprenticeship merely symbolised the belief that what was needed was tighter social control by the middle classes through the employment relationship. Moreover, after the middle of the eighteenth-century this element of criticism tends to be further submerged under a more aggressive critique of the traditional forms of criminal justice and support for an approach which takes much of the responsibility for social discipline away from the employment relationship and into institutions dominated by the middle classes, such as the Bow Street magistrates and police, the Magdalen Hospital, the Marine Society and the prisons. These contradictions and tensions are all addressed in the literature.

Finally there is a methodological problem in undertaking a full study of the popular literature of crime: Chandler has argued that the pamphlets are "so widely scattered as to be reassembled for purposes of study only at a cost of pains and patience out of all proportion to their apparent merit." [14] Working on similar assumptions bibliographers have tended to

pass over much of the literature: for instance, W.H. McBurney's A Check List of English Prose Fiction, 1700-1739 omits "short character sketches, jest books, topical pamphlets, dialogues, chap-books", and so it is hardly surprising to discover that most, although not all, of the criminal literature is missing. [15] As one writer recently remarked, "The bibliography of polite fiction is in comparatively good order... Popular fiction, however, is a bibliographical morass." [16] Adams and Averley's A Bibliography of Eighteenth Century Legal Literature has, therefore, filled a large gap by listing works held in major British and Irish libraries. [17] However, there are omissions from this work and its size has precluded a full title listing or any note of the publishers. My bibliography represents the first steps in the compilation of a critical full title list of criminal literature.

Of course, a comprehensive survey of the literature will remain impossible. These works were flimsy and intended to have only a short life, so they suffered from a high rate of destruction. According to Thomas Nashe, writing in the 1590s, such pamphlets were to be used "to drie and kindle Tobacco", or "to wrap velvet pantofles", or "to stop mustard-pottes", while Sir William Cornwallis kept them in the privy to be read and then used, and there is no reason to suppose that their eighteenth-century counterparts treated them any more kindly. [18] Although newspaper advertisements, the registers

of the Stationer's Company, and the book listings in such journals as the Monthly Magazine and the Gentleman's Magazine do provide a way of tracing works that have not survived, some are bound to have slipped out of sight altogether, particularly the broadsheets which were hawked around the streets at a penny each. However, this destruction, whilst regrettable, is more of a problem for the bibliographer than for the historian since a sufficiently large quantity of pamphlets, broadsheets and books have survived in the major libraries for the latter's purposes.

2. An Outline of the Content of the Literature of Crime

In this section I will give a broad outline of the format and content of the popular literature of crime in the late seventeenth and early eighteenth-centuries.

At the simplest level there are the broadsheets which merely describe some crime, generally in a style which seeks to convey the horror of the event. [1] Two factors led to a general reduction in the broadsheet literature, although it never totally disappeared. The first was the Stamp Act 1711, section 101. This favoured multi-page pamphlets since it imposed a duty on single sheet publications of 1d. per copy published, whereas although the duty on pamphlets was calculated at 2/- per page it was charged on only one copy no matter how many were actually published. [2] It was this which forced Paul Lorrain and his publisher to switch the influential Ordinary of Newgate's Account from broadsheet to pamphlet form. [3] Second, as the eighteenth-century wore on - especially from the 1720s - so the simple news function of these broadsheets was largely taken over by newspapers. Indeed, newspapers probably also affected the pamphlet literature generally in that they forced publishers to produce pamphlets more quickly under the threat of a loss of sales. [4] Generally newspapers included items of crime news and often cautioned the public on the latest tricks employed by criminals, [5] however the crime coverage of the newspapers did not really undermine the pamphlet literature

because for the most part they only included brief and current crime news and not the biographies of individuals which the pamphlets provided. In practice the newspaper publishers were booksellers most of whom also published criminal biographies which they advertised through the columns of their newspapers. [6] Some, such as Applebee's Original Weekly Journal and Mist's Weekly, did publish more extensive items than the daily or thrice-weekly newspapers, and John Cooke, the publisher of Owen's Weekly, was actually brought before the Court of Aldermen accused of breaking the monopoly on Old Bailey trial reporting claimed by the publishers of the Old Bailey Sessions Paper. [7] However, police authorities, magistrates or one of the societies for the prosection of felons did use flysheets to advertise rewards or to convey information to distant magistrates and police. [8] It is also probable that untaxed broadsheets were sold in the streets, and that the "dying speech" broadsheet being peddled at the hanging of Tom Idle in Hogarth's Industry and Idleness (1747) is an example of this unresearched, illicit aspect of the book trade. [9] In the nineteenth-century broadsheets became commercially viable again following the imposition of a tax on newspapers and so enjoyed a revival under printers such as Pitts and Catnatch until the middle of that century. [10] However, the Stamp Act meant that for most of the eighteenth-century the dominant

formats for the literature of crime were the pamphlet and the newspaper.

There were several different types of pamphlets on criminals. One of the most common, and most neglected, forms of the literature of crime is the criminal biography in which is described the life of a person who either was under sentence of death or had been hanged. The title-page of a publication from 1773 gives the flavour of the contents of a typical biography:

> A Genuine Account of the Life, Robberies, Trial and Execution of William Cox, Who was executed at Tyburn, October the 27th. 1773. For stealing Bank-Notes and Cash (the Property of Mr. John Kendrick) to the amount of Four Hundred Pounds and upward. relating A great number of artful Robberies, and how his Father first taught him to Thieve: His many narrow Escapes and quick Inventions to evade the Hand of Justice: His Behaviour in Newgate and at the Place of Execution.

Although, as will be seen later, the narrative structure varied little, these pamphlets did differ slightly in the things which they included: for instance, some gave only a cursory mention to the trial, such as The History Of the Remarkable life of John Sheppard (1724), whilst others included a fairly full account, such as The Trial of the Notorious Highwayman Richard Turpin (1739) in which the biography was a relatively brief supplement to a shorthand report of the trial.

Some pamphlets were entirely devoted to an account of a trial and included no other biographical material. This field

was dominated after mid-century by the work of the Gurneys who published a number of lengthy reports of single, important trials (the single trial report) based on their shorthand notes. [11] In 1748 they also took over the successful series of trial reports collectively called the Old Bailey Sessions Papers, which had been produced since the late seventeenth-century and in which all the trials at a session of the Old Bailey were reported. Imitators sprang up to report all the proceedings at an Admiralty session or at a provincial assize, most notably in Kent, Surrey, Essex and Sussex, although the uncertainties of the survival of such publications means that it is difficult to tell how frequently these appeared and whether other assizes were reported in this fashion.

An important section of the literature included an explicitly religious element. Most notable here were the Accounts of the Ordinary of Newgate. These were initially broadsheet publications printed on both sides, but, as has been seen, they moved into a pamphlet format in 1712. They generally opened with a summary of the condemned sermons, then came a biography of each of the people hanged on a particular day at Tyburn or Wapping, and finally there was a note of the events at the gallows. They began as a serial publication in May 1684 with the collaboration between Rev. Samuel Smith and the bookseller George Croom. In spite of Smith having produced around 90 different editions nothing,

until now, has been written of his work and no bibliography exists. Indeed, the overriding impression from main work on the Ordinary's Account is that the publication really started with Paul Lorrain; whereas in fact Lorrain largely adopted a formula which had been working successfully for 16 years. [12] The popularity of this work led to similar publications by those who acted as chaplains at other prisons, such as Rev. William Wilson and later Rev. Leonard Howard at Southwark, Rev. Bannister at Guildford, and Rev. J.Penrose at Bristol, although the greater carnage wrought at Tyburn and Wapping amongst Newgate prisoners meant that these other prison chaplains were never likely to achieve the output of the Ordinary of Newgate's Account. [13] Other clergymen, who had no official position, can be identified as authors, for instance Dr. Allen's An Account Of the Behaviour of Mr. James Maclaine. From the Time of his Condemnation To the Day of his Execution. October 3. 1750 (1750). [14] From the middle part of the century, the Methodists published several biographies which tend to pass over the biographical details and to concentrate instead on a Methodist critique of prison chaplains and of the Church of England in general: for example, Some Account of the Life and Death of Matthew Lee. Executed at Tyburn. October 11. 1752. In the 20th Year of His Age (1752), Special Grace Uninterrupted, in its Egress. To the Chief of Sinners. Or. Some Remarks on the Happy Exit of

Samuel Drayton, alias D------, who was Executed at Dorchester, on Saturday April 8, 1775 (1775), and Some Account of the Life and Death of Nicolas Mooney (1776).

Political or social comment was a common feature of the literature. Some authors used the opportunity afforded by a biography to make suggestions for reforms or to praise those which had been implemented. The Life, Travels, Exploits, Frauds and Robberies, of Charles Speckman (1763), for instance, cautioned shopkeepers against crime and suggested that more magistrates adopt the police methods used by John Fielding at Bow Street in London, and some years before the Ordinary of Newgate, Roger Wykes, had asked John Simpson "to let the World know some particular ways, by which Thieves use to Rob Houses, that so the Honest Neighbour might stand upon his Guard." [15] Other writers attacked the political or social status quo through the use of satire. Sometimes a whole work is satirical, like Henry Fielding's The History of the Life of the Late Mr. Jonathan Wild the Great or less well known pieces such as A Letter of Advice from the French Gentlemen of Ireland, to Doctor John Audouin Prisoner in Newgate, how to procure his Pardon or make off with his Life (1728). Other works use satire as an element in the narrative of a biography, as for instance The Memoirs of the Right Villainous John Hall (1714), and it is quite common to find an aside about the way in which the poor are hanged whilst rich criminals prosper, so, for example, in Tyburn's

Worthies, or, the Robberies and Enterprizes of John Hawkins, and George Simpson (1722) there appears the following sentiment:

> Little Villains must submit to fate
> That Great Ones may enjoy the World in state. [16]

Some works engaged in controversy about a case which had not come to trial, [17] or debated the correctness of a conviction or acquittal after a trial, [18] or speculated on the responsibility of the hanged person for the crime. [19] It was not unknown for the condemned to engage in publishing defences: Edward Bird, for instance, spent much of the time in the condemned cell in Newgate working on a pamphlet with the revealing title of Mr. Bird's Case. The nature and circumstances of this prosecution, will appear from the malice as well as character, of my prosecutors (1719). Others who had been involved in a trial sometimes published accounts in order to defend their own conduct: Inge and Webb, two lawyers, wrote A Defence and Substance of the Trial of John Donellan, Esq (1781) not only in an effort to show that Donellan was innocent of the murder for which he had been hanged, but also as a response to suggestions that they had neglected Donellan's defence. [20]

Finally, the literature was meant to entertain, and it was not just the accounts of the lives of purely fictional characters which sought to do this, such as Defoe's Moll Flanders (1722) or the anonymous The Matchless Rogue, Or, An

Account of the Life of Tom Merriman (1725). The bookseller John Applebee, anxious to attract a wide readership for his Select Trials at the Sessions-House (1741), advertised it as not only of benefit to lawyers, but also "entertaining to the Generality of Readers." [21] At the same time, the assertion that they were "entertaining" does not mean they were put forward as other than fact. Indeed there were constant denials that such biographies were, in any way, fictional: Rev. Bannister assured readers of his A Genuine Account of... Six Malefactors (1742) that the condemned "gave the following accounts of themselves; which are genuine, and not intermix'd with Stories purely to amuse People, as is too frequently the Case in Performances of this Sort." Similarly, one of Eugene Aram's biographers wrote in 1759, "we hope to avoid the imputation of partiality, as we shall strictly adhere to what was really proved on the trials, and neither by exaggerating of palliating any the [sic] most trivial, or heinous circumstances, that have come to our knowledge, heighten or diminish the same in any part." [22] The claims of accuracy actually worked to heighten the excitement or horror of the narrative. However, while those who had passed through London's Newgate before being hanged would be included in the Ordinary of Newgate's Account, no one received separate treatment unless their crime, life or status was of particular interest; there had to be something in the case

which the publisher could use to attract buyers. Some readers were drawn by the excitment of the narrative, as with John Sheppard's daring escapes from Newgate in 1724 described in A Narrative Of all the Robberies, Escapes, &c. of John Sheppard and in The History Of the Remarkable life of John Sheppard. For others the fascination was provided by the element of shock. The revelations about the criminal underworld made by John Poulter in The Discoveries of John Poulter, alias Baxter (1754) shocked at least one reader so much that he or she wrote a pamphlet expressing horror at the widespread nature of the problem of crime and the "extensive Combinations in Villainy" which Poulter's pamphlet revealed. [23] Other works shocked in a different way: for instance the pamphlets which told of the murderous tortures inflicted on parish apprentices by Mrs. Branch and her daughter in 1740 and by Mrs. Brownrigg in 1767. [24] Cox's A faithful Narrative Of the most wicked and inhuman Transactions of that Bloody-Minded Gang of Thief-makers Macdaniel, Berry, Salmon, Eagan alias Gohagan (1756) horrified readers with its story of thief-takers who prosecuted innocent people for capital offences in order to obtain the reward money. Most biographies include humourous or unusual events. The title-page of A Genuine Narrative of all the Street Robberies Committed since October last, by James Dalton (1728) advertised the inclusion of "Some merry Stories", a song and, a not uncommon item at that time, a cant dictionary. [25] The

life of Fanny Davies was regarded as a profitable proposition by several publishers. She was hanged for robbing a man called Wrigglesworth of a large amount of money, and the publishers were probably attracted by what was regarded as a reversal of situations in a woman robbing a man. But other elements were also emphasised in the title-pages: one biography published in 1786 is titled,

> An Authentic Narrative of The Most Remarkable Adventures, and Curious Intrigues, Exhibited in the Life of Miss Fanny Davies, The Celebrated Modern Amazon

It was said to show "her Amorous Parleys with her Kind Keepers in High-Life." [26] The work made much of this implication of scandalous intrigue and also of her habit of dressing as a man. Another biography, published in 1785 while Davies was awaiting her trial, indicates a similar chauvinism in its title, The Whole Life and Adventures of Miss Davis [sic], commonly called The Beauty in Disguise. The opening passage of this work illustrates another form of appeal to readers:

> It is a melancholy, but true observation, that a display of the most atrocious villainy affords more entertainment than a course of regular benevolence, which ought to be imitated by every one who wishes his name to pass down to posterity with credit and respect.
>
> However the depravity of the human heart may amuse the mind, and when exhibited in a proper light, and due reflections drawn from the premises, some improvement may be derived, and the reader rise instructed and fortified in the sacred paths of virtue and decorum. [27]

Although the sentiment expressed in the second paragraph was

familiar, one suspects that the first paragraph more properly expressed the attraction of the work. Crime in high life was undoubtedly a very popular subject. The murder in Henley-on-Thames of a prosperous lawyer called Francis Blandy for which his daughter, Mary Blandy, was hanged in Oxford in 1752 led to the publication of at least 33 pamphlets and broadsheets. The case attracted so much attention because it involved: a love affair of which Francis Blandy strongly disapproved between Mary Blandy and an army officer called the Hon. Henry Cranstoun; the murder of Francis by poisoning; Mary's apparent betrayal by Cranstoun who fled the country leaving her to face the gallows; and her denial of having knowingly administered the poison.

The contents provide an indication that the biographical literature of crime did indeed seek a popular readership, but how popular was this literature and who were the readers?

3. The Book Trade in the Literature of Crime and the Readers

In this section I will look first at the book trade and the evidence for the popularity of the literature of crime, and then at those who read this literature. In general terms a combination of the wider availability of education, an increase in population and advances in printing technology meant that all types of literature became more popular and more widely available during the late seventeenth and throughout the eighteenth centuries. Among the labouring classes the value of children's work to the household economy meant that those who attended school did so irregularly and left before they were very old, nevertheless many did acquire some ability to read. [1] On the other hand, for the middle classes reading and writing were becoming recognised as crucial business skills. [2]

At the centre of the book trade were the booksellers who published as well as retailed literature and who also controlled the newspapers. Their dominance can be appreciated from the remarks of printers and authors. The master printer Samuel Richardson considered his greatest success in business as having made himself "more independent of Booksellers... than any other Printer". [3] The poet Dryden remarked to his publisher Jacob Tonson, "Upon trial... I find all of your trade are Sharpers and you are not more than others", [4] whilst Ned Ward complained in The London Spy (1703) of the bookseller who "has got an estate by starving authors." [5]

The subordination of the authors can best be appreciated by a glance at the title-pages of works on crime. Unless the mention of a particular writer had a commercial value then her or his name was omitted. So, as will be seen later, the claim that a work was in some way autobiographical was generally acknowledged, as was the involvement of a prison chaplain or a shorthand writer because all of these attributions were regarded as adding to the commerciality of the work. On the other hand, in spite of the success of Robinson Crusoe and Moll Flanders Defoe's name appeared on the title-pages neither of these books nor of any of his later criminal biographies. Summing-up the attitude of many, George Withers, as early as 1625, accused booksellers of having made "the Printer, the Binder, and the Claspmaker a slave to him: but hath brought Authors, yea the whole Commonwealth, and all the liberall Sciences in Bondage." [6] For the booksellers John Dunton wrote in 1705 that most writers were only interested in "how much a sheet", and he justified the bookseller's ruthless approach by arguing that, "Unless a [bookseller] can haggle half an Hour for a farthing, be Dishonest, and tell Lies, he may starve behind his Shop-Board, for want of Subsistence". [7]

Although the commercial nature of the book trade can hardly be doubted, information on sales figures for the literature of crime in the eighteenth-century is impossible

to find. It has been said that in the early nineteenth-century 2.5 million broadsheets describing the trial of the Mannings were sold, while Jemmy Catnatch apparently published 1/4 million broadsheets on the murder of William Ware in 1823, and his successor W.S.Fortey printed some 90,000 on the Five Pirates of the Flowery Land [8]. These figures cannot be assumed to be accurate, but even if they are correct various changes indicate that such high sales cannot be assumed to represent the state of the trade in the eighteenth-century: there was better technology in the printing trade, improved literacy rates and an increase in the price of newspapers caused by a rise in taxation early in the century. On the other hand, the figures do at least point to the popularity of crime literature, and there is plenty of other evidence to show that this interest was not new.

First there is the anecdotal evidence. In the last quarter of the seventeenth-century John Dunton used the profits obtained from the literature of crime to build up the more expensive side of his publishing business. [9] Later Thomas Gent recalled in his autobiography that when in 1722 he printed the dying words of Christopher Layer, who had been hanged for treason, he "had a rule of sale for about three days successively which obliged me to keep in my own apartments, the unruly hawkers being ready to pull my press in pieces for the goods." [10] In February 1754 Goadby and Owen, the publishers of The Discoveries of John Poulter

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included in an advertisement for the eighth edition of that work the following apology:

> N.B. The Press has been kept almost continually going, on the above Work for several Weeks past, yet Orders for great Numbers of them from different Parts of the Country could not be supplied, but as a very large Number is now printed off, and the Press kept still going on it, the Publick may depend on a proper supply for the future. [11]

In October 1750 Horace Walpole remarked in a letter to his friend Sir Horace Mann,

> You can't conceive the ridiculous rage there is of going to Newgate; and the prints that are published of the malefactors, and the memoirs of their lives and deaths set forth with as much parade as - as - Marshal Turenne's - we have no generals worth making a parallel! [12]

The large number of works on crime published in the late seventeenth and throughout the eighteenth centuries [13] together with the frequent use of crime and criminal justice as themes for novels provide further evidence of the popularity of the literature of crime. Almost four hundred different editions of the Ordinary of Newgate's Account appeared and about a thousand issues of the OBSP, in addition to which there were probably another thousand biographies and trial pamphlets, and many broadsheets and ballads. A single crime sometimes led to a large number of pamphlets being produced: for instance, as has been mentioned already, the Blandy case saw the publication of at least 33 pamphlets and broadsheets in 1752-53, with one bookseller, Cooper, being responsible for four of these, whilst Walker and Owen

published two each; in 1753-54 the controversy surrounding the disappearance of Elizabeth Canning and the subsequent trials led to the publication of at least 32 pamphlets and broadsheets.

In the absence of sales figures a generally accepted method of judging the relative popularity of books in the eighteenth century is by counting the number of editions published. C.C. Mish drew up a list of best sellers on this basis which begins with Swift's A Tale of a Tub with 17 editions and the second part of Bunyan's The Pilgrim's Progress with 15 editions, and goes down to Arabian Night's Entertainment and Defoe's Robinson Crusoe (Part I) in joint eleventh place with 8 editions each. [14] Although a straight comparison between these more expensive works and the relatively cheap pamphlets on crime cannot really be made we can nevertheless get some idea of the popularity of the literature of crime by using this criterion: according to Chandler the variants of The Life and Adventures of Bampfylde-Moore Carew went through 30 editions following the first publication in 1745; A Warning to Youth went through at least 22 editions between 1710 and 1735; The Discoveries of John Poulter, first published in 1753, reached its 14th edition in 1769; Defoe's A Narrative of all the Robberies, Escapes, &c. of John Sheppard appeared in 8 editions during the last two months of 1724; and in 1722-23 Ralph Wilson's A

Full and Impartial Account went through 5 editions. [15]

Payments to authors provide another clue to the size of the market, although records are almost impossible to find on this. However, the Gentleman's Magazine reported in 1732 that just before she was hanged for murder Sarah Malcom had written an autobiography which was elaborately authenticated by Rev. Piddington, and "the Expectation for this Paper was so great, that the Copy was sold by Mr. Piddington for 20 L." [16] To put this into some sort of perspective, the Ordinary of Newgate's salary at this time was #25 a year.

That the literature was aimed at a popular market can also be gathered from the marketing strategies employed by booksellers. The market would not stand the sort of prices charged for other works, so one way of obtaining a high price and at the same time encouraging a form of brand loyalty was by seeking to persuade readers to collect serial publications. Previously historians of this subject have focussed on magazines and newspapers, but this device was also employed in the literature of crime. Some booksellers used the technique of part publication: in 1733-34 Captain Charles Johnson's Genuine Account of the Voyages and Plunders of the most Notorious Pyrates appeared in 73 weekly parts, and in 1735 Wilford published his Select Trials in part form at the rate of one a fortnight. Following the sensational trial of Elizabeth Canning for perjury in 1754 Clarke and Cooper advertised a part publication at sixpence an issue of

their long report of the trial, which had been published in full at six shillings just a week before; the reason given was that,

> As the Length, and consequently the Price, of the Tryal of Elizabeth Canning may make it inconvenient to many Persons, that are desirous of reading it, to purchase the Whole at once; and therefore, that every Body may have an Opportunity to satisfy themselves [17]

Others, such as the OBSP starting in the 1670s and the Ordinary of Newgate's Account from 1684, appeared at regular intervals on a permanent basis - the former after each session at the Old Bailey and the latter after each hanging at Tyburn. They were, therefore, amongst the earliest of the serial publications. With an eye towards encouraging readers to collect sets, in 1729 Payne, the bookseller, announced that the format of the OBSP would in future be changed from folio to quarto so as to enable readers to bind them up more easily. [18] The publishers of both the OBSP and the Account also often indulged in part publication by splitting an issue into two parts, sometimes dividing a trial or a narrative in the middle so that a reader would have been obliged to buy both parts; this had the additional advantage of enabling the publishers of the OBSP to evade pricing restrictions imposed by the City of London authorities. [19] Other publications used similar techniques. For instance, The Trials Of all the Prisoners who were Try'd at the Assizes held at Maidstone... 21-23 March 1749-50 (1750) included only part of the assizes

and, at the end, referred readers to The Ladies Magazine, April 1750, for the remainder. [20] A slightly different strategy was employed by John Morphew in 1712. He published three interdependent pamphlets on Richard Town or Towne, the first person to be hanged for fraudulent bankruptcy: these were, A Particular Account of the Tryal of Richard Towne; A True Copy of a Paper left by Mr. Richard Towne; the Ordinary of Newgate's Account of 23 December 1712. [21] A True Copy refers to the Account for a description of Town's behaviour in Newgate and at Tyburn, and the Account mentions that Town had written A True Copy. The Account also reports that Town regarded himself as having been ruined by his enemies, but it is A True Copy which reveals their names. Neither A True Copy nor the Account makes anything other than a passing reference to the trial; for this the reader had to go to A Particular Account, which had the additional benefit of having been published by the order of the Lord Mayor of London. So the pamphlets complemented each other, and a reader would have had to buy all three in order to obtain the full story.

Having shown that the literature of crime was a commercial and a popular product the next question is, who read it? The assumption has been that it was directed at, and read by, the labouring classes, so, for instance, Linebaugh argues that the literature was "a permanent but anonymous part of a trans-Atlantic plebian culture." [22] This is justified by, and itself justifies, an interpretation of the

texts which involves merely taking passages which seem to show a ruling class bias out of the context of the narrative and using them as evidence of such bias. I will argue that although many labouring people were almost certainly readers, they were not in fact the intended, nor indeed the main, audience for the pamphlet literature.

When examined closely the evidence for readership amongst the labouring classes rests on sparse and rather exceptional sources. Margery Spufford points to John Bunyan, born the son of a poor cottager, who spent childhood hours reading "a Ballad, a News-book, George on Horseback or Bevis of Southampton", and to the poet John Clare, the son of a Northamptonshire labourer, who recalled that his childhood "taste and passions for reading were furious" and that he bought the "6 py Pamphlets that are in the possession of every doorcalling hawker & found on every bookstall at fairs & market bills". [23] But it is likely that the voracious reading habits of exceptional people like Bunyan and Clare were unusual, and Clare himself acknowledges this. He wrote that his father "could read a little in a bible or testament and was very fond of the supersti[ti]ous tales that are hawked about a sheet for a penny", and that his mother "knew not a single letter". [24] He added that the labouring poor were generally suspicious of those who indulged in reading: "it is common in villages to pass judgment on a lover of

books as a sure indication of laziness". [25] On the other hand, the famous Law Book of the Crawley Ironworks in Newcastle, written in 1700, includes a complaint about labourers wasting time by reading "news history". [26] In addition to the anecdotal evidence scholars have used the capacity to sign one's own name as a measure of literacy amongst the poor, but this leads to exaggeration since possessing that skill does not necessarily imply the ability to read. [27] Furthermore, the assumption that the charity school movement in the eighteenth-century had a decisive affect on literacy among the poor has been undermined by evidence that it made little headway outside London. [28]

The language generally used in the pamphlet literature of crime did not require a sophisticated level of literacy: they were straightforward tales told in plain language. So anyone who could read the Bible would have been able to cope with them easily. However, although the Bible enjoyed large sales amongst the labouring poor it is not clear whether it was bought for reading or as a religious artefact, [29] so it seems better to compare the literature with the sort of chapbooks enjoyed by Clare's father. These consisted of perhaps eight or sixteen pages, whereas much of the pamphlet literature of crime could run to at least twice that length. The chapbooks in the Pepys Library in Magdalene College, the Wood collection in the Bodleian Library and the Lauriston Castle collection in the National Library of Scotland show

that the reading ability required for them was well below that needed for much of the pamphlet literature of crime. Finally, although the broadsheets and the eight page chapbooks on crime might at a penny have been within the purchasing power of the labouring classes, the longer biographies and trial pamphlets costing 6d. or more would have seemed expensive to a labourer on 10/- a week. [30]

A distinction can be made between the literature of crime which might have been read by the labouring poor and that which appealed to readers from other sections of society. In 1725 James Arbuckle complained of:

> fabulous adventures and memoires of pirates, whores, and pickpockets wherewith for sometime past the press has so prodigiously swarmed... your Robinson Crusoes, Moll Flanders, Sally Salisburys and John Shepards have afforded notable instances how easy it is to gratify our curiosity, and how indulgent we are to the biographers of Newgate, who have been as greedily read by people of the better sort as the compilers of last speeches and dying words by the rabble. [31]

Arbuckle distinguishes between, on the one hand, the "last speeches and dying words", the penny broadsheets being hawked in Hogarth's engraving of the hanging of Tom Idle and read by "the rabble", in other words the labouring poor, and, on the other hand, the more expensive works of "the biographers of Newgate" which were bought by "people of the better sort". So whilst it would be wrong to argue that the labouring poor did not read the literature of crime, it seems clear that the main audience for the pamphlet literature lay elsewhere.

It has always been assumed that those at the other end of the social ladder, the aristocracy and the landed gentry, did not trouble themselves with the literature of crime. Ricchietti has recently remarked that such reading matter "must have appeared to the educated literate elite of the eighteenth century precisely what comic books and television seem to the contemporary guardians of cultural standards." [32] It is a view with which eighteenth-century commentators would have agreed: one wrote in 1785 that works of that arch populist Daniel Defoe "do not exhibit many scenes which are welcome to cultivated minds." [33] Yet just as cheap literature and television knows no class boundaries today so the evidence indicates that the gentry did read the literature of crime in the eighteenth-century. Certainly many of the gentry were fascinated by hangings: James Boswell, who attended many hangings, confessed in his journal that during his youth he "had read in the Lives of the Convicts so much about Tyburn that I had a sort of horrid eagerness to be there." [34] As has been seen Horace Walpole expressed a rather contemptuous view of the popularity of criminal literature, [35] but this did not prevent him from having many of these works in his library, and the way in which he discusses the cases in his letters indicates that he probably read them. Indeed in 1760 he descended upon the shop of bookseller Paul Vailliant, who had as sheriff travelled in the coach which took Earl Ferrers to Tyburn to be hanged, but

Vailliant refused to give him details of the execution on the ground that he intended to publish an account. [36]

However, it is my argument that the literature of crime was primarily aimed at, and read by, the middle classes. The rather expensive pamphlets containing long reports of major trials (the single trial reports) were, it will be argued later, chiefly meant for those professionally involved in the criminal justice system - the lawyers, clerks, justices of the peace and students. More generally, by the 1690s a majority of tradespeople, skilled artisans and farmers were probably literate, [37] and indeed the increase in the publication of the literature of crime which began in the 1670s seems to have coincided with the most rapid period of growth in literacy among the middle classes. The price of the literature was also more readily within the purchasing power of the middle classes than of the labouring poor. Indeed the urban middle classes did not even have to go to the trouble of buying the pamphlets since they could be read free of charge or for a small fee in the bookshops and coffee houses which were the roots of the circulating libraries that became so popular among the middle classes and the gentry. [38] In 1704 Bradford, the bookseller, complained that he had to cut the price of the OBSP from 2d. to 1d. because people were hiring out copies for 1d. a time. [39] The British Library has three pamphlets on the Blandy case which came originally

from the famous Tom's Coffee House in London, [40] and as early as 1708 John Maugridge is said to have refused to tell his life story to the Ordinary of Newgate because he did not want to become "the Sport and Ridicule of vain idle Fellows in Coffee-Houses". [41] The literature also often included attacks on the rentier class. For instance, New News (1737), which celebrated Richard Turpin, who was at that time still at large, as a sort of Robin Hood who "only taketh from the Rich/ what they well can spare", and then, having taken a portion of the loot for himself, "gives the poor a share". [42] But the most convincing evidence for readership lies in the narratives themselves, for where a publication is commercially orientated its narrative seeks to appeal to what is regarded as the largest group of potential readers: it addresses their fears, problems and aspirations, it shocks and reassures them. The narratives in the literature of crime, as will be seen later, spoke directly to the middle classes: they warned, admonished and congratulated them, they attacked their enemies, and they demonstrated the value of their hegemony and their institutions. This aspect will be examined more fully in the case study of The History Of the Remarkable life of John Sheppard. [43]

CHAPTER 2

CHANGES IN THE LITERATURE OF CRIME DURING THE EIGHTEENTH CENTURY

1. Introduction

Such surveys as exist of the literature of crime fail to examine the changes within that literature which took place during the eighteenth century. Instead they take one of two positions. Some agree with Chandler who wrote of criminal biographies that,

> By 1730 the popularity of the separate criminal pamphlet was on the wane. Newspaper notices, collected chronicles of crime, and elaborate fictions like those of Defoe, tended to supply its place with the vulgar, while to the middle and upper classes literary periodicals offered a more refined and salutary entertainment. [1]

This bald statement is unsupported by any explanation of why the biographical pamphlet suddenly vanished, indeed the claim that it did mainly seems to rest on Chandler's disgust at what he regarded as "bad art" and an expression of his relief that by this time Defoe had started to write novels. Yet, as the bibliography at the end of this thesis shows, "the separate criminal pamphlet" continued into the nineteenth century. The other view is that the literature was a relatively stable phenomenon: Linebaugh implies as much in his discussion of the Ordinary of Newgate's Accounts. His claim that the Accounts "enjoyed one of the widest markets that printed prose narratives could obtain in the eighteenth century" [2] seems odd in view of the fact that the Account as a serial publication disappeared during the 1760s. [3] Such a change in the fortunes of a publication which was popular and enjoyed a dominant position in the biographical

literature of crime needs to be explained since it suggests that fundamental shifts occurred in the literature. In this section I will look at the ways in which the literature of crime as a whole changed during the century.

2. The Biographical Literature

In general terms the biographical literature continued to portray crime as being a consequence of insubordination and immorality, but it did undergo a number of important changes. First, from the 1770s there appeared many fairly long biographies with some going into two hundred or more pages: so, for example, Memoirs of A Social Monster: or, the History of Charles Price (1786) went into 344 pages. [4] Secondly, in the second half of the century although apprentices still figure in the biographies an increasing number of the subjects were from the middling classes: forgers like Bolland, the Perreau brothers, William Dodd and Charles Price; murderesses such as Mary Blandy and Elizabeth Jefferies; and murderers such as James Hackman and John Donellan. Thirdly, from about the 1730s the biographies, with the exception of the the Ordinary's Accounts, generally included a rather fuller note of the trial than had previously been the case. This was probably as a response to the reporting of trials in newspapers and the fuller reports in the Old Bailey Sessions Papers from the 1730s: as early as

1722 in Tyburn's Worthies the account of the lives and robberies of John Hawkins and George Sympson was supplemented by a report of part of their trial "for the Benefit of such as the Sessions Paper does not reach". [5] The importance of the trial report as a selling point is indicated by the general policy amongst booksellers of making some reference to its inclusion on the title-page of a biography. One result of this was that whereas those biographies which largely omitted reference to the trial (especially the Ordinary's Accounts) made it appear that there was an uninterrupted progression from a bad lifestyle to the gallows, those which included trial reports showed that the criminal justice system, or at least the trial, played a crucial part in the life story.

The other, and I would argue most profound, influence on the literature of crime was the crime panic which began as the War of the Austrian Succession drew to a close in 1748. As will be seen in more detail later in this thesis, the panic was fed by newspapers and pamphlets until it reached such a height that George II took the unprecedented step of mentioning it in two speeches he made to Parliament. This led to the setting up of a committee of the House of Commons, and to government funding for a professional police force centred around Bow Street in London and controlled by the Fieldings. They regarded the flow of information as a crucial element in their new policing plans and so they actively pursued

publicity for their work in books, pamphlets and newspapers. Their work was opened up to the public through lengthy newspaper reports of their examinations of victims, witnesses and suspects, through the newspaper advertisements which they used to inform the public of crime and to obtain information, and through the books and pamphlets on crime and criminal justice which they wrote. The public flocked to watch famous suspects being examined at Bow Street. The effect was to show that people did not automatically appear at Tyburn, as the concentration in Ordinary's Accounts on the condemned's lifestyle implied, but that this end was the result of a lot of hard work on the part of justices like the Fieldings and their officers.

Inevitably this had an affect on much of the literature. Biographies began to look not just at the lifestyle, the trial and the hanging, but also at the methods of detection and the examination of suspects by justices. In The History Of the Remarkable Life of John Sheppard the use of informers is mentioned, but the intention of this is to indicate the character of Sheppard the depraved criminal rather than to examine the operation of the criminal justice system. Detail about the pre-trial process was only rarely included in the biographical literature before mid-century [6]: so, for instance, although the examination before Justice Lediard of Maclaine, which took one and a half hours, is mentioned in A

Genuine Account of the Life and Actions of James Maclean (1750) this is only so the author could comment on the large number of the gentry and nobility who packed the room to watch. From the 1750s the biographies often include information on the apprehension of suspects. A Genuine Narrative of the Lives, Characters and Trials Of... James Cotes...; Richard William Vaughan; William Stevens; and William Boodger (1758) describes Cotes' life in terms of the narrative structure found in The History, but, in addition, it has details of how Cotes was apprehended by cooperation between Fielding and the London pawnbrokers, and how his lodgings were searched by one of Fielding's men. Similarly An Account of John Westcote (1765) includes a short biography of Westcote and a description of his trial, but there are also descriptions of the arrest of Westcote and Bradley, his accomplice, of John Fielding's examination of them and of his decision as to which to admit as evidence for the Crown. The Authentic Trial, and Memoirs of Issac Darkin, alias Dumas (1761) describes Darkin's arrest by a man called Marsden who was one of Fielding's officers. In The Genuine Memoirs of Joshua Crompton (1778) the familiar biographical plot is supplemented by details of how Fielding sent his men to Scotland in pursuit of Crompton after he had passed a forged banknote. The Life, Travels, Exploits, Frauds and Robberies, of Charles Speckman (1763) includes a section on preventing crime and apprehending criminals, supposedly written by

Speckman himself, in which the policing plan John Fielding had published a few years before is recommended. The involvement of people unconnected with Bow Street in detection also becomes common in the literature: The Trial of Thomas Smith (1787) describes a well-organised pursuit by Swannell, an attorney who may have been the author of the account, a justice of the peace and several other people of two men suspected of a highway robbery. [7]

In addition to this new element in the biographical literature, there also emerged in the mid-century period a section of the literature of crime which made the detection process its central feature: for instance, the arrest of John Westcote was made the only issue in An Authentic Narrative of the Methods by which the Robbery... was detected (1765). It was written by James Bevell, steward to the Earl of Harrington in whose house the crime took place, in order to show how it was possible to detect offenders if there is "activity, perserverance, and vigilance" on the part of the pursuers. [8] A Coventry justice of the peace J.Hewitt published two large books on his police work. Although he seems to have been insensitive - on one occasion in 1756 he ate his dinner whilst negotiating with food rioters - his The Proceedings of J.Hewitt (1783) describes in great detail the hunt for various gangs operating in the Midlands in the 1750s and 1760s. Significantly both Bevell and Hewitt make constant

references to their contacts with John Fielding thereby indicating the familiarity which readers would have had with Fielding and his work. The publicity given to the Fieldings' methods meant that authors of the literature of crime often regarded them as the benchmark for good practice.

It seems no coincidence that is around the time that John Fielding is becoming famous for his work that the Ordinary of Newgate's Accounts begin to disappear. They presented a view of the progression from vice to the gallows which John Fielding wholeheartedly endorsed, but which in practice presented only a part of the story of the detection, conviction and punishment of offenders. The progression from vice to the gallows might still be there, but the route was very much more complex, and readers were demanding this degree of sophistication.

This emphasis on the pre-trial proceedings endorsed the Fieldings' view that crime was to be controlled not simply through rewards, detection by victims and the spectacle of the public hanging, and as such it amounted to a criticism of the existing system. Indeed after the middle of the century a section of the literature of crime emerged which concerned itself with a more explicit criticism of the criminal justice system, including punishments. This literature will be dealt with more fully later in this thesis, but it is worth noting how this critique surfaced in the biographical literature. Typically the debate on punishments has been treated by

historians, including the new breed of social historians, as if those who wished to see a reduction in capital offences led the movement for reform, but a study of the literature of crime reveals a rather different story. Generally that section of the biographical literature which included a discussion of the matter favoured a reform which would bring about more use of the gallows rather than less.

The way in which this critical attitude found its way into the biographical literature can be seen at the end of the title of one biography from 1781:

> The Life of Patrick Madan; Exhibiting a Series of the most extraordinary Transactions, notorious Villanies, and wonderful Escapes, that ever happened to one Man. Comprizing a Series of Events equally calculated to astonish the Mind, and lead the Heart to Virtue, by exhibiting the Deformity of Vice. With Reflections naturally arising from the Subject; and Hints, which if attended to, will tend greatly to the Suppression of every Species of Theft.

This account of Patrick Madan, who had been transported for theft, was dedicated to Parliament and its general theme was that although the penal laws had been criticised as too sanguinary the life of Madan showed that they were, in fact, too lenient. But the anonymous author also supports the education of youth, criticises the defective enforcement of the criminal law by officers and magistrates (other than those at Bow Street), and suggests a fully professional police force. In a similar vein A Genuine Account of the Life, Robberies, Trial and Execution of William Cox (1773)

endorses the death penalty on the ground that transportation is useless. The author argues that of those who are transported some merely continue their offences in the colonies and are eventually hanged, others suffer from the climate or live as slaves, and the remainder return to England before the expiration of their term and are hanged. An Account of John Westcote (1765), on the other hand, regards the public hanging as failing in its objective of deterring others, remarking that in Westcote's case his death took place "amidst the sympathizing groans of all who saw him." [9] In spite of such doubts as to the effectiveness of the mode of hanging it is rare to find in the biographical literature the view that the law was too severe: in The Case of Mary Edmundson. By a Gentleman of the Law (1759) the author argued that in general both the law and the judges were too severe, and that this led to the hanging of innocent people, [10] but this criticism must be read against the author's view that Edmundson was innocent.

The attitude of the biographical literature would seem to explain the relatively poor reception in terms of sales given to Samuel Romilly's Observations on a late Publication (1786), which called for a reduction in capital offences, when compared with Martin Madan's Thoughts on Executive Justice (1785), which called for no repeals and a stricter enforcement. Although Romilly received praise from Willes, J. and Lord Lansdowne, and Madan was attacked in a pamphlet

written by Perryn, one of the barons of the Exchequer Romilly's work sold only 100 copies, whereas Madan's went into a second edition. [11] However, perhaps the more important indicator of interest in the critical debate of the criminal justice system is not the sales of these sorts of pamphlets, but rather the inclusion of criticism in the popular biographies.

3. The Literature of Controversy

The critical attitude towards the criminal justice system was also fed after the middle of the century by the development of a section of the literature of crime in which the author engaged in a controversy about a verdict or about the participants in a criminal trial. As has been seen The Case of Mary Edmundson. By a Gentleman of the Law (1759) expressed concern at what they regarded as an increase in the number of innocent people who were being executed, a viewpoint which was lent credibility by events such as the hanging of Richard Coleman in 1749 for a rape and murder which he did not commit and also by the M'daniel case of 1754, in which a gang set up innocent people as highway robbers in order to obtain the reward money. [12] Indeed it is significant that the Ordinary of Newgate, Villette, felt it necessary in 1774 to warn prosecutors and witnesses before a trial to be careful about their evidence in view of the

numbers who had been wrongly convicted [13], a major shift from the role of the Ordinaries earlier in the century when, as apologists for the criminal justice system, they dismissed expressions of innocence as "Hardness of... Heart". [14]

The Blandy case in 1752 led to the publication of many pamphlets which took sides on the question of whether she deliberately fed her father poison. Miss Mary Blandy's own Account Of the Affair between Her and Mr. Cranstoun in which she declared her innocence was rejected by The Case of Miss Blandy and A Candid Appeal to the Publick, Concerning the Case of the Late Miss Blandy which asserted that her pamphlet was full of "so many incredible Stories, Improbabilities, and palpable Falsities". [15] The Secret History of Miss Blandy argued that she lost very little even if she were innocent since she would enjoy "everlasting Joy" and her execution by discouraging such crimes in the future, served the nation better than her acquittal would have done: even this apology for the criminal justice system shows a marked change from the view that no one who had been convicted by a court of law could be innocent. [16] Following the trial, conviction and execution of Mary Edmundson in March 1759 for the murder of her aunt, Susannah Walker, The Case of Mary Edmonson. By a Gentleman of the Law concludes from an examination of the evidence that she ought to have been acquitted since "the Circumstances were at the utmost only probable against her;

and the circumstances in her Favour, if adverted to, are equally probable of her Innocence". This view was, for the author, supported by the fact that Edmundson "in her dying Moments denied the Fact in the most solemn Terms: And in my humble Opinion, every Person ought to be believed when on the Brink of Eternity." [17] On the other side was A Genuine Narrative of the Trial and Condemnation of Mary Edmondson and The Life, Trial, and Dying Words of Mary Edmondson which sought to show that she was bad almost from birth and that the murder was merely the culmination of a wicked life. On a more moderate scale the acquittal in 1768 of James Oliphant, Margaret Oliphant, his wife, and Mary Shittleton, a maid servant, of the murder of another servant, Dinah Armstrong, prompted James Oliphant to publish an attack on those - primarily the coroner's jury - who had accused him and the others of murder. [18] The trial and acquittal of Jane Butterfield in 1775 led to the publication of Circumstances of the Death of Mr. Scawen, which defended the conduct of Butterfield and her acquittal, and A Letter to Mr. Sanxay, which attacked one of the prosecution's main witnesses, a surgeon named Sanxay, calling him "an unfeeling sycophant" and virtually accusing him of perjury and professional incompetence. The controversial trial of the Perreau brothers in 1775 led to a series of pamphlets which debated the veracity of Caroline Rudd's crucial evidence for the prosecution. [19] The trial and hanging of Rev. James Hackman

in 1779 for murder led to the publication of The Case and Memoirs of the Late Rev. Mr. James Hackman. And of his Acquaintance with the late Miss Martha Reay which did not deny Hackman's guilt, but declared its purpose as being "to place Mr. Hackman's conduct and connexion with Miss Reay in a true light, and to oblige that gentleman's surviving family." The author argued that Hackman was in fact insane, a plea which had been rejected by the trial judge, Sir William Blackstone [20] After the hanging of John Donellan for murder in 1781 his solicitors E.Inge and T.Webb wrote A Defence and Substance of the Trial of John Donellan, Esq in which they conducted a lengthy (72 pages) examination of the evidence both to demonstrate Donellan's innocence and to defend themselves against the allegation that they had neglected his defence. [21]

The interesting feature of this section of the literature of crime was that although it rarely resorted to direct criticism of the judges, [22] by arguing that a person had been wrongly convicted it did, in effect, engage in an attack on the trial. As the institutions of the criminal justice process became more exposed to public gaze through the reports of trials and the work of the justices in the pre-trial stage, so the individual judgments arrived at during the criminal justice process were being openly debated and challenged. The trial was no longer the last word, it was

not the source of unchallengeable truth, instead it had become exposed to public view and public criticism. Just as importantly there was clearly a readership ready to buy such pamphlets.

4. The Single Trial Report

Although trial reports became more widely available in biographies before the middle of the eighteenth century it was at about this time that the single trial report was developed. This was a pamphlet entirely devoted to what purported to be a full report of one trial based on shorthand notes with no other biographical information except, occasionally, a note of the examination before a justice of the peace and perhaps a brief mention of the hanging. [23] Pamphlets solely concerned with reporting one trial had been published before, particularly treason trials in the late seventeenth century, but they became more commonplace and convered all sorts of crimes. Earlier trial reports of felonies differed from this new type in two respects. First, they were longer: for instance, an early example, The Tryal of Mary Blandy (1752) has 46 folio pages of close printed text. [24] Second, at a cost of 2/- to 3/6d., they were very expensive. It is my contention that this development resulted from the emergence of a body of people professionally engaged in criminal trial work who were interested in buying the

reports.

At the head of the development of the single trial report were the Gurneys, who dominated trial reporting after the takeover of the OBSP by Thomas Gurney in 1748. [25] But others entered the field to such an extent that by the 1770s in spite of the supposed monopoly which the Gurneys had over reporting Old Bailey trials [26] rival single reports of trials held there were appearing: for instance, The Whole Trials of Mr. Robert Powell (1771), The Trial At Large of Mrs. Margaret Carlone Rudd (1775) and The Trials of Robert and Daniel Perreau's (1775). [27] This style of reports was not confined to trials at the Old Bailey, and the Gurneys, as well as other reporters, travelled to the provincial assizes to report major cases. [28]

That there was a large market for such publications can be gathered from the fact that some trials attracted more than one full length report. The trial of John Donellan in 1781 for murder led to three shorthand accounts being published: The Trial of John Donellan, Esq. for the Wilful Murder of Sir Theodosius Edward Allesley Boughton, published by G.Kearsley and M.Gurney in 57 folio pages and costing 2/6d, was from the shorthand notes of Joseph Gurney; William Blanchard, who had assisted Gurney on at least one previous occasion, was the shorthand author of The Proceedings at Large on the the Trial of John Donellan, Esq, published in London by Almon and Debrett, Baldwin and Bew, Sewell, and

Blanchard himself, and in Coventry by Luckman at 2/-; the third account was based on shorthand notes taken by an anonymous barrister and published by T.Brewman as The Trial of John Donellan, Esq. (Late Master of the Ceremonies at the Pantheon in Oxford-Street). [29]

The high price of the single trial reports indicates that they were probably aimed at a specialist market, indeed its appearance fits in with the suggestion that the legal profession was moving into criminal advocacy at around the same time. [30] It seems likely that these reports were aimed primarily at this relatively wealthy group. As early as 1741 Applebee, always quick to exploit the commercial potential of his books, advertised his Select Trials at the Sessions-House as being "very necessary for all Lawyers, Justices of the Peace, Clerks of the Indictments, and other Persons concern'd in Prosecutions, &c." [31] Further support for the view that the single trial report catered for a specialist legal audience can be gathered from the publication by James Roberts, one of the leading trade publishers of the day, of The Genuine Speech of the Hon. Mr. ---- at the Late Trial of Miss Blandy (1752). The opening speech for the prosecution by Henry Bathurst had caught the popular interest, and although it had been included in the more expensive The Tryal of Mary Blandy, the Roberts' publication clearly sought to tap a more general market by

publishing the speech separately at sixpence. [32] Finally, the interest of lawyers in crime can be gathered from their involvement in the publication of the literature of crime. Some of the single trial reports were based on shorthand notes also written by lawyers: for example, The Trial At Large of Mrs. Margaret Caroline Rudd (1775) was by "Mr. Bailey, Barrister at Law", and The Trial of John Donellan, Esq. (Late Master of the Cermonies at the Pantheon in Oxford Street) (1781) was from shorthand notes made by "a Barrister at Law attending the Midland Circuit". More generally, the attribution of biographical literature to lawyers became more common. This does not mean that lawyers were not involved in the writing of such works before. What it does indicate is that the booksellers regarded the profession of lawyer as a useful selling point and, therefore, worth mentioning on the title-page: for example, Authentic Memoirs of the Life, Numerous Adventures, and Remarkable Escapes, of the Celebrated Patrick Madan (1782) was by "a Gentleman of the Inner Temple", and Genuine and Impartial Memoirs of Francis Fonton (1790) was by "a Student of the Law in the Inner Temple".

Exactly what use the legal readership made of the single trial reports is another question. Did they perhaps provide a source of criminal law? Often the trial reports have no note of the judge's summing-up, indeed it seems that sometimes judges did not sum-up. [33] However, it appears that points

of law were discussed and settled during the course of the trial as and when they arose or, more rarely, were reserved for a gathering of the judges during the vacation. The Trial of William Chetwynd (1744), advertises on its title-page that it included, "The Arguments of the Council on each Side, on the several Points of Law arising therein", and during the trial the report notes that there was a discussion of malice aforethought in murder. The Trial of Timothy Murphy (1753) includes a lengthy report of the discussion which took place during the course of the trial as to whether an accomplice who has been indicted can appear as a witness for the Crown. This was an important and controversial issue since it arose at a time when the Fieldings, in particular, were emphasising the value of the criminal turned informer in the detection of crime. [34] On the other hand, the bulk of the material in these trial reports was not concerned with points of law, and they were not used as sources for the textbooks on criminal law which began to appear during the eighteenth century. It seems likely that their main purpose was as practical illustrations of trial procedure, hence the inclusion of items such as the swearing in of jurors, and the techniques of leading counsel, with a lot of space being devoted to the counsels' opening speeches. Although general tracts and textbooks on criminal law existed, these books did not provide lawyers with practical guidance on advocacy. This use

of the trial reports also fits in with the support for practical methods of education given by various judges in the eighteenth century to students who wished to learn by attending trials. [35]

5. Conclusion; General Trends in the Literature of Crime

The post-Austrian War period marked something of a turning point in criminal literature and criminal justice. It cannot be denied that some of the literature before this time had described the apprehension of suspects in some detail [36], nor that some had discussed the effectiveness of the capital laws, nor that some had engaged in controversy. [37] History rarely has clear ruptures no matter how much historians might wish that it did. Nevertheless it is still possible to identify new developments in the literature of crime after the middle of the eighteenth century. It developed beyond, without discarding, the framework based around the progress from insubordination and vice to crime and the gallows and exemplified by the Ordinary of Newgate's Account and Defoe's The History Of the remarkable Life of John Sheppard. Parts of the literature began to engage in controversy, sometimes alleging injustice in a specific case, while in other works there was a more general criticism of the criminal justice system. The trial and then the pre-trial process were both opened up to scrutiny. The emphasis on the

hours spent by justices examining suspects and extracting confessions from them led to the recognition that the confession was a crucial element in the pre-trial and trial process, so that the direct and apparently natural link progression from the lifestyle of an individual to his or her death on the gallows was severed, and the biography could not, therefore, be claimed as the sole province of the prison chaplains. All of this helps us to understand why it is that the Ordinary's Account declines rapidly in the middle of the 1760s and disappears altogether as a serial publication in the 1770s, so that although Villette, who was appointed in 1775, was by no means reticent in publishing biographical literature, he did not engage in writing the sort of general accounts which had been published by his predecessors. [38] Indeed in 1777 Villette condemned the Methodist publication of Some Account of the Life and Death of Nicolas Mooney (1776) because he felt that it depicted repentance as the only precondition for divine mercy. In a comment which also amounts to a criticism of the work of his own predecessors, Villette wrote,

> the publishing of such things must certainly tend to make Christians believe they may at any time obtain Heaven by only crying out for mercy, shedding tears, and pleading, or laying hold of (as the expression is) the merits of Christ. [39]

As will be seen in Part II of this thesis, after the middle of the century the usefulness of the public hanging as a spectacle came under examination for the way in which it

focussed attention on the condemned and the way in which the condemned acted in a totally defiant way. In the face of such discussions it became increasingly difficult to see the condemned as the Ordinary had presented them, both as a warning against a particular lifestyle and, in their repentance, as an example to be followed. The published confessions were criticised as not only failing to provide a warning against a particular lifestyle, but as positively encouraging people to emulate the life of the criminal. Rev. Leonard Howard had worried about this aspect of the publications of prison chaplains as early as 1751, and although it did not prevent him from writing one account he does not seem to have produced any others. He argued that:

> there are cant Terms made use of by those Wretches [the condemned], and some Archnesses practis'd in their Villanies, which the Description of may make wrong Impressions on weak Minds. Temptations to Wickedness comes too soon, without such Helps and Informations. People cannot be too long in an innocent Ignorance, if I may so call it, of Lewdness and wicked Cunning. [40]

Furthermore, as the importance of the trial and pre-trial process emerged through newspapers and the pamphlet literature of crime so the confession could be seen as a means of bringing offenders to punishment, and, therefore, as the province of the criminal justice system. The infliction of punishment was no longer presented as merely an inevitable and direct result of the adherence to a particular lifestyle, it required the intervention of the criminal justice system.

Finally, the dominance of the Ordinary of Newgate's Account had been based on the assertion originally made by Rev. Smith in 1684 that the truth only surfaced in confessions made to the Ordinary after an offender had been condemned, but the publicity given to the trial and the pre-trial stages revealed the importance of a confession made to a justice of the peace before conviction and this undermined the whole basis of the Account.

CHAPTER 3

THE ASSIZE SERMON IN THE EIGHTEENTH CENTURY

The Law is made to Constrain by Terrors, whom the Conscience of Duty will not otherwise persuade: The Law is made to Affright us by man, after that we have ceas'd to have before our Eyes the Fear of God:
(Richard Bynns, Conscience void of Offence, A Sermon Preach'd at the Assizes Held at Stafford (1710), p.18.)

In this chapter I will look at the assize sermon. Although the assizes included civil as well as criminal actions, these sermons more often than not turned to the latter for their subject matter and so this literature provides some interesting insights into the way in which the connections between the Church and the Law were presented.

One part of the ritual which surrounded each assize was the delivering of the assize sermon just before the opening of the session. The clergy were well aware of the importance of this ritual: John Laurence, in a sermon delivered in 1717, said,

> Justice is brought home in a manner to our own Doors, and thus twice in a Year makes, as it were, a solemn Procession through the Land, inviting all those who are aggrieved to come for help, and inflicting actual Punishment on the lawless and disobedient.
>
> This visible Advantage, (and the invisible ones are infinite) of the Execution of our Laws we see with pleasure: For to the awful Presence of you, my Lords, on these Occasions, is owing that greater Security and peace, which we enjoy all the Year after; And these solemn Assemblies doubtless strike Terrour into those, that might be inclined at all times to disturb our Dwellings and the Nation's quiet. [1]

Similarly, Thomas Cattell, preaching in 1733, remarked that the people were affected by the pomp and ceremony of the assize so that this ritual was no empty show, but was "absolutely necessary to impress an Awe upon the minds of the Populace, to guard the very Vitals of the Law itself". [2]

As with criminal biographies, the audience at whom the assize sermon was directed , both in its spoken and written

form, must be gathered from circumstantial evidence. Of course, as an element in the spectacle of government it is likely that the judges of assize, the members of the grand jury, and the local dignitaries and gentry turned up to hear the sermon preached. [3] Moreover, the content of the sermons indicate that the ruling elite and the upper sections of the middling classes were being addressed: for instance, there are the frequent calls on the magistrates to enforce the laws on morality and religion. William Coxe in his sermon of 1799 directed his eulogy on "British Jurisprudence" not to the judges present, who, he believed, knew its virtues already, but to "those persons, who follow other occupations, and professions", [4] indicating that members of the middling classes were amongst the audience and readership. Furthermore, the common displays of erudition through footnoting and the use of Greek and Latin, and the price of the published sermons, which was between fourpence and a shilling, points to a readership from the upper and middle sections of society.

One of the main points in the assize ritual of which the sermon was a part was to draw together the ruling elite and the people from the upper sections of the middling classes into a consensus based on certain key political values, hence the frequency of the requests in the sermons for concord. [5] The extract from Laurence's sermon shows a respectful intimacy between speaker/writer and audience/readers born out

of shared values: he welcomes the judges as having come down in order to reinforce the power of their fellows in the local ruling elite. This notion of county solidarity and its close links to national power doubtless lay behind those requests to publish the sermon which came from sheriffs and grand jurors and which are prominently displayed on the title-pages and in the dedications of the vast majority of assize sermons. An unusual illustration of the way in which the assize sermon was part of a display of solidarity appears in the publication of Thomas Seward's assize sermon of 1750. He dedicated it to the grand jury in an explicit attempt to distance the county gentry from the recent riots in the area and to show "that His Majesty's Government and Dignity are zealously supported by those of the highest Rank and largest Fortunes, and who are consequently most interested to perpetuate the Blessings of Liberty and Property." [6]

All this did not mean that open controversy was avoided. Some preachers were accused of Jacobitism on account of their assize sermons. [7] Religious controversies often figured in the sermons, with attacks on Deists such as Bolingbroke and Shaftesbury, and on Bernard Mandeville's controversial work The Fable of the Bees. [8] The controversy between the low and high church in the first two decades of the eighteenth century spilled over into the assize sermons, with one of the chief protagnists Henry Sacheverell delivering three assize

sermons. [9] Joseph Slade used his assize sermon in 1721 to attack a sermon preached to the Lord Mayor of London by Dr. Benjamin Ibbot in the previous year. One extraordinary, unsigned sermon preached at Chelmsford in 1791 provoked "a leading Counsel at the Bar", who was, according to a manuscript note in the British Library copy, George Rous. The preface of the published version comments on the criticism which this counsel made of the sermon: he "being retained in a cause which excited much public curiosity, seized the opportunity of stepping out of his way in a very crowded court, to reflect on the composition as resembling a Political Pamphlet rather than a Sermon." The anonymous preacher, an anti-jacobin and a supporter of Burke, responded by denouncing Rous as "a member of the Revolution Society, and steward of the late anniversary dinner at the Crown and Anchor." [10]

In light of the audience and readership for these sermons it is not surprising to find that the preachers asserted the need for obedience to the law and the government, and justified the important role played by the ruling classes. For most preachers government derived its authority from God and it was, therefore, the duty of everyone to obey. [11] John Laurence told his audience that "the best Christians are always the best Subjects" [12], and John Pennington preached in 1728 that "a bad Subject cannot be a good Christian, or a good Christian a bad Subject" [13];

George Raymond explained, in 1716, that christians had to be devoted to good works and that subjection to government was "a great and necessary Good Work, to which Christians must be readily disposed, that they may verify and honour their Holy Religion." [14] William Gardner, speaking in 1726, combined this religious imperative with his view of human nature: "Man is a sociable creature, and by the necessities of human nature, and the will of heaven, there must be superiours and inferiours; those to govern, and those to be in subjection; without this there would be nothing upon earth but disorder and confusion." [15] Some preachers, such as Henry Downes in 1708, employed a more materialistic argument:

> our Civil Rights are guarded on every side by Laws, which are most likely to be for the good of the Subject; because they are first form'd by the Representatives of the People, who will be less dispos'd to lay any unnecessary Burthen upon them which they may not be able to bear, since they themselves also must partake of the same [16]

Others extended this to argue that obedience to the law and the government served the best private interests of citizens: for instance, John Pennington told his audience in 1725 that, "Property is what Men, (especially we Englishmen, who enjoy it in such Perfection) are naturally fond of, and naturally jealous to any Infringement of it". [17] George Marsh, on the other hand, argued in 1722 that, "We are not to Carp at, or quarrel with the actions or proceedings of our Government... we must not find Fault with them, because 'tis next to

impossible, we should Fathom the Hearts of Princes, Or dive into the Secrets of Councils." [18]

It was in this spirit that the assize sermon preachers responded to the constitutional events of the late seventeenth and early eighteenth centuries. [19] The sermons after the Jacobite rebellions of 1715 and 1745 illustrated this well: for instance, Skerret, preaching in 1717, declared that the defeat of the 1715 uprising showed God's interest in the nation and support for the Hanoverian succession, and this in turn meant that the people should submit themselves to that regime. [20] However, the need to justify the 1688 revolution meant that those preachers who touched on the matter of succession to the throne argued that there was no inalienable hereditary right [21] and that the succession was ultimately decided by Parliament, although once chosen the power of the sovereign was said to originate from God. [22] The major concern was often not the political implications of a successful Jacobite uprising, but the spiritual ones. More often the sermons focussed upon the threat posed by Roman Catholicism which, the preachers claimed, would inevitably be imported if the Jacobites took back the throne because of their alliances with both the French and the Pope. [23]

The post-French Revolutionary period in Britain brought a similar response from the assize preachers. They denounced political radicalism: for instance, in 1793, the year of the outbreak of the war with France, Thomas Dampier praised the

new spirit of speculation in thought, but felt that it should properly be confined to questions of science and that it was "preposterously employed" when applied to the British constitution. [24] More vigorous was the anonymous preacher who delivered an assize sermon at Chelmsford in August 1791 and whose attack on a radical barrister has already been noted. This preacher directed himself in his sermon to Thomas Paine, whose The Rights of Man was enjoying phenomenal popularity at that time. [25] The preacher decried "the intemperate zeal for licentious Innovation" which would lead to what he called the "despotism of the rabble". [26]

Yet at the same time it is interesting to see how, in spite of their orthodoxy in politics, some of the sermons reflected, albeit in a rather partial way, some of the changes in European thought which underpined much of the political radicalism of the later eighteenth century. Although the Bible was still their most important source, many preachers began to refer extensively to some of the leading thinkers of the Enlightenment. It is not surprising to find that their favourite author was Montesquieu since his book L'Espirit des Lois contained favourable remarks on the British constitution. [27] More significantly, in a considerable departure from the sermons preached immediately after the Jacobite uprisings, some preachers, such as Dampier, acknowledged that the British constitution was not

perfect; although Dampier himself quickly added that it was best left to reform itself. [28] Similarly, Thomas Collins, preaching in the following year, agreed that the constitution was imperfect, but was content to say that it was the best that could be found. [29]

In spite of this general theme of obedience and conformism the sermons contained criticisms, which, even though generally muted by the nature of the occasion, nonetheless shone through. The critique of the rich, which became more explicit in the literature of crime during this period, also appeared in some of the sermons. Peter Pinnell, for instance, asked in 1750, "What Temptation have the Vulgar to commit Iniquity with Greediness, when their Superiors beat the Path, and lead the Way to Sensuality and Corruption?" He added that, "upon the Rich, therefore, chiefly depends the Ruin, or Reformation of public Manners". [30]

Most notable, however, were the attacks on the magistrates who were berated in countless assize sermons for their failure to enforce the laws against vice and to uphold the Church of England. The preachers in their discussion of obedience to the civil authorities asserted that social order depended on religion as well as on human government and human laws. [31] They argued that there was a relationship of mutual dependence between religion - more specifically, the Church of England, or at the very least protestantism - and the government: according to Thomas Cox in 1726, "Our

Monarchy and Episcopacy are so united, both in Being and Interest, that if the one be safe, the other is out of Danger." [32] The result was, according to George Raymond in 1716:

> a deep Sense of common Good, hearty Affection for our Country and Fellow Citizens, and a due Reverence of the Divine Institution, all concurring to render us obsequious and respectful to Superiors, just and equal to our Fellow Subjects, obedient to Laws, faithful to Trust, quiet and peaceable in doing our own Business, and tender of the Rights of the Community, and of every Member of it. [33]

However, by emphasising obedience to the civil government the preachers also had to acknowledge a weakness in religion. Each side of this partnership had its function, as John Laurence explained:

> Magistracy and Ministry being the strengthening as well as adorning Pillars of the Common-wealth of Mankind, those rash People or blind Sampsons, that set their Shoulders to remove these Supports, do nothing else but pluck certain Ruin upon their own Heads: For as Magistrates are the pillars, that keep the World from falling into Anarchy and Confusion; so Ministers are the Lights, that God hath set up to preserve it from Ignorance, Atheism, and Superstition. [34]

Implicit in the relationship between the Church and the State was a recognition that religion and the threat of punishment after death were ineffectual restraints on those "who laugh at future rewards and punishments" [35], and as a result human laws and punishments were required. Appeals to "Conscience" were, according to Thomas Cattell in 1734, useless in face of "the Temptations of Envy, Malice, Revenge, Avarice, and Ambition." [36] Richard Bynns told his

congregation in 1710,

> The Law is made to Constrain by Terrors, whom Conscience of Duty will not otherwise persuade: The Law is made to Affright us by man, after that we have ceas'd to have before our Eyes the Fear of God: The Law is made to Terrisie such Miscreants in this World, as flatter themselves there is no Danger from the next: The Law is made, (if it cannot influence us in our pursuit of the Peace of the Life to come) to uphold the Peace and Order however among Men here in this Life" [37]

Similarly, in 1743 Robert Eden acknowledged that the existence of human laws and, in a reference to the assize, "these most proper and solemn Methods of putting them in Execution", were the reasons why "the Land is not filled with Violence". [38] It was in this manner that the severe punishments inflicted on earth were also justified by the preachers: for instance, John Conybeare argued in 1727 that "if Offences are extreme, the Criminal incapable of being reform'd, and the Example apt to spread, in such cases The Magistrate is concern'd to support his Laws by the Terror of his Executions". [39] Henry Downes was rather more direct: "a Malefactor now and then executed according to Law makes many others afraid to offend". [40]

At the same time the preachers made much of the responsibility which they claimed the civil authorities had to defend and promote the Church of England. For them the strength and prosperity of the nation depended on this: hence, John Laurence chose as the title for his assize sermon, Christian Religion the best friend to Civil

Government. According to William Gardner in 1726, "it is the duty and interest of every Government to suppress and punish Blasphemy and Irreligion, as well as Treason and Rebellion." [41]

It was in respect of what they regarded as the failure to protect religion that the preachers criticised the ruling classes and in particular the magistrates: Gardner pointed out that, "The Clergy preach, God knows, to little purpose;... A rebuke from Persons that act by a royal Commission, that are invested with power, and plac'd in an exalted station, does not only give countenance to Religion and Virtue, but puts the adversary to confusion, and makes vice, profaneness, and immorality flee before it." [42] On first glance most seem not to have been quite as forthright as Gardner's thinly-veiled criticism of both the magistrates and the assize judges. [43] They seem to have directed their attacks at the justices of the peace by using the term "magistrate", however, that word implied all forms of judges and even the monarch. [44] The more or less constant theme of the preachers was expressed by Curwen Hudlestone in 1754: "the wisest and best laws are nothing but a dead letter unless animated by a strict and faithful execution." [45] Hence, a remark such as that "the proper Office of all Magistrates is to be a Terror to evil Works" [46] was not a statement of fact, but rather a direction which commonly

appeared as the climax to a sermon devoted to the importance of religion in social and political life. [47]

Some preachers took their criticism of the courts further, complaining of the way in which counsel behaved in court. In part this attack derived from the view that obedience required that the guilty should not seek to hide their guilt, nor should others cooperate in such a concealment. In 1725 John Pennington denounced, "Those who by their Art and Rhetorick, contrary to their Knowledge, defend the Guilty, or puzzle the Cause of the Injured, and so prevent a Just Determination". [48] In 1754 Hudlestone preached on "The advantage of an impartial administration of justice", and claimed in the dedication of the published version that it was his aim to restrain some of the irregularities in the execution of the law which threatened to pervert justice. One of his complaints was the "great contraiety of evidence" caused not only by perjury, but also by "the unhappy skill and address of the COUNCIL in first confounding a Witness, and then drawing from him a testimony foreign to the sense of his mind, and more favourable to the cause of a client, than to the cause of truth." [49] A few years before Edmund Tew spoke at Carlisle assizes in similar terms, although then the call was for the judges to do something. Having remarked on the need to maintain the dignity of the courts, Tew continued:

And this gives me an Occasion of mentioning some

> particular Indecencies, which yet the venerable Judges have always in their Power to discountenance; I mean those observable Liberties, which are assumed in the Courts, of assailing Characters and Reputations, and of torturing modest, humble witnesses, by less pertinent or injurious Questions; whom the Solemnity of the Place is sufficiently apt to terrify. Nothing can be <u>honestly</u> answered in Defence of these Practices.,- It is indeed wisely allowed, for the Discovery of the Truth, to sift any bold Person, who is suspected to be trained up in a Story by iniquitous Solicitors; and it is really meritorious to unravel such Contrivances. [50]

Other criminal justice and general legal issues constantly surfaced in the sermons, and commonly reflected contemporary concerns. The abuses in prisons which led to a Parliamentary inquiry in 1729 under James Oglethorpe were remarked upon in the same year by Robert Burrow. [51] More significantly, in view of my discussion of the shifts in the biographical literature of crime, the mid-century period produced many assize sermons concerned with crime and criminal justice. William Ashburnham spoke as early as January 1749 of the need for a vigorous magistracy in "these evil Days into which we are fallen" [52], and the following year Peter Pinnell linked poverty and crime in much the same way as lay writers of the period, such as Henry Fielding, were doing: referring to magistrates he said that, "the Jurisdiction of these Gentlemen is so extensive, that the very <u>Seeds</u> of Crimes, whether they appear in Idleness, Irregularities, or any kind of offensive Behaviour, may be choaked by a proper excercise of their Authority". [53] It seems likely that some of the clergy were responding, as were

many lay writers, to the speeches on the "crime wave" made by George II to Parliament in 1751. [54] John Cowper referred, in August 1752, to the passage of the Murder Act that year with the hope that "the Commission of Crimes of plainly the most horrid, and almost unprecedented Quality" might be ended. [55] Another interesting development was the way in which in 1753-55 two sensational cases caused a number of preachers to focus on the question of perjury. John Fisher took as his theme for an assize sermon preached in August 1753 "The Guilt and Danger of Perjury", and in it he specifically referred to the Canning case of that year. [56] The other case involved the M'daniel gang, who had wrongly impeached people for rewards. It seems clear that sermons such as those delivered by Thomas Turner at Guildford and Thomas Alcock at Exeter in August 1754, and by John Forster at Huntingdon, William Forster at Durham and William Dodwell at Oxford in 1755 were preached as a response to the breaking of the M'daniel scandal in 1754. The gang were not named in these sermons, but, apart from this being normal practice, the trials were not in fact completed until 1756. The problems with the criminal justice system which were exposed by this case seemed to the preachers to illustrate the more general difficulties which civil society faced when the magistrates failed to enforce the laws on morality and religion which underpined the oaths made in court. [57]

Along with dinners, balls, the procession of the judges and the parade of the prisoners the sermon was a part of the ritual of the assize, and as such it should not surprise us to find that the published sermons were essentially conservative and conformist. They were designed to draw the ruling elite and its allies in the middling classes together and so they portrayed the 1688-9 constitutional settlement as legitimate and immutable. Hence, the paradox of the unchallengeablity of the Hanoverian succession sitting alongside the concept of Parliamentary sovereignty was glossed over. Dr. White, in her study of assize sermons between 1660 and 1720, hedges this conformisim around with questions about its nature, but ultimately falls back on the view that, "Conformism, then, was the hall-mark of assize sermons with doctrinal platitudes of loyalty and obedience to authority the order of the day." [58] However, as I have shown, whilst the major constitutional issues, such as the 1688 revolution, were treated as non-controversial, in spite of their inherently controversial nature, the sermons do contain much criticism about local administration and its failure to secure the role of the Church. The fact that the sermons were addressed to members of the aristocracy, gentry and middling classes rather than to the labouring poor meant that such points of criticism could be touched upon. The preachers attacked the magistracy and the justice system for what they saw as their failure to enforce the laws on

morality and religion, and used the occasions of the Canning and M'daniel trials to support their argument that civil society depended on the enforcement of such laws.

CHAPTER 4

THE POPULAR LITERATURE OF CRIME:

QUESTIONS OF AUTHENTICITY AND ACCURACY

How this important Work [of repentance] is to be performed, the Clergyman, who attends the Prison, will be best able to advise you, because you can make known to him your particular Case, and lay open your whole Life; whereby he will be capable of shewing you the Horror of your Guilt in its true Colours, and instruct you in the Nature of real Repentance.

(A Plain and Serious Exhortation to Prisoners, both Debtors and Criminals, London, 1775, pp.23-4.)

their Sufferings were not to terminate with the Execution; and when [the condemned] express'd himself..., I observed his Eyes were pretty earnestly fix'd upon the Writer of the Dying-Speech Paper.

([D. Defoe], A Trip through the Town, Containing Observations on the Humours and Manners of the Age (4th edn.), London 1735, p.27.)

1. Some Problems with Trial Reports

Since the Old Bailey Sessions Paper is one of the few parts of the literature of crime which has been used by scholars it is worth considering some of the difficulties with that source material before looking in depth at the largely neglected biographical literature of crime. Langbein warns of the pre-1730 OBSP that, "To write legal history from the OBSP is... a perilous undertaking, which we would gladly avoid if superior sources availed us." [1] He is rather more confident when using the mid-century OBSP, for even though he bases himself on a comparison of the OBSP with the notes of only 44 trials made by Chief Justice Ryder in 1754-56, his view is that,

> If the OBSP report says something happened, it did; if the OBSP report does not say it happened, it still may have. Legal historical researchers can rely upon the OBSP, but not for negative inferences. [2]

In other words, for Langbein the OBSP becomes a more reliable source when, after 1748, the Gurneys, Thomas and later his son Joseph, become the reporters and editors. Without necessarily disputing Langbein's conclusion, it is worth considering some of the problems with this source which he has failed to discuss.

The OBSP increased in length after the first quarter of the century, probably as a result of the use of shorthand writers, and this has led Harris, in a recent essay, to conclude that by the 1730s these reports were verbatim.

Certainly the Gurneys liked to claim that Brachygraphy, their system of shorthand, was accurate:

> The faithful Pen shall copy ev'ry Sound:
> Ages unborn shall rise, shall read, and say,
> Thus! thus! our Fathers did their Minds convey. [3]

After Thomas Gurney took over the compilation of the OBSP it seems to have acquired a greater official importance. Indeed in the Whitehall Evening Post in 1754 he was referred to as "the Short-Hand Writer that attends to take Minutes of the Trials at the Old-Baily", and, as will be seen, this news item goes on to imply that the Old Bailey judges regarded his first duty as being to the court. [4] The OBSP was referred to in perjury trials and the Recorder of London used it in his reports to the King on capital convicts. [5]

However, none of this means that historians can assume that the involvement of a shorthand writer meant the printed report was accurate. The Gurneys did not lack their critics: in the midst of the controversial case of Elizabeth Canning in 1754 the Whitehall Evening Post reported that just before a trial in the Old Bailey Gurney "met with a severe Reprimand from the Recorder for his partial Representation of Canning's Trial in the Sessions Paper." [6] Some time later in 1775 the writer of Observations of the Trial of Mr. Robt. Perreau (1775) printed the defence made by Robert Perreau at his trial for forgery from the manuscript supposedly used at the trial, and, as the writer pointed out, of eight pages only some three appear in the OBSP. [7]

That the reports were being abridged can also be seen if the OBSP is compared with the reports of the more significant or sensational trials which the Gurneys issued in separate, and much longer, folio editions: as one writer had put it just before the Gurneys took over, the problem was a "want of Room" in the OBSP format. [8] The need to edit a report to a commercially viable size was a general problem for such reporters and was probably the reason why, according to the three judges who authenticated the published account of the Sussex smugglers' trial at Chichester in 1749, the shorthand reporter (not Gurney) had "omitted to take the several questions put to the Witnesses, with their Answers in the Words they deliver'd". [9]

There were also several factors which might have affected the accuracy of shorthand writers. The first was that errors crept in as a result of the "want of Leisure" for revising the text. This was caused by the need to publish the OBSP quickly in order to compete with newspapers and other rival accounts. [10] Secondly, there were the physical problems facing anyone trying to hear the evidence presented. The criminal courts in the eighteenth century were places of noise, overcrowding and confusion with spectators, witnesses and the defendants crushed together. So close were the prisoner and the witnesses at the trial of Elizabeth Branch at Somerset assizes in 1740 that Branch "several Times kick'd

Mary Vigor, one of the Witnesses against her, as she stood by her at the bar whilst she was giving her Evidence." At least one murder and one attempted murder took place at the Old Bailey in the eighteenth century. [11] Thomas Kyll, a shorthand reporter at the trial in 1739 of Richard Turpin in York, admitted that the noise in the courtroom had prevented him from hearing part of the evidence. [12]

Aside from the problems facing the reporter in the court, there were political difficulties for those who wished to publish reports. In his Secret Transactions During the Hundred Days Mr. William Gregg Lay in Newgate (1711) Francis Hoffman points out that although the relevant issue of the OBSP excused the failure to record the trial of Gregg by promising to include a full report in due course, no such account ever appeared. Hoffman believed that this was part of an attempt by political opponents to implicate Robert Harley in Gregg's crime, and indeed the Ordinary Paul Lorrain questioned Gregg in Newgate about Harley's involvement. [13]

A slightly different problem with the OBSP concerned Bartholomew Greenwood. He felt impelled to write The Case of Bartholomew Greenwood (1740) in order fully to clear his name following his acquittal at the Old Bailey, because although he regarded the OBSP account as accurate, its bland presentation did not, he felt, do him justice. [14] Although Greenwood had a personal interest in the case, his criticism does point to the nuances of verbal delivery which, in spite

of the claims made for shorthand by the Gurneys, are lost in the printed form.

So while the trial reports are undoubtedly a source of great importance, historians must be wary (as Langbein has, but Harris has not) of making exaggerated claims for their accuracy. Material was rearranged and omitted because of editorial pressures or reporting difficulties, if a trial involved a politically sensitive issue the report may have been suppressed or abridged, and finally there is the insurmountable problem of the loss of the nuances of verbal delivery.

2. The Authenticity of the Biographies of Crime

In the rest of this chapter I consider the pamphlet biographies of crime, that is both the single biographies and the Accounts of the Ordinaries of Newgate in which several biographies were gathered together. There is good reason to suppose that some of these biographies were to some extent autobiographical, even if the final product was probably written by another person either from a manuscript by the prisoner or from an interview with the prisoner. I look at the incentives and pressures on prisoners to cooperate in writing such accounts, and finally I consider the contemporary criticisms which might seem to support the view that one type of biography, the Ordinary's Account, which

claimed to be based on interviews with the prisoners, are merely works of fiction and I argue that this criticism, for the most part, was not objective.

There seems to be much evidence to support the orthodox view that the biographical literature of crime was a product of the imaginations of the Grub Street writers. [1] For instance, in 1774 after James Boswell had been unsuccessful both in his defence of John Reid on a capital charge of stealing 19 sheep and in his attempts to obtain a pardon, he hit upon the idea of composing a "last dying speech". He had been sitting with his friend Michael Nasmith,

> and, after drinking a bottle of port between us, a curious thought struck me that I would write the case of John Reid as if dictated by himself on this the day fixed for his execution. I accordingly did it, and hit off very well the thoughts and style of what such a case would have been.

He wrote, in the first person singular, The Mournful Case of Poor Misfortunate and Unhappy John Reid. The printer John Robertson later added to the title "taken from his own mouth" without Boswell's permission, a circumstance which greatly annoyed Reid although Boswell felt "it could do no harm." [2] Later, after Reid's death, there was published The Last Speech, Confesson, and Dying Words of John Reid which was, according to the text, "given to Richard Lock, inner turnkey of the Tolbooth, Edinburgh, by... John Reid." However, Boswell noted in his journal that it had actually been written by Alexander Ritchie, an independent lay preacher.

[3]

Yet there is also much evidence that the men and women in the condemned cells were involved in writing at least some of the biographical literature of crime. Certainly the prominence which booksellers gave in biographical accounts to claims of such an input indicates that it was regarded as an important selling point. Many, but significantly not all, biographies were presented as in some sense autobiographical, and assertions of this nature generally appear on the title-page. So according to the title-page of A full and true Discovery of all the Robberies, Pyracies, and other Notorious Actions of that Famous English Pyrate, Capt. James Kelly (1700) the account was "Written in his own Hand, During his Confinement in Newgate; and Delivered to his Wife, the Day of his Execution; Published by her Order and Desire". [4] Similarly, the title-page of A Compleat and True Account Of all the Robberies Committed by James Carrick, John Malhoni, and their Accomplices (1722) declares that the text was "Written by James Carrick". [5] The Life, Travels, Exploits, Frauds and Robberies, of Charles Speckman (1763) was "Written by HIMSELF, Whilst under Sentence of Death in Newgate." [6]

One of the leading publishers of criminal lives John Applebee went to great lengths to convince readers that some of his criminal lives were autobiographical, although, significantly, he did not claim that they were all

autobiographies. [7] His A Genuine Narrative Of the Memorable Life and Actions of John Dyer (1729) not only declares on its title-page that it was "Wrote by Himself, when under Condemnation in Newgate, and Publish'd at his Earnest Request", but also on the next page there is a note by Applebee excusing errors in the pamphlet on the ground that they were present in Dyer's manuscript and he wished "to communicate the same to the Publick, without any Variation from the Original, of which I assure the Readers this is a True Copy." [8] He also routinely included warnings to prospective readers: in A Full, True and Particular Account of... Thomas Athoe (1723) he included this note, "All Accounts hitherto publish'd in News Papers, or otherwise, of these Criminals, of the Fact by them committed, are false and spurious." [9] Applebee regularly included an invitation for readers to visit his shop in order to inspect the manuscripts upon which his publications were based. [10] Such efforts were not unique to Applebee: in A Genuine Account of the Life and Actions of William Cannicott (1756), published by Judith Walker, there appears the following declaration:

> In Order to prevent the Publick from being imposed on by false and spurious Accounts, both of me and the unfortunate Occasion of my Suffering, as well as the Motives that urged me to commit the atrocious Crime, I have delivered with my own Hand Writing, a just Account thereof; in which I have justly and truly informed the Publick of the whole Progress of that bad and wicked Transaction, from the Beginning to its final and fatal Catastrophe, which no other Person could do: And that, at my own Request, I desire it may be published the Morning succeeding my unhappy End, by Mrs. Judith

> Walker, the Publisher, at the Golden Key in Fleet-Lane, declaring most solemnly, as I must soon answer the contrary, at the great Judgment Seat of Almighty God, before whom I must soon appear, that I have delivered no other Account to any person whatever to be published.
>
> William Cannicott
>
> Press-Yard, Newgate, Sept. 17, 1756
>
> Witness, William Voce.

In the body of the pamphlet it is said that Cannicott delivered a similar statement to the court before which he was tried and that it was read out after the death sentence had been passed. [11] A few years earlier, in 1744, James Maben's biography was published under a title which detailed the measures of authentication that were taken:

> A True Account of the Papers wrote by James Maben, Who was Executed Saturday, August 11, 1744, without The West Gate, Newcastle upon Tyne, for counterfeiting the current Coin of Great Britain, as delivered by him the Night before his Execution, in the Presence of several Spectators, signed by himself, and attested by Fourteen creditable Persons.

This pamphlet concluded with the declaration that, "If any other Thing be printed in my Name, I do declare it spurious, and none of mine, as witness my Hand, James Maben." The use of quasi-legal phraseology and forms was doubtless intended to remind the reader of the solemnity of the last will and testament. [12]

The clergy were often involved in the authentication of such publications as autobiographies, indeed they encouraged confessions to be written. [13] So, for instance, according

to the title-page of The True Copy Of the Original Paper signed by Mr. Richard Noble (1713) Noble gave copies of his last speech to "Mr. Cooke Curate of Kingston and Ordinary of Surry: Another to Mr. Broughton Vicar of Kingston; and a Third to the Reverend Mr. L'Herondel". [14]

It was also common for the condemned to hand over confessions to officials at the gallows; a practice which originated, according to Defoe, in the desire to prevent the spread of inaccurate reports [15]: so, according to The Life of Nicolas Mooney (1752), Mooney, on arriving at Tyburn, "gave this printed Narrative of his Life to the Sheriff, and said, "This was revised by me last night, and it contains nothing but the truth"". [16] Such action did not always achieve the desired end: in 1737, according to his biographer, Carr wrote a letter for publication:

> after having written it over fair, seal'd and directed it to Mr. Applebee, to whom it was afterwards deliver'd, with Mr. Carr's Desire, that it might be printed: But it being afterwards suggested to him that there might be Reason to fear, whether Justice would be done him, in that Point, he requir'd it again, under the Tree, and deliver'd it... to Mr. Rawlinson, earnestly requesting, that he would see it printed by Mr. Applebee. [17]

But Rawlinson, the High Constable of Westminster, apparently failed to pass on the letter "for Reasons which are not at present come to light." [18]

Sometimes the manuscript was said to have been handed over or else dictated in the prison. [19] The lack of publicity involved sometimes led to the most elaborate

authentication procedures. Sarah Malcom, who was hanged in 1732 for murder, spent a day writing her own account; she then placed it in an envelope which was sealed by Rev. Dr. Middleton and Richard Ingram, the keeper of Newgate, and delivered to Rev. William Piddington. After she had been hanged the envelope was opened before an assembly consisting of Middleton, Ingram, the sheriffs of London and Middlesex, and a Mr. Peters and a Mr. Brouncker. It was read, then resealed and later produced before the Benchers of Inner and Middle Temples who also read it and returned it to Piddington. He then published it as A True Copy of the Paper, Delivered the Night before her Execution, by Sarah Malcom, to the Rev. Mr. Piddington, Lecturer of St. Bartholomew the Great, March 6th, 1732-3. [20]

The use of allegedly autobiographical material is a common feature of the Accounts of the Ordinaries of Newgate in which a biographical note by the Ordinary is often followed by what is presented as a copy of the confession of the condemned. Indeed during Guthrie's period in office (that is, after 1727) the Account appears to have been written in two parts which were then edited together not by the Ordinary, but by a third person, presumably employed by the bookseller. For instance, the Account for 4 May, 1741 has Guthrie's account of the condemned sermon and his note on the prisoners, including one John Carr, Guthrie's name is then

printed at the end of this, that is at the bottom of the eighth page which is less than half-way into the publication. This signature marks, I would suggest, the end of his involvement in the pamphlet. There then follows, on pages 9 to 15, a memoir allegedly written by Carr himself. By comparing the two memoirs it can be seen that Guthrie's biographical note does not differ substantially from the Carr account, so it may have come from the same source, possibly Carr himself. However, it appears to have been written without Guthrie having seen Carr's account since there are some differences, most notably spelling the name as "Car", and overall there is more detail in Carr's account, so, for instance, Guthrie is vague about Carr's work, indeed he states that he had no trade, whereas Carr tells us that he was a horse trader. [21] The use of an editor is further suggested by a passage in the Penny London Post in 1745 in which reference is made to "The Ordinary of Newgate's new Editor of the Dying Speeches". [22]

The Accounts provide further evidence on this question of authorship in the form of apparently incidental remarks. In 1712 Richard Town or Towne told both Lorrain and the crowd around the gallows at Tyburn that he had written his own account; [23] the paper was published as A True Copy of a Paper left by Mr. Richard Towne the Tallow-Chandler, December the 23d. 1712. Written with his own Hand, and by him desir'd to be Published after his Execution (1712). [24] However, the

involvement of Morphew in both publications might lead to the conclusion that this was not merely an incidental remark. Another example provides stronger evidence. In 1719 Edward Bird showed Lorrain, "the Draught of a Paper which he said he had prepar'd with the help of a Friend, and which he intended to publish." [25] The paper, a defence by Bird and an attack on his prosecutors, was eventually published as Mr. Bird's Case (1719) much to Lorrain's disgust since he felt that it revealed a concern for this world which showed Bird's lack of repentance. [26] Newspapers provide similar evidence: in February 1754 the Whitehall Evening Post reported that Dennis Neale had "left a Paper", and in that month there was published, Memoirs of the Life and remarkable Exploits of the noted Dennis Neale, which, according to the title-page, were "written by Himself". [27]

Evidence of the involvement of the condemned in the writing of their biographies also came from the critics of the genre. For instance, Aaron Hill, in The Plain Dealer in December, 1724, criticised the way the Newgate biographers "hang up [the convict's] Reputation", adding that, "If the Sufferer can write, and read, then, besides his Birth, and Education, his Tryal and Confession, we have his Last Works and Compositions." [28]

The assertion that the condemned often had a hand in writing their own biographies does not mean that others did

not edit or rewrite the text. Some booksellers explicitly denied that such editing occurred, as can be seen in A Genuine Narrative Of the Life and Memorable Actions of John Dyer, and generally the involvement of an editor in what was claimed to be an autobiography was rarely acknowledged, although there are exceptions to this: A Full and Faithfull Account of the Life of James Bather (1754), was "Published from the Author's Manuscripts; Revised and Corrected by an Impartial Hand." [29] The bookseller Cabe admitted that the manuscript provided by Thomas Daniels for The Affecting Case of the Unfortunate Thomas Daniels (1761), had been edited, but claimed that there were,

> no other alterations than what were absolutely necessary, with regard to spelling, style, and disposition, to render the narrative in some measure clear and fit for perusal. This dressing was not intended to give any undue colouring to facts, but simply to supply the deficiencies of the writer; whose laborious situation in life has denied him those literary advantages indispensable to the writing his- story with tolerable propriety. [30]

More often than not editors were at work without their presence being acknowledged, as with the Accounts produced during Guthrie's period of office. Indeed the Accounts also show signs of hack writers having been employed. For instance, the memoir supposedly written by John Carr, which has already been discussed, is followed by a lengthy and highly literate discourse on religion also said to be by Carr, and yet earlier Guthrie had written that he had "little

or no Education, consequently he could know but little or nothing of Religion". On the other hand, this religious discourse is not made a part of Carr's confession and there seems no reason to reject the whole memoir merely because of this supplement. [31] In the same way as in the twentieth century the "ghosting" of the "autobiographies" of entertainers and sports personalities does not automatically mean that they should be discarded as fiction, the presence of editorial embellishments and rewritings in the criminal "autobiographies" need not destroy the view that some of the condemned did contribute substantially to these accounts. Moreover, some of those who edited these texts may well themselves have had some direct experience of crime and prisons. Defoe spent time in Newgate prison, and other writers died on the gallows, such as Thomas St. Legar and James Welch, who had been hack writers [32], Usher Gahagan and Eugene Aram, both classical scholars, and the religious and Shakespearian author William Dodd. Moreover, it is interesting to note that autobiographical claims were not always made, even by those publishers, such as Applebee, who elsewhere were keen to make much of such assertions.

Although there are many confessions surviving in the judicial records the National Library of Wales may well have the only allegedly autobiographical manuscript of a criminal life intended for the press. The work is dated 1747 and is titled, The Birth, Life, Education and Transactions of Captn.

William Owen. This remarkable document contains 161 pages of copper-plate handwriting, with approximately 19,000 words. It is written in the third person singular and this together with the neatness of the handwriting and lack of corrections strongly suggests that it was at least copied up by a clerk. So the claim on the title page that the work was "Written by his own hand, when under Confinement" should not perhaps be taken too literally. At the end of the book, in the same handwriting as the rest of the text, is a certification "signed" by Owen attesting "the within Book to be Genuine and Authentic which I have examined and likewise Copy'd Eight Days before the Day appointed for my execution"; this is then witnessed by John Davies, the prison chaplain. Both of these signatures are in the same hand as the rest of the book, so it may be that John Davies was the actual scribe. The main part of the text is a long biography of Owen's life as a smuggler, followed by what appears to be a fairly full account of the trial at Carmarthen. It seems likely that this was a fair copy written up for the printers, although unfortunately I have been unable to discover whether or not the work was ever published. [33]

The evidence for the involvement of the condemned in the writing of these biographies places the burden on those who would deny such a role to prove their case. However, while the evidence provides us with grounds for regarding the

literature as a source for biography and for the history of plebian culture, it is important to remember that these works were published by the middle class booksellers for their middle class readers. In other words it was packaged by and for a social group of which the condemned was usually not a member: hence, Cabe felt obliged to edit Daniels' text in order "to render the narrative in some measure clear and fit for perusal", and his openness indicates that he regarded such an undertaking as completely justified. Those whose writings probably went almost directly to the printers were likely to have been the condemned from the middling classes or from the gentry, such as Richard Towne and Edward Bird. It is probable that others wrote under advice from booksellers or the clergy, or else were interviewed by scribblers. So, although the condemned were often involved in the writing of these biographies it is important to be careful and not to treat them as objective autobiographies or as unadulterated evidence of the life of the labouring people. They were addressed to a particular class of readers whose interests the booksellers' scribblers and the spiritual advisers represented.

Finally, even Boswell's The Mournful Case of... John Reid, with which this section opened as an illustration of fake autobiographies, was not entirely a fabrication. Boswell, who had just seen Reid and was in possession of a

statement by him, had become convinced that Reid was, as he claimed, innocent. So, although The Mournful Case was a product of Boswell's pen, it was a summary of what Reid had said. It is also worth noting that it was not strictly an autobiography, but merely, as Boswell put it, "the case of John Reid", in other words, his defence to the charge. [34] Similarly, although Ritchie wrote The Last Speech, Confession, and Dying Words of John Reid, he had visited and spoken to Reid on many occasions and had read a draft of the account ot Reid; moreover - although this was by no means conclusive - on the day of the hanging Boswell had read the finished work over to Reid who "said it was all right except some immaterial circumstances". [35]

3. Why did the Condemned cooperate?

The evidence pointing to the involvement of the condemned in the writing of their biographies is supported by various explanations as to why they should wish to cooperate. These were material inducements and spiritual and physical pressures, and they were applied in order not just to obtain copy for publication, but also as a part of the spectacle of the public hanging in which the person about to be hanged was meant to acknowledge the badness of his or her life and to display the correctness of the punishment.

The prison chaplains constantly congratulated themselves

on their exertions in bringing people to (a publishable) confession and ultimately to repentance. In 1701 Paul Lorrain recorded a long struggle with a group of pirates, but concluded, "... I at last prevail'd upon them to uncover, and own those Crimes, which they had before so industriously endeavour'd to hide or excuse". [1] Similarly when Willliam Gregg was in Newgate in 1708, Lorrain noted that he "constantly visited him, Pray'd with him, Examin'd him, and apply'd such Directions and Exhortations to him, as I thought most suitable for the well disposing him and preparing him for Another World." [2] Rev. Howard, after having attended the condemned in Southwark prison, remarked in 1751 that the work "is an Office of great Labour and Fatigue; but it has comfortable and joyous Reflections!" [3] Describing his exertions with a group of prisoners in 1689 the Ordinary of Newgate Samuel Smith went into rather more detail:

> The Ordinary visited the condemned Prisoners every day, from that on which the Sentence of Death was past on them, till and at the Day of their Execution. On the first day... he found them little sensible of their sinful and deplorable condition. The next day they were more awakened from their Security. On Saturday, after three days counsel, and often praying with them, they much lamented the sinful course of their Lives, and gave the Ordinary good Encouragement and hopes of the success of his care for their Souls. [4]

The clergy attempted to bring the condemned to what they regarded as a state of repentance. The proof that the condemned was penitent involved certain actions, amongst which was the making of a confession not just about criminal

acts, but about the person's whole life. According to one clergyman repentance involved "a Change of Mind, and a Change of Life. Upon which Account it is called in Scripture, A State of Regeneration, or new Birth, a Conversion from Sin to God". It was presented as a process of stuggle and gradual enlightenment in which the work of the chaplain was presented as a vital part of the translation of the condemned into a state of penitence; he was the "Physician of Souls", as one writer put it. [5] According to this view although those who engaged in crime revealed the animal traits of irrationality and a lack of religion, they had not irreversibly descended into animality:

> [a person's] Intellectual Operations are the specific and distinguishing Character of his Nature, to which (however we abandon our Reason and sink into the Brutal Temper) Brutes cannot arise, and which (notwithstanding our many Forfeitures) we cannot wholly abdicate. [6]

However, their ignorance (and the fact of their being condemned was taken as proof of this ignorance) meant that a clergyman was required to bring them back to "Reason". Lorrain said that David Bailey, who was condemned for fratricide in 1707, was "very ignorant in Point of Religion, and almost [in]sensible of his Condition". [7] Similarly, Guthrie, referring to the twenty-eight people condemned at three sessions in 1739-40, said they were all "very vicious, and many of them very ignorant, and very young", so they required a great deal of instruction in religion before he

regarded them as ready to repent. [8]

Repentance was said to be a precondition for obtaining divine mercy. William Morgan, condemned in 1772, was urged to repent with the promise that, "although your sins are as scarlet, they may be white as snow - tho' they may be as crimson, they shall be as wool." [9] But obtaining divine mercy through repentance not only guaranteed a place in Heaven, it was said to make death easier. So Rev. de Gol's assurance, in a condemned sermon in 1711, that true repentance meant "Death will not be terrible to you" [10] had both spiritual and secular aspects for, according to A Plain and Serious Exhortation to Prisoners (1775), "the Disgrace of becoming a publick Spectacle, and the Pain of dying, will lose their Terror". [11] Examples of the comfort supposedly derived from repentance are commonplace in the literature: in 1751 Robert Greenstreet was said to have seen "without pain, his race of life cut off just as he began it; and beheld, without terror, the approach of death, we may almost say, upon his entrance into life." [12]

The corollary of such claims was that dying unrepentant was more painful, and in order to bring the condemned to repentance it was regarded as justifiable to emphasise this. Lorrain indeed felt there was a general duty lying on clergymen who attended any dying person "to stir him up to a true Contrition of heart, by representing to him the heinousness of his Sins".[13] Rev. Wilson followed this

practice when visiting John Hunt in Southwark prison in 1743:

> The Rev. Mr. Wilson took great Pains in laying before him the heinousnees of the hateful Crime of which he was convicted, and told him to what Danger his immortal Soul was expos'd, unless he sincerely repented, acknowleg'd the Justice of his Sentence, and dy'd in Peace with those who had been the Instruments of detecting and punishing such a Miscreant. [14]

It was regarded as justifiable to withhold the sacrament: Lorrain remarked of some prisoners in 1708 that he did not administer the sacrament to them "because I did not judge any of them fit for it; Barnes and Ashbrook appearing stubborn and unwilling to confess their Guilt, and Mary Ellenor being so ignorant of that Ordinance, as not to be able to discern the Lord's Body." [15]

What amounted to evidence of repentance was clearly defined. According to Rev. William Smith, preaching before the Lancaster assizes in 1746,

> True Repentance consisteth not in mortified and melancholy Appearances, but in an Alteration of our Conduct and Behaviour; it is the Heart which must be affected, and this must be proved by the Actions. [16]

Sorrow on its own was not, therefore, sufficient, although sorrow born not out of fear, but out of a detestation of a past lifestyle was regarded as a sign that repentance had occurred for "True Repentance... is ever accompanied by... a Sorrow that will break the Heart in Pieces". [17] Repentance had to manifest itself in a desire to repair the damage done by the condemned during his or her life through confession and restitution before death. Prayers for Prisoners under the

Sentence of death (1712) instructed prisoners to "Confess your Sins, and take Shame to yourselves in the World." [18] According to another author, confession was, "the best Test that any one can give of his Humility, Sincerity, and Conversion" for by it "we effectually kill the Root of Pride, and acknowledge the Justice of God, in punishing us." [19]

The condemned were, then, told to make a "particular and full" confession not just of the crimes for which the sentence of death was passed, but of "all past Sins". [20] In addition, the names of accomplices were to be divulged: the Ordinary, Roger Wykes, told John Simpson in 1700 that, "his Repentance could not be sincere, till he had discovered all his Accomplices". [21] The prison chaplains delighted in such acts of "contrition" as that reported by Rev. Taylor, the Ordinary of Newgate, in 1750: William Tyler, a seventeen year old condemned for horse stealing, had expressed "a Conviction in his own Mind, that unless he gave a full and true Account of all his several Robberies, he could not expect Forgiveness of them at the Hand of God", and as a result he listed 48 horse thefts which he had committed. [22] Such confessions were the perfect basis for a biography, hence the author of The Memoirs of the Right Villainous John Hall (1714) observed that the Ordinary "is as diligent in inquiring out the Particulars of their Lives, as tho' he were to send a catalogue of their Sins along with 'em for a Passport." [23]

It is wrong to dismiss such tactics as irrelevant; fear and religious belief were powerful allies. Many "a poor shivering Malefactor" [24] confessed out of fear at the prospect of dying: John Long was not untypical when, in 1709, he "cry'd very bitterly, wishing he had liv'd a better Life". [25] A large proportion of the condemned undoubtedly did believe in the notions of divine judgment and divine mercy: in 1711 John Matthews told Paul Lorrain that he "was not without humble Hopes of obtaining a Pardon at God's Hand, upon true and Sincere Repentance, which he told me he did whatever he could to excite himself to, earnestly imploring the Divine Help herein." [26] Even if the condemned had not previously given religion much thought it is understandable that the prospects offered by the prison chaplain might have appeared attractive.

In addition to the religious persuasion there were material inducements and physical pressures applied to the condemned, and these enabled people other than just the prison chaplain to occasionally obtain confessions. Money or the promise of a proper burial and protection from the surgeons was often given. At a time when most things in prison had to be paid for it was important for a prisoner to have money and for many the only thing of value which they had was their life story: in 1763 Charles Speckman felt it a just complaint that the Ordinary Stephen Roe did not offer him any money or food for his confession. [27] Chief amongst

the non-financial inducements was the prospect of a pardon. Although the prison chaplains often claimed to have discouraged what Lorrain called "the deceitful and dangerous Thoughts of obtaining a Reprieve" [28], for most poor prisoners they were the only contact with those who could grant pardons, and so a confession was sometimes offered as a part of that process. In 1708 John Crafts revealed an awareness of both the possibilities and the pitfalls of a confession, and told Lorrain that he would not go into a detailed confession "unless he were sure to be reprieved"; a thinly veiled hint that he had something of interest to tell. [29] Others appear to have held out their confessions to the chaplains as evidence that they would eschew crime if they were pardoned, and since the conversations were not published until after the hanging they must have done so in the hope that the chaplain would assist in obtaining a pardon. In 1690 Nicholas Carter told Samuel Smith that, "if he might be spared he resolved to amend his evil Life" [30], and Richard Northcoat told Lorrain in 1709 that he hoped to be allowed a pardon conditional upon his joining the armed forces. [31] In 1694 Samuel Smith reported his conversation with John Edwards, a youth condemned for stealing cloth:

> He wept. I askt why? he said for his sins; and that now he hoped, he hated sin, more than he loved it; that his heart is set against all sin; saying, that if he might have his life spared, he would go again to his Trade of Plaistering, and never more commit any unlawful Act. [32]

The failure to obtain a pardon drastically altered William Hawke's willingness to add to his earlier confessions to Rev. Villette in 1774:

> The Behaviour of Hawke was rather upon the reserve after the Warrant came down, nor was he so ingenuous and open in his Confessions as before; and when any questions were put to him, relative to Robberies committed, nor so willing to give a satisfactory Account. [33]

Many of the biographies portray their subjects as simply anxious to set the record straight with regard to themselves or to accusations made against others, and since, according to Defoe, "dying men have been so often injured by the false and imperfect accounts given from those that have pretended to write from their mouths". [34] In A Full, True and Impartial Account Of... William Hawkins (1722) Hawkins sought "to vindicate my self and deceas'd Friends from the foul and villanous Aspersions of... Ralph Wilson", who was in the gang of which William and his brother John were both members. William did not deny that he and his brother had committed certain capital offences, but he did attempt to refute an accusation of sacrilege. The pamphlet is also almost certainly an attempt by William to obtain a pardon for himself (John had already been hanged). [35] John Sheppard is said to have agreed to be interviewed about his life because "various pamphlets, Papers, and Pictures relating thereunto are gone abroad, most or all of them misrepresenting my Affairs". [36] James Hall, in his account published as part

of the Ordinary's Account for 14 September 1741, claims to have written his version in order to refute "the scandalous Imposition of the Author, (of the Pamphlet, or Libel, call it what you please, Intitled, Matchless Villainy) upon the World". [37] In 1752 Bather allegedly wrote his account, "that I might give myself the Opportunity of saying a Word of two in my own Behalf". [38]

Finally, physical pressure was also used to obtain confessions. The sick were harangued and the anguished given no peace by greedy officials and clergymen. Mary Edmonson was convicted in 1759 of the murder of her aunt. Throughout she maintained her innocence in the face of both religious and physical pressure to confess which began before the trial:

> Two Reverend Clergymen attended her, and pressed her, with all the Energy in their Power, to be ingenuous, and confess her guilt; for notwithstanding there was no Person in the House but herself when this Murder was committed, yet the Circumstances against her were so strong, that it would be impossible she should be acquitted on her Trial; they laid before her the horrid Crime of Murder and blood-guiltiness; and told her tho' her Crime was so foul, and of so deaf [sic] a Die, yet, on her Confession, and a sincere Repentance, she might hope for Mercy from God Almighty; but while she continued stubborn and hard hearted, all her Devotion was to no Purpose, for her Conscience being so fear'd, and her heart so harden'd her Endeavours to make her Peace with God, whom she had so greatly offended, would be ineffectual. [39]

This pressure failed, so two other clergymen were called in and later her sisters, her cousin and her father, but they too failed to shift her. [40] Next physical methods were employed:

> The tenth Day of her Confinement she had an Iron put on her left Leg, to try if that would make any Impression upon her; but it had no manner of Effect [41]

However, even this failed and Mary Edmonson died proclaiming her innocence. The Edmonson case shows the double-edged nature of the confession: it was not only a source for biographical literature, it was also an important means of obtaining a conviction, and information both on other offenders and on the location of stolen goods. In February 1705, for instance, after Joseph Johnson had been condemned Lorrain asked him very detailed questons which seemed to hint that he was acting as a conduit for investigating justices or for victims: he asked, "How came he by his Wounds?", "Whether he had ever committed, or endeavour'd to commit any Robbery, and where?", and "Whether he was the Man that us'd to rob on the Black Mare?" [42]

4. Biographies and the Prison Chaplains: a View of the Contemporary Critics

The biographies written by the prison chaplains, in particular those by the Ordinaries of Newgate, dominated the biographical literature of crime for about 75 years from the late seventeenth century to the 1760s. Yet they were subjected to an enormous amount of contemporary criticism which has affected their credibility as a source material. In the next few sections I will examine this criticism and argue that it should not be treated as unbiased, as has tended to be the case.

It is no coincidence that these sorts of attacks first appeared against Rev. Samuel Smith who, with George Croom the bookseller, established the Account as a serial publication at the end of the seventeenth-century since many of the criticisms appeared in rival publications. [1] After Smith's death Thomas Brown wrote two poems against him. Brown claimed that Smith accepted bribes both to swear in court that a prisoner could read and was, therefore, entitled to benefit of clergy, and to write that those who had been hanged would receive divine mercy. Those, on the other hand, who gave him no money were, according to Brown, reported in the Accounts as having "dy'd hard" and were killed all over again "With his murd'ring Pen." Above all, Brown claimed, Smith's chief motivation was to obtain material for his Accounts, and this led him to publish false confessions: he wrote that Smith,

Brought'st Sinners to the Anvil of Repentance;
And tho' they prov'd obdurate at the Sessions,
Could'st hammer out of them most strange Confession

In this way, Brown concluded, ironically:

... he kept Sin in Awe,
And supported the Law [2]

Daniel Defoe returned to this attack on Smith almost twenty years later when in The History of the Press Yard (1717) he made probably his only complimentary remark about Paul Lorrain, who was then the Ordinary, calling him "a very Tertullian in respect of some of his Predecessors". He agreed with Brown that Smith twisted the truth in his Accounts, reporting that he - not Lorrain as Linebaugh has it [3] - had rebuked a condemned prisoner who claimed not to have broken the sabbath, indulged in drinking or kept company with lewd women on the ground that such denials would ruin the sale of his Account. [4]

Smith died in 1697 - not 1700 as is often claimed - and was succeeded by Rev. Dr. John Allen. A mystery has surrounded Allen and the circumstances which led to his dismissal in 1700. Working from incomplete City of London records Linebaugh was only able to guess at the reasons for this dismissal. [5] The records talk vaguely of his prevarications in his Accounts. Only one Account by him appears to have survived, that for 24 May 1700, [6] and this is no different from those of Smith or Lorrain, neither of whom seem to have been disciplined by the City authorities;

so, unless others were published, this charge seems to difficult to sustain. The records do show that a libel suit was taken out by the City's solicitor against the publisher of a pamphlet defending Allen, but Linebaugh could not trace this pamphlet. In the brief for this case Allen is accused of accepting bribes from a man called Davis and of taking a mourning ring worth 20/- from his wife. Here, tantalisingly, the records stop and so does Linebaugh's account. A more complete view of the story emerges from four pamphlets, including the one mentioned in the City records; all were apparently published in May and June 1700 and none has been previously examined by historians. I will look at the story of Allen's dismissal because the allegations of corruption which reappear in the criticisms of later Ordinaries find substance in the Allen case, and so, however, unfairly, his case seemed to lend credibility to, and so sustained, such attacks.

On 24th May 1700 eight people were hanged at Tyburn, two accounts were published describing their hanging: the anonymous An Account of the Confessions, Behaviours, and Dying Words of the Eight Criminals [7] and Allen's Account. According to the former John Davis "seemed very much Concern'd and Deject'd, but could not express himself, as became his Circumstance", whilst Allen wrote that he claimed to be innocent and that, "He did not seem at first so well affected with his Condition as could be wished, but

afterwards returned to a better Mind". Joseph Fisher was said by the anonymous account to have "behaved himself hopefully considering his Circumstances, and mightily bewailed his deplorable unhappy Fate"; according to Allen he also claimed to be innocent and "behaved himself very sullen, would not confess his Crime, but endeavour'd to extenuate it." [8]

About a week later reasons for the behaviour of the two men began to emerge. In An Account of a New Strange Discovery [9] Allen is attacked as "a Suborner, a deceiver of Men's Lives, Honour, Souls and all that is dear to them" because it is alleged that he told both Fisher and his wife that he could save him from the gallows, and as a result Fisher handed over money, but Allen regarded the amount as inadequate and refused to help him. As a result on the hanging day Fisher denounced Allen in Newgate chapel and refused to take the sacrament from him, presumably in front of the large crowd which always gathered to gawp on such occasions. The following day Allen allegedly returned to Fisher's widow the bribe he had received in exchange for her affidavit that she had never given him any money. With regard to Davis the same pamphlet claims that he had "Declar'd upon the words of a Dying Man, that he did give Mr. Allen Forty Shillings to save his Life, and had ordered his Wife, to pawn her Cloathes off her Back for it, which she did". Allen later demanded a further twenty shillings from Davis's wife,

telling her that the money she had raised had been spent by Davis on "some lude Woman". Mrs. Davis, refusing to believe this story, swore a complaint before the Lord Mayor, Sir Richard Levit. Another pamphlet, Captain Charles Newey' Case adds allegations from other prisoners about Allen's corruption, and also claims that Allen left Ireland in suspicious circumstances, that he had a wife there, that he professed Roman Catholicism during a stay in Italy, that he was a pauper before his appointment as Ordinary of Newgate, and that he obtained money from poor prisoners under the pretence of saving their lives. [10] There was also a petition sent by the prisoners of Newgate to the Lord Mayor and the Aldermen of London:

> That your Petitioners are not deter'd from their former Misdeeds by the Example, Exhortation, or any real Encouragement, given them by Mr. Allen their Ordinary's Life or Conversation; His telling them of a great God, whch they ought to Adore, and the next moment Cheating poor Wretches to the utomost of his Power, gives them to Dread that what he says of that is likewise false; Your Petitioners cannot believe one Word he tells them, and are afraid he may Misrepresent, (as to their great Misfortunes, he has tow [sic.] often done or what's worse, if Disobliged by unknown of ways, will he insure their utter Ruine. [11]

Allen seems to have been the author of Mr. Allen's Vindication in which it is claimed that Davis's allegation should be dismissed in view of his character as a convicted felon, although Allen admitted to having returned twenty shillings sent to him by Davis in his wife's name. It is also claimed that although Mrs. Fisher had offered a bribe, Allen

did not accept it, and that another prisoner, Charles Newey, then tried to persuade her to swear an affidavit that Allen had in fact accepted the bribe. However, she told Allen of Newey's plot and swore an affidavit about it. Newey then persuaded her to swear another affidavit before the Lord Mayor in which she claimed that Allen had forced her to make the first affidavit. The reasons for Mrs. Fisher's changes of mind are not profferred. [12]

An Account of a Strange and New Discovery and Captain Charles Newey's Case also reveal another aspect to the case. In January 1700 Mrs. Newey, sister-in-law to Charles Newey, is said to have visited in Newgate a Mr. Jones, who was a chief witness against her on a charge of coining. It is claimed that Jones was persuaded to change his evidence and to accuse Charles Newey of coining instead of her, and also to say that Charles Newey had given him ten guineas to swear against Mrs. Newey in the first place. Jones was not only given a bribe for doing this, but was also told by Allen that it was the only way that Jones, who was in Newgate for a capital felony, could save his own life. Allen's motive was alleged to be an interest in Mrs. Newey whom he later married (her husband being dead).

In Mr. Allen's Vindication, Allen admitted to having spoken to Jones, but claims that it was his normal practice to visit both the witnesses and the defendants before the sessions began in order to call them to their duty - although

in Captain Charles Newey's case it is denied that he had ever done this before. [13] Allen also admitted his marriage to Mrs. Newey, but said that it occurred after the events alleged and that at the relevant time he was married to someone else [14]; indeed in a later pamphlet, The Life and Conversation of the Pretended Captain Charles Newey, it is alleged that Allen had not even met Mrs. Newey before Charles Newey's trial. [15]

The fact that this affair led not merely to the publication of these pamphlets, but also to the libel suit against Allen (possibly for allegations about Mrs. Fisher's affidavit before the Lord Mayor) and to his dismissal in June 1700, only a short time after the scandal had broken, indicates that the City authorities took the allegations, or some of them, seriously. Furthermore, the air of distrust and corruption which seems to have begun to build up around the Ordinary when Smith was in office was given substance by this scandal, and this, in turn, gave credibility to later attacks on the Ordinaries and their Accounts.

Allen was succeeded by Roger Wykes, but he retired after only a few months, doubtless because of the illness which prevented him from delivering the condemned sermon in October 1700. [16] After Wykes came Paul Lorrain who was the Ordinary until his death in 1719. His entry in the Dictionary of National Biography is inadequate and occasionally inaccurate,

and Peter Linebaugh whilst correcting some of the errors adds little new information. [17] Lorrain was probably a Huguenot refugee from France who, it was said, obtained his appointment by sycophancy [18], although in an age of patronage this need hardly surprise us. Through whose influence he obtained the post is unclear, but certainly he had acquired some important friends: for instance, in 1682 he dedicated his translation of M.Minucius Felix's His Octavius to John Tillotson, then Dean of Canterbury and Canon of St. Paul's and later Archbishop of Canterbury. [19] But his most interesting connection, and one unrecorded by the DNB or Linebaugh, was with Samuel Pepys for whom he worked as amanuensis and copyist sometime around the early 1680s. Lorrain dedicated to Pepys his translation of P.Muret, Rites of Funeral Ancient and Modern In Use Through the Known World (1683), and the British Library copy includes Lorrain's holograph poem of dedication. [20] Although Pepys fell out of favour after the 1688 revolution and retired from public life, it was presumably during this period that Lorrain gained his influential connections. Equally importantly he acquired experience in writing criminal biographies. Pepys had been imprisoned in the Tower of London in 1679-80 as a result of allegations made by a man who called himself Colonel John Scott. In order to clear his name he collected information which revealed Scott's involvement in numerous international frauds, and it was Lorrain who collated and

copied this material into two large volumes (now in the Bodleian Library) which provide a unique, and as yet unexploited, insight into crime at that time. [21] This first contact with such literature stood him in good stead when he took up his appointment as the Ordinary of Newgate in 1700.

It seems likely that after the Allen affair the City authorites were careful in their choice of a replacement for Wykes, and in selecting Lorrain they chose someone who had not only influential contacts, but also a proven record of both publishing on theology [22] and of loyal public service. Yet in spite of this he acquired a poor reputation which has been carried down to the present day and which has blighted not only the Accounts he wrote, but also those written by his successors.

His most famous, although not his only, critic was Daniel Defoe, and it is my contention that Defoe's criticism should be treated with circumspection since it orginated in personal dislike, perhaps aggravated by theological differences.

Defoe's first attack followed a sermon preached by Lorrain in July 1703 at a memorial service for Thomas Cook, who had been hanged for murdering a constable. Lorrain celebrated what he regarded as Cook's repentance, claiming that it showed how even lifelong sinners might obtain divine mercy. He tried to anticipate possible objections to such

"death bed" conversions by adding that divine mercy "is not shewn to all Sinners: For God requires of us a Holy Life, yea the Service of our whole Lives here". [23] So the selection by God of Cook "for his special Mercy... does not make it a standing Rule for others to depend upon: But it is, as I may say, an Exception to the general Rule." [24] However, Defoe latched onto this point in his A Hymn to the Funeral Sermon (1703) by pointing out that if people could obtain divine mercy by a last minute repentance there was no incentive for them to live an honest life:

> Where's then the meer necessity to Pray?
> Or where's the great Reward of Honesty?
> Ne'er think on't more, as well ye may,
> E'en lay aside Morality,
> And go to Heaven the Shortest Way;
> Stick at no Crimes, nor fear no Shame:
> Merrit ye Gallows, and the [then] Merrit Fame;
> And then if you'll be Sainted, I dare say for't,
> L----n will do it, if you'll pay for't;" [25]

Lorrain replied immediately in Remarks On the Author of the Hymn to the Pillory. With an Answer to the Hymn to the Funeral Sermon (1703) by pointing out that he had not called Cook a saint, but had only referred to him as a penitent. [26]

Interestingly Defoe did not deny the possibility of divine mercy for condemned persons, rather his view of its impossibility was personal to Lorrain. In The History of the Press Yard (1717), which was probably based on Defoe's experiences in Newgate in 1703, Defoe lamented the lack of "an able Spiritual Guide" to persuade prisoners to take

"Shame to themselves by an ample Confession of their Crimes". [27] Lorrain, he claimed, had no effect on the prisoners for, although he "read Prayers tolerably well, and gave such Exhortations as might have been of Benefit", they "had conceived such an indifferent Opinion of him from common Report" that all he said went "in at one Ear and out at the other." [28] This led Defoe to doubt whether the expressions of penitence reported by Lorrain were genuine:

> Those that Cant and Sigh at the Gallows, and expire with Commendatory Annotations from the most Judicious and very grave ordinary Mr. Paul, would return again to their old Haunts, were they suffer'd to out-live their solemn Protestations, which nothing but the Apprehensions of a scurvy Halter extorts from them. [29]

On the other hand, Lorrain, although sure of his own ability, was not himself always convinced by displays of penitence. In 1709, for instance, he remarked of George Skelthorpe that, "He desired both my Instructions and Prayers, which he had, and I hope were not bestow'd in vain. But God knows the Heart of Man." [30] Similarly, the pirate Captain Alexander Dalzell, hanged at Wapping in 1715, begged Lorrain's forgiveness at the gallows and prayed, but Lorrain remarked, "whether that Repentance was sincere, and not too late, is much to be doubted." [31]

However, Defoe's attacks on Lorrain went much deeper than accusations of incompetence, he claimed in A Hymn to the Funeral Sermon that Cook or his relatives had bribed Lorrain:

How Pulpit-Praises may be had

According as the Man of God is paid: [32]

Later he claimed that Lorrain only published the Accounts for "the Lucre that is obtain'd for so doing". [33] But for Defoe the corruption was not merely financial, for in publishing confessions Lorrain violated his obligations of secrecy.

Finally, in The History of the Press Yard Defoe, adopting the persona of a prisoner, wrote:

> Mr. Ordinary has been very pressing with me to confess more Sins than I Have been Guilty of, but the badness of my Memory is a great bar to such a Compliance. [34]

Elsewhere Defoe concluded that Lorrain was "the Object of almost every Body's Scorn; and I could never hear of above two People who spoke favourably of him, and those were the Printer and the Publisher of his Dying Speech Papers". [35]

There are four reasons for concluding that Defoe's attack originated in personal dislike. The first is the persistence of the criticism over two decades; indeed my addition of two previously unattributed works to the Defoe canon [36] shows that his attacks did not cease with the ironic comment published in Mist's Weekly Journal after Lorrain's death in 1719, as had previously been thought [37], but that they continued into the next decade. Second, his attacks were largely unsubstantiated and drew no action from the City authorities. Third, Defoe did not deny the possibility of a last minute repentance; he only thought it impossible if Lorrain were the Ordinary. Finally, there was Lorrain's speed of response to A Hymn to the Funeral Sermon,

and the personal nature of his attack on Defoe: for instance, he tells Defoe that in view of his past life he ought to take care of his own soul. [38] It seems likely that an animosity developed whilst Defoe was in Newgate in 1703 for writing The Shortest Way with Dissenters: his criticism of Lorrain began immediately after his release, and he had made no previous attack even though Lorrain's works had included references to repentant criminals before the Cook sermon, most notably Harman Stradtman's Last Legacy to the World (1701).

Others took up the cudgels against Lorrain. In Memoirs Of the Right Villainous John Hall (1714), for instance, it is said that, "His Congregation may properly be call'd Saints, because they all die, and are of the order of the Tripple-Tree", while Lord Bolingbrooke, in a letter to Swift written as late as 1725, referred ironically to "that great Historiographer Paul Lorraine". [39] Lorrain certainly felt the need to defend himself on many occasions in his Account against attacks which carried echoes of the allegations against Allen. In May 1705 he denied having administered the sacrament to a condemned person for "Temporal Ends", or having received any money "for his Representing the Case of Malefactors, better or worse, than it really appear'd to his Judgment; nor was he ever Brib'd for obtaining, or endeavouring to obtain Reprieves for any." [40] Not surprisingly Lorrain sometimes displayed a degree of

paranoia: "I have Cause enough to suspect there are some Ill-will'd People in the World (Enemies to the Government) that do all they can to cross my good Purposes in the discharge of this my Office". [41]

The attacks were not confined to Lorrain, but were continued against later Ordinaries. The Account was said to be an "incoherent Magazine of Trash and Scandal", [42] which contained "nothing but absurdity and contradiction", [43] was based on forged dying speeches, [44] and appealed to the worst sort of people by giving them an example to emulate rather than to despise. [45] The Ordinary was "the great B----p of the Cells" and "the careful Retailer of Dying Speeches", [46] "a pragmatical Coxcomb, that could not write common English gramatically". [47] The Account was written in "that incomprehensible Stile, by which the Chaplain so wisely distinguishes himself from all other writers". [48]

Other than personal attacks there were two sources of criticism. One of these was religious in nature. This was based on the view that the extortion and publication of confessions contravened "the usage of the Primitive Church". [49] In 1752 Robert Fowler, a member of the Congregational Church, published a pamphlet based on a letter he had written to Matthew Henderson, who had been in the condemned cell in Newgate. Fowler told him that to obtain divine mercy he only needed to believe that Christ had died to redeem the sins of the world. He rejected the approach of the Ordinary with its

reliance on the confession since this "set the young man to repentance (according to the popish, or heathenish notion) before faith in the blood of Christ." [50] The Methodists also launched a vigorous campaign amongst prisoners and this led them to attack prison chaplains. Matthew Lee, who was hanged in 1752 for robbery, had been converted whilst in Bridewell awaiting trial. In his account, which the Methodists were still reprinting more than 20 years later, Lee is very critical of the Ordinary of Newgate:

> I see no regard paid to the immortal Souls of any that are confin'd here. They are running head-long to Hell, and no one seeks to stop them. None prays with; none admonishes, reproves, exhorts them; but he that is filthy, is left to be filthy still. [51]

The other source of criticism came from within the book trade itself and was, I will argue, a reaction to the dominant position enjoyed by the Ordinary of Newgate's Account in the biographical literature of crime up until the middle of the eighteenth-century. This dominance was based on the unique access which the Ordinary had to the condemned and the nature of the narrative of biographical literature at the time.

That it was the official position of the author which was the commercially important feature of the Accounts can be seen from the fact that the actual name of the person who served as the Ordinary does not appear until the end of the text. The Ordinaries constantly defined the proper subject

matter for biographical literature in terms which emphasised their own role: so Lorrain comments that, "... I always write truly what I certainly know of them, and may properly be call'd, Their Confessions to me, and my Admonitions to them". [52] Indeed it was upon this definition that the uniqueness of the Account was established by Samuel Smith and George Croom when they first produced the Account as a serial publication in May 1684. They justified their entry into the field by claiming that they wished to correct false impressions about the condemned's state of penitence produced by existing publications [53]; they thereby made direct and constant access to the condemned by a clergyman-author crucial to such a biography. So, although this aspect was marginalised by Linebaugh's concentration on sociological data, the construction of the narrative around the theme of the battle for the soul of the condemned was central to the Accounts.

The commercial success and dominance within the literature of crime which the Accounts enjoyed is evident from the way in which vitriolic attacks were mounted by rivals within the book trade in an effort to undermine the credibility of the Accounts in a way which would have been unnecessary if they had been unimportant. In A Compleat and True Account Of... James Carrick (1722), published by Peele, there is a strong denial of the validity of the Ordinary's Account: Carrick, who allegedly wrote the work, claims that

since he is Roman Catholic he confessed only to his priest and not to the Ordinary with whom he "always industriously avoided entring upon Particulars, and had no other Discourse with him than about Generals; so that I must request Readers not to give credit to what he shall publish concerning me, if it shall be in contradiction to what I have here related." [54] In The Real, Genuine, and Authentic Narrative of the Proceedings of Captain James Lowrey (1752) [55] the bookseller Thomas Harris claimed that he had been cheated by the prison authorities in Newgate. He alleged that he had visited Lowrey who had asked him to return on the morning of the hanging, but Harris had been prevented by the keepers, whom he presumed had been bribed. But at the heart of these complaints lay his attack on the publication by the Ordinary, John Taylor, The Only Genuine and Authentic Narrative of the Proceedings Of the Late Captain James Lowrey (1752). [56] He claimed that Taylor's account was inaccurate, whereas his version was based on papers he had discovered in the cell after Lowrey had been hanged, although he fails to reveal the details of this interesting discovery. For his part Taylor assured readers that he had received his version from Lowrey himself so that "it is highly improbable that any other Accounts should be true and genuine". Moreover he claimed that Lowrey regarded Harris as a villain and had refused to see him. [57] Fuller, the bookseller, devoted quite a bit of

space in The Life, Travels, Exploits, Frauds and Robberies of Charles Speckman (1763) to an attack on the version of Speckman's life in the Account by the Ordinary Stephen Roe. He alleged that Speckman decided to give his account to Fuller because Roe had refused to administer the sacrament and had offered no money for the confession. [58]

The best illustration of the dominance of the publications by prison chaplain is related to a work not by one of the Ordinaries of Newgate. Rev. Leonard Howard (1699?-1767) was chaplain to Augusta, princess dowager of Wales, and rector of St. George the Martyr, Southwark. In January 1751 he was appointed by the General Quarter Sessions for Surrey to visit the condemned at Southwark prison, and in the same year he published his account of the behaviour of Jones and Welch and the others who were hanged with them at Kennington Common. The case of Jones and Welch, who were convicted of murder, was particularly sensational because a man called Richard Coleman had been wrongly hanged for the same crime two years before. [59] In view of this it is not surprising to find that a rival pamphlet appeared under the imprint of an impressive conger of London booksellers. The author of this rival publication engaged in a long attack on Howard and his account which certainly expresses the bitterness felt by the author at Howard's alleged conduct, but which is centrally concerned with the question of access to the condemned. First there is the complaint that the author was

denied access and then there is the less than convincing attempt to dismiss this denial as unimportant by claiming that it made no difference in the end. The following extract also provides interesting insights into the book trade of the period:

> ... I apply'd to Howard for the account of the unhappy men who are the subject of it; and was after many times attending admitted to see him, when he told me they had not then made the least confession, but if I would come again in three or four days, he would then give me an Answer; accordingly on Tuesday the 3d. instant, I waited on him, at which time he told me the men were very full in confession, that he believed it would come to too much Money for me to purchase, but withal said, if I give as much as another I should have it; I told him I would, and he bid come again on Thursday; I attended on Thursday the 5th, and received the following Answer; That as then he had not set Pen to paper about them, that only one had made a Confession, and that but very trifling; that he was apply'd to by Mr. Jones in behalf of Mr. Nicholson, (but he was the last person above any body, that he should chuse to have any concern with) and that those who give the most Money for it should have it. I told him I would give him as much as any other, and am very positive I bid him a Guinea more than he has taken; he would not come to any conclusion, and bid me attend him at night; but that afternoon he gave his very trifling account to Mr. Nicholson.
>
> Mr. Howard thought by shuffling with me from time to time, I should have neglected at other opportunities, in expectation of having his Account. But I assure my readers, that I lost no opportunity of getting at every Thing that was in the least conducive to make this Narrative true and genuine, and having compiled from the Mouth of Nicholls [an accomplice] the following account, I got a Friend to shew it to Jones and Welch; when after having maturely considered of the several circumstances it contain'd, they aver'd it was a matter of fact, and a far better than they had given Mr. Howard.
>
> I ask pardon for Transgressing so long on the Patience of my Readers, but as my intent is only to

> clear myself from any Aspersions that may be spread, I most humbly beg they will well peruse this, and then, impartially judge between publishing it; I shall not say any thing relating to its own Merit (when compar'd with the other) being sufficient to prove which are the best." [60]

The dominance of the publications of prison chaplains can also be seen from the way in which a considerable industry in faking the Accounts grew up. The following notice appeared in the OBSP for October 1703:

> Whereas some Persons have lately assumed the liberty of putting out several sham-papers, pretending to give an Account of the Dying Criminals; wherein they are so far defective and unjust, as sometimes to mistake even the Name and Crimes of these Persons. Therefore to prevent the World's being any longer impos'd upon in this manner: These are to give notice, That the only true Account of the Dying Malefactors, is that which comes out the next Day after their Execution, about 11 a Clock, attested by the Ordinary, and printed for Elizabeth Mallet... The Title of which Account, (that it may be distinguished from the false one) constantly begins thus, The Ordinary of Newgate his Account of the Behaviour, &c. [61]

In spite of this publications which purported to be by the Ordinary continued to appear, and have continued to deceive bibliographers: the fakes supposedly by Lorrain are still credited to him in the latest British Library catalogue. In 1704 a fake, signed "P.L." and under the imprint of "Eliz. Malle" - Elizabeth Mallet was at that time Lorrain's publisher - appeared with the title, A True Account of the Behaviour, Confession and last Dying Speeches of the Condemn'd Criminals, that were Executed at Tyburn, on Wednesday the 10th of May, 1704. This led to a further

warning by Lorrain in his Account for 21 June, 1704 against "Sham-Papers". Readers were told that the true Account "is that which comes out the next Day after their Execution, about 8 in the Morning". However, although this notice was reprinted in several later Accounts [62] the fakes continued to appear. In 1705 there appeared a chapbook signed "Loran" and called, The Lawyer's Doom, being an Account of the Birth, Parentage, Education, Life and Conversation of Mr. Edward Jeffries. Then in 1707 there appeared The Ordinary's Account of the Life, Birth, Death and Parentage Of John Hall, Richard Low, Stephen Bunch, William Davis, and Joseph Montisane, Five notorious Thieves and Housebreakers: William Kite, for ravishing Elizabeth Berry, a Girl but of seven Years of Age; here the author was noted as "Lorrane". A similar title was used for a publication about Thomas Ellis and Mary Goddard which appeared in 1708, and in that same year The Whole Life and Conversation, Birth, Parentage and Education of Deborah Churchill and The Whole Life and Conversation, Birth and Education of Mr. William Gregg were published, both ascribed to "Paul Lorain". These last two publications led Lorrain to issue a denial in the Account of 27 October, 1708 that he had any involvement in either of them; he called them "a great cheat and Imposition upon the World". Still the fakes continued. In 1712 there appeared The Whole Life and Conversation, Birth, Parentage, and Educations, Of Thomas Browning, and Jeremiah Clark signed "Paul Larrain, Ordinaray

of Newgate" (sic.).

Although Lorrain seems to have suffered the most from fakes, he was not the only Ordinary affected. So in the preface to a condemned sermon preached in 1732 James Guthrie complained of the "many fictious Accounts, and pretended Sermons, in the Name of the Ordinary of Newgate". [63] Then in 1739 John Applebee, who was at that time the publisher of Guthrie's Account, complained in the London Daily Post of "The Multitude of spurious Accounts, which are hawk'd about on Execution-Days". [64]

The Ordinaries in spite of their dominance of the biographical literature did not have it all their own way. The pressure from rival and from fake pamphlets provides the historian with evidence of the importance of their position, but these other publications showed that they could not relax for the market was a short term one in which even the Ordinary's Account might lose sales if it were late in being published. Paul Lorrain was in such a rush to write an account of Captain Kidd's hanging in 1701 that he felt obliged to cover possible mistakes by adding at the end that it was the best he could do "in this hurry". [65] The Ordinary's Account was apparently published within a day or two of the hanging to which it referred [66], and this situation probably led to Ordinaries writing much, if not most, of the Account before the hanging day. As early as 1689

we find Rev. Samuel Smith writing in his Account of one person that, "I shall say the less of him, because he hath promised to give me the Narrative of his Life at the publick place of suffering." [67]

The attacks on the publications of the prison chaplains shows that their links with the condemned were regarded as commercially important by the book trade, and it is clear that the Ordinaries of Newgate in particular did dominate the biographical literature of crime up until the middle of the eighteenth-century. Readers expected the literature to be based on such contact and it was assumed that the prison chaplains' work fulfilled this criterion. So rival publications often felt obliged to direct criticism at that work and the authors in order to establish a credible platform for their own versions. The alternatives were either to publish a biography before the hanging and, therefore, before the appearance of the prison chaplain's account, [68] or to publish a biography and then pretend that it had been written by the prison chaplain.

The purpose in undertaking this analysis of both the criticism of the prison chaplains and their publications, and the fake Accounts has been to reveal the motives which underpinned those attacks and to show thereby that, although the critics cannot be entirely ignored, their comments should be treated with care rather than, as has previously tended to

be the case, accepted without question as objective and authoritative. The criticisms came from three sources. Two were founded on considerations which reveal that the critics were less than objective: one emerged from personal animosity and the other from rivalry within the book trade. The scandal surrounding Allen coupled with the persistence of the attacks of Defoe and others provided a climate which rivals in the book trade were able to exploit. The generality of most of the attacks drew attention away from the commercial motivation behind a major part of them. The third source was the religious attack, but this did not concern itself so much with the accuracy or authenticity of the confessions, rather it amounted to an attack either on the doctrine of requiring a confession or on the Church of England in general. It should be added that there is no evidence that the City authorities, who had acted so quickly against Allen, were moved to take seriously any of the criticisms made of the other Ordinaries of Newgate.

CHAPTER 5

THE POPULAR LITERATURE OF CRIME:

A CASE STUDY OF

The History Of the Remarkable Life of John Sheppard

(1724)

An *Account* I behind me must leave
Of my *Birth*, *Education* and *Parents*.
(Anon., "John's Sheppard's last Epistle",
The Daily Journal, 1193, 16 Nov. 1724)

Men would never give themselves up to a continued Course of Robbery, if it were not for the indulging themselves in some Vice, to which they have by Nature the strongest Temptation...
(Philo-Patria, *A Letter to Henry Fielding, Esq*, London, [1751], p.6)

Subordination seems to be at a *Crisis*
([D.Defoe], *The Great Law of Subordination consider'd*, London 1724, p.288)

1. John Sheppard "the famous gaolbreaker"

In this chapter I will use Defoe's biographies of John Sheppard, The History Of the Remarkable Life of John Sheppard (1724) and A Narrative Of all the Robberies, Escapes, &c. of John Sheppard (1724), [1] in particular the former, to illustrate how such literature can be used in historical research. The biographical literature of crime was written with a readership in mind and understood in this way it can provide us with some grasp of the "structure of feeling" of the period, that is the ways of living and thinking which the biographer and his or her readers shared. [2] Defoe's work is an obvious choice for such a project since he was not only a popular journalist and writer of criminal biographies, he also left behind a wealth of other writings on social, economic and political affairs. During the second half of his life Defoe relied to a large extent on the income derived from his writing. This meant that he had to be topical and to appeal to the reading public, and his talent for causing controversy and his popularity showed that he managed both. He was always in contact with the issues of the day and the concerns of his readers, yet he was never willing to be a straightforward apologist for their actions, so, as Kopf has recently put it, "Much of Defoe's writing is hasty and occasionally careless, but it is never stupid or uninformed." [3]

Although the lack of materials means that the Defoe

pamphlets are an important source for Sheppard's life, they cannot be used uncritically. If we are to be able to understand and to use the texts it is important to recognise that they were commercial products which can tell us as much about their readers as about their writer. If we try to disconnect the biographies from their period and their contemporary readership we will misunderstand them.

John Sheppard was born in Spitalfields in March 1702, the third child of Mary and Thomas Sheppard. John's father died when he was only five or six years old and his mother brought up both him and her only other surviving child, Thomas, who was five years older than his brother and who was eventually transported to America in 1724, shortly before John was hanged. The advertisement issued in September 1724 after John's first escape from the condemned cell in Newgate described him as being "about 23 Years of Age, about 5 Foot 4 Inches high, very slender, of a pale Complection, has lately been very sick, did wear a light Bob Wigg, light colour'd Coat and white Wastcoat, has an Impediment in his Speech, and is a Carpenter by Trade." [4] As a pauper he could only expect to be bound to a poor trade, and when he was 15 he became apprentice to a carpenter named Wood who lived in Wych Street, a busy thoroughfare at the end of Drury Lane in London which disappeared under the Aldwych development in the nineteenth century. According to his contemporary biographers

Sheppard only turned to housebreaking in the early part of 1723 so his career in crime was brief for he was hanged at Tyburn on 16th November, 1724. However, it was not for his fairly petty crimes that he became famous, but for his skill as a prisonbreaker. According to one newspaper after his recapture following his second and final escape from the condemned cell in Newgate he became for visitors and natives alike one of the "great Curiosities" of London, ranking third behind "two young Lyons stuff'd at the Tower [and] the Ostrich on Ludgate-Hill". [5] He was idolised by the people of London, visited in his cell by the gentry, and sketched by Sir James Thornhill for a painting; even George II took an interest in him. [6] One newspaper remarked that,

> Nothing... contributes so much to the entertainment of the town at present as the adventures of the famous housebreaker and gaolbreaker John Sheppard. 'Tis thought the Keepers of Newgate have got 200l. already by the crowds of people who flock daily to Sheppard. [7]

Sheppard featured in newspapers [8], biographies [9], plays, ballads, ballad operas [10], satires [11] and prints [12]; all of which combined to ensure that he became one of the most famous criminals of the first half of the eighteenth century. The editor of the Select Trials (1742) remarked,

> I don't remember any Felon in this Kingdom, whose Adventures have made so much Noise as Sheppard's. He was for a considerable Time the common Subject of Conversation. [13]

Indeed, his fame stretched beyond that time: Francis Place

remembered that during his youth at the end of the eighteenth century Sheppard was still "spoken of and sung with applause" [14], and William Ainsworth's novel Jack Sheppard (1839) [15] and the plays and books it spawned ensured that at least his name continued to be well known right into the twentieth century.

The enterprising bookseller John Applebee recognised the value of John Sheppard's biography quite early on. Following Sheppard's recapture after his first escape from the condemned cell in Newgate, Applebee advertised in The Daily Journal of 16th September 1724 the publication of a confession made by Sheppard to Rev. Wagstaff, the deputy for the Ordinary of Newgate who, one newspaper confirmed, had "frequent Conferences" with Sheppard. Sheppard's subsequent escape meant that this pamphlet never appeared, although a note on him was included in an Account. After he was eventually retaken and hanged in November an Account, which does not seem to have survived, did appear. [16] In the meantime Sheppard's fame had increased and the astute Applebee published The History of the Remarkable Life of John Sheppard in October, followed on the day Sheppard was hanged by A Narrative Of all the Robberies, Escapes, &c. of John Sheppard (1724). Both biographies were by Daniel Defoe, a contributor to Applebee's Original Weekly Journal.

In view of the attention which has been lavished on Defoe's novels especially since the mid-1950s and the

prominence of crime and criminals in them it is curious that no study has been made of his extensive non-fictional literature of crime. [17] As a result of this neglect the pamphlets on Sheppard have been left to the twentieth-century writers Bleackley and Hibbert who have used them as the bases for modern biographies. Horace Bleackley's book in the Notable British Trials Series The Trial of Jack Sheppard (1933) is useful because it contains a reprint of the three major contemporary pamphlets on Sheppard's life, including the two by Defoe. However, the biography which Bleackley himself contributes is largely an uncritical rewriting of those pamphlets supplemented by Bleackley's own moralising imagination. The most recent biography The Road to Tyburn (1957) by Christopher Hibbert uses the same materials as Bleackley and shows a similar lack of critical ability. He does add an interesting mish-mash of anecdotes about crime and punishment in the eighteenth-century in an attempt to provide some sort of context, but he fails to connect this to Sheppard's life, and as a result the whole emerges as disjointed and confusing.

Implicit in the work of Bleackley and Hibbert is the belief that Defoe was, in the words of his bibliographer Professor Moore, "the outstanding expert" on Sheppard and that, therefore, his biographies are totally reliable [18]. One is tempted to point out that, aside from Sheppard

himself, Elizabeth Lyon, the woman with whom he supposedly lived, might have had a better claim to this title. Indeed, it is an illustration of the uncritical way in which Defoe's work has been treated that his apparent failure to regard her as even a possible source of information (she was in Poultry Compter at the time Defoe wrote the biographies [19]) has never been considered as significant. Of course, it must be recognised that it was Defoe who left behind the largest source of information on Sheppard, and presumably because of this general shortage of material Bleackley and Hibbert allowed themselves to be seduced into the assumption that Defoe approached his subject in the same objective way as a twentieth-century biographer is often believed to do. Even if this were a true representation of the modern biographer's work, it does not describe what Defoe was doing. The History and A Narrative were first and foremost commercial products [20] so that Defoe adopted an interpretation of Sheppard's life which would have appealed to those who were the likely purchasers, and they came mainly from the middling classes, as indeed did Defoe and Applebee. This raises questions as to the reliability of Defoe's pamphlets as a source for a life of Sheppard. Defoe did not write, nor did wish to write, in a moral, social, political or economic vacuum. The way to use his work is to regard Defoe as a journalist interpreting, criticising and reacting to the times in which he lived. In this chapter I do not seek to write Sheppard's life, instead

I look at Defoe's account of Sheppard's life.

2. Sheppard's Early Life and his Meeting with Elizabeth Lyon

At one level The History is simply the life of a burglar, highway robber and prisonbreaker called John Sheppard, at another level it is the story of the transformation of good into evil, of "a promising young man" (p. 3) into "an old Man in Sin" (p. 1), [1] and it is this which provides the key to understanding the structure of the narrative and Defoe's use of language. The terms of this metamorphosis are defined at the outset:

> the Lad proved an early profficient, had a ready and ingenious Hand, and soon became Master of his Business, and gave entire Satisfaction to his Masters Customers, and had the Character of a very sober and orderly Boy. (p. 2)

Since the reader was well aware that this "very sober and orderly Boy" became a felon the question in her or his mind right from the start was, "what happened to change Sheppard?" Defoe had, then, immediately set out the central issue which structures the rest of the narrative. He provides the answer in the next sentence:

> But alas unhappy Youth! before he compleated six Years of his Apprenticeship, he commenced a fatal Acquaintance with one Elizabeth Lyon, otherwise call'd, Edgworth Bess, from a Town of that Name in Middlesex where she was Born, the reputed Wife of a Foot-Soldier, and who lived a wicked and debauch'd life... Now was laid the Foundation of his Ruin; (p. 2)

This meeting is the key to the metamorphosis which Sheppard

undergoes. Elizabeth Lyon is "a main loadstone in attracting of him up to the fatal Tree." (p. 3) So Defoe has made Sheppard a victim and Lyon the main offender. He is powerless against her, since although "for several Years of his Apprenticeship he had an utter abhorrence to Women of the Town, and us'd to pelt them with Dirt when they have fell in his way", after meeting Lyon "he had a more favourable Opinion, and even Conversation with them, till he Contracted an ill Distemper" (p.32). This distemper is moral rather than physical. Sheppard "became Enamour'd of her, and they must Cohabit together as Man and Wife." (p. 2) It is then, with their relationship sealed, that Sheppard "grows weary of the Yoke of Servitude" (p. 2) and turns from being a hardworking and obedient apprentice. Significantly, it is not work that he rejects, but subordination to Owen Wood, his master - although eventually this results in the rejection of "legitimate" work, that is work within an employment relationship.

Sheppard breaks only gradually with Wood: he first "began to dispute with his Master" about methods of work (pp. 2-3); later he assaults both Mr. and Mrs. Wood, and then comes "a neglect of Duty, both to God and his Master, lying out of Nights, perpetual Jarrings, and Animosities" (p. 3). He perverts work by using the access it gives him to the house of Mr. Bains, a piece-broker, to enable him to steal a

roll of fustian and later to take money and goods (p. 4). Eventually, the apprentice-master relationship not only breaks down it is actually inverted so that Wood "began to be in great Fear and Terror for himself" (p. 3). Inevitably, Sheppard leaves, "ten Months before the expiration of his Apprenticeship" (p. 5), and, although he continues to work as a carpenter for a while, he soon becomes a full-time criminal.

Throughout Defoe reminds the reader that all these events are only "the Consequences of his intimacy with this she Lyon" (p. 3). Unlike Sheppard, Lyon is presented as almost totally devoid of any traces of human nature. From her first appearance she is the personification of evil rather than a fully rounded individual with both good and bad characteristics. Quite simple she is a manifestation of the Devil. In The History of the Devil (1726) Defoe remarked that, "Every devil has not a cloven foot", so that people who believed that the devil could be recognised by physical appearances were badly mistaken and were greatly at risk. He also argued that the Devil first entered the human race through woman, Eve, and that he left it to her to persuade man, Adam, to join in breaking God's command:

> here, to be sure, began the Devil's new kingdom; as he had now seduced the first creatures, he was pretty sure of success upon all the race, and therefore prepared to attack them also, as soon as they came on; [2]

The story becomes a materialist version of the Adam and Eve

tale: Lyon/woman embodies the evil which tempts Sheppard/man away from the "good and careful Patronage" of the master/God. If, as in Sheppard's story, man is allowed to succumb the consequences are both material and spiritual.

3. The Transmogrification of John Sheppard

Although I have so far described the change in Sheppard after he met Lyon in terms of a metamorphosis from good to evil, initially The History seems to present it as a transmogrification since he apparently acquires magical powers. The first manifestation of these powers occurs before Sheppard leaves his apprenticeship, but after his meeting with Lyon, that is, at a time when Wood's dominance has all but collapsed. The Woods had locked their doors in order to keep Sheppard out, but the next morning they "found him very quiet in his Bed... such was the power of his early Magick." (p. 4)

This magical element gradually becomes stronger. His four escapes are described in terms which makes each more remarkable and mysterious than the previous one. He first escapes from St. Giles's Roundhouse "by only the help of a Razor, and the Stretcher of a Chair" together with a sheet and a blanket used as a rope to lower himself to the ground (p. 7). He is rearrested and sent with Lyon to New Prison, "a strong well guarded Prison, himself loaded with a pair of double Links and Basils of about fourteen pounds weight" (p.

8). His escape from there is described as "a work of great Skill and Labour" because although he relies on tools smuggled in by friends he uses them "with unheard of Diligence and Dexterity" (p. 9). Having broken out of the chains and the cell, he carries Lyon over a twenty-two feet high wall (pp. 9-10). The escape causes astonishment:

> It has been allow'd by all the Jayl Keepers in London, that one so Miraculous was never perform'd before in England;... the broken Chains and Bars are kept at New Prison to Testifie, and preserve the Memory of this extraordinary Villain. (p. 10)

Eventually he is rearrested and placed in Newgate for the first time. There he is "Chain'd down to the Floor with double Basils about his Feet" (p. 26). Careful precautions are also taken to prevent contact with visitors, yet during a routine search tools are found on him (p. 30). He is later handcuffed and chained, but when William Austin, one of the assistant keepers, goes to the cell on the morning of 15 October 1724, Sheppard has vanished. Austin, "ready to sink, came trembling down again, and was scarce able to Acquaint the people in the Lodge with what had happen'd." (pp. 41-2) The other keepers rush up to the cell and there "stood like Men depriv'd of their Senses" (p. 42). They find "the strong Locks, Screws and Bolts broken in pieces... Six great Doors (one whereof having not been open'd for seven years past) were forc'd" (p. 42). What makes the escape "the more astonishing" (p. 45) is that the heavy fetters in which

Sheppard had been left the night before had vanished. He has worked in the dark, and "he has actually done with his own Hands in a few Hours, what several of the most skilful Artists allow, could not have been acted by a number of Persons furnish'd with proper implements, and all other Advantages in a full Day." (p. 46) Once more his skill is beyond human understanding; people could only gasp: "Many of the Methods by which this miraculous Escape was effected remain as yet a Secret..." (p. 44) The conclusion to be drawn seems clear to the astonished keepers and spectators, "the Devil came in Person and assisted him." (pp. 45-6) Defoe seems to agree:

> The Officers have done their Duty, they are but Men, and have had to deal with a Creature something more than Man, a Protoeus, Supernatural, Words cannot describe him, his Actions and Workmanship which are too visible, but testifie him. (p. 47)

Defoe calls Sheppard a "Phylosopher" (p. 9), using the word in its contemporary sense of someone skilled in both the natural and occult sciences.

This magical image is reinforced in other ways. Sheppard is said to commit "Robberies every where at Discretion" (p. 6). Locking him up in the insubstantial St. Giles's Roundhouse is an "Affront put upon his Skill and Capacity" (p. &). When he is captured after his first escape from Newgate he is desribed as being "now a second time in the hands of Justice; but how long he intended to keep in them,

the Reader will soon be able to Judge." (p. 8)

It is not merely the gaolers of London and the visitors to Newgate who are convinced of the magical nature of these powers, Sheppard himself acquires an arrogance and a lack of caution born of the same conviction. After his first escape from Newgate he is cornered and recaptured. Initially he reacts with fear and surprise, but quickly he "recover'd his Surprize, grew calm and easy, and desir'd them to give him Brandy, they did, and were all good Friends, and Company together." (p. 26) He is returned to Newgate and there "he always Chearful and Pleasant to a Degree, as turning almost every thing as was said into a Jest and Banter." (p. 31) His confidence in his own ability to escape leads him to taunt the figures of authority who surround him. The advice of the various clergymen, who urge him to relinquish all thoughts of escape and to prepare himself for death, is ignored. Instead:

> When ask'd if he had not put off all Thoughts of an Escape and Entertain'd none but those of Death, would Answer by way of Question, not directly, whether they thought it possible, or probable for him to Effect his Release, when Manacled in the manner he was. (p.50)

In chapel, "he would seemingly make his Responses with devotion, but would either Laugh, or force Expressions!" (p. 50-1) He expresses, "Contempt, either of the Preacher, or of his Discourse." (p. 51)

He taunts the gaolers not only by his escapes, but also in other ways. When he is returned to Newgate after his first escape from there in August the gaolers, as has been

mentioned, chained him to the floor and regularly searched him. On one occasion they find "to their great Surprize" (p. 37) that he has loosened his chains in preparation for an escape. Since no tools can be found on him they are at a loss to understand how he has achieved this feat. Sheppard, rather than being upset at being discovered, obliges them with a demonstration of his prowess:

> He took up the Nail and unlock'd the Padlock before their Faces; they were struck with the greatest Amazement, as having never heard, or beheld the like before. (p. 37)

Sheppard is like a performing magician, confident that no matter what the keepers do they cannot prevent him from escaping.

More generally, the apparent impunity with which Sheppard commits his crimes and escapes from prison is a taunt to the legislators and to the institutions of the criminal justice system, for, as Defoe points out in the Dedication of The History which was written just after Sheppard had escaped from the condemned cell in Newgate for the second time, "here's a Criminal bids Defiance to your Laws, and Justice who declar'd and has manifested that the Bars are not made that can either keep him OUT, or keep him IN, and accordingly hath a second time fled from the very BOSOM OF DEATH."

The possession of supernatural powers strengthens the

image of the inversion of the power relations. As each escape increases the belief grows that his powers cannot be restrained so he becomes a source of increasing terror amongst the middle classes who had formerly employed him, as can be seen by the precautions they take after his first escape from Newgate:

> The People about the Strand, Witch-street and Drury-Lane, whom he had Robb'd, and who had prosecuted him were under great Apprehensions and Terror, and in particular Mr. Kneebone, on whom he vow'd a bloody Revenge; because he refus'd to sign a Petition in his Behalf to the Recorder of London. (p. 23)

Kneebone, who had prosecuted him, had "to keep arm'd People up in his House every Night till he was Re-taken, and had the same fortify'd in the strongest manner." (pp. 23-4) Others in the area are also "put to great Expence and Trouble to Guard themselves against this dreadful Villain." (p. 24)

Sheppard is feared by those who are meant to have authority over him; they cannot restrain him and Sheppard taunts them with their impotence. This reaches its peak when, while the masters quake with fear behind their fortifications, Sheppard "went to the Cock and Pye Ale-House in Drury-Lane, sent for a Barber his Acquaintance, drank Brandy and eat Oysters in the view of several People... the whole Neighbourhood being alarm'd, yet none durst attempt him" (p. 22). He steals a suit from Mr. Barton, "a Master Taylor, a Man of Worth and Reputation" (p. 10), and has it "fitted for his own Size and Wear, as designed to Appear and make a

Figure among the Beau Monde" (p. 11). This act of fitting the suit of clothes seems at first to symbolise the way in which Sheppard has assumed the role of the master, but, in fact, it reveals the shallowness of his power.

4. The Sheep and the Lyon

As has been seen, Sheppard became famous because of his escapes and with each escape so his supernatural qualities came to dominate the Press reports. An examination of the way in which the Press built up this image assists in an understanding of The History because, in part, Defoe's biography was a response to these reports. As early as 4th September, 1724, whilst Sheppard was still free following his first escape from Newgate on 31st August, the Daily Journal published a "letter" from Sheppard to Jack Ketch in which he is made to say that, "Bars and Chains are but trifling Obstacles in the way of your Friend and Servant". [1] His fame was confirmed on his recapture by the crowds that jammed into Newgate chapel to see him, [2] and the newspapers responded by reporting his attempts to escape and the discovery of tools in his cell. [3] When he did escape a second time from Newgate the Evening Post passed lightly over the details and concentrated on its baffling nature: "This Escape has astonish'd the World, and 'tis demonstrable, that he had not the least Assistance from any Person whatsoever".

[4] From then on he is commonly referred to as "the famous John Sheppard" by the newspapers [5]; he is linked to George II, who obtains his picture and from whom Sheppard's mother is reported to have sought a pardon [6]; and letters allegedly from Sheppard and poems about him are published. [7] When he is recaptured the Daily Post concludes its report with Sheppard defying the gaolers to hold him "with all their Irons, Art and Skill". The complex precautions taken to guard him are carefully reported: the weight of the chains ("300 Pounds Weight of Irons") is recorded. But at the same time readers are reminded that mere locks and chains are inadequate for such a person and so "two Persons are appointed to watch him Night and Day". [9] Furthermore, the constant likelihood of his escaping is kept alive by false reports that he has escaped. [10] When he appears before the Court of King's Bench to have his death sentence confirmed, he is reported as having told the judges, "that if they would let his Handcuffs be put on, he by his Art, would take them off before their Faces." [11] It was within this sort of discourse that Defoe wrote his biographies of Sheppard.

In The History Defoe notes how the working people of London were gripped by the story: in The History he writes that after Sheppard's recapture following his first escape from Newgate in August 1724,

> ...it was thought all the common People would have gone Mad about him; there being not a Porter to be had for

> Love nor Money; nor getting into an Ale-house, for Butchers, Shoemakers and Barbers, all engag'd in Controversies and Wagers about Sheppard: Newgate Night and Day surrounded with the Curious from St. Giles's and Rag-fair, and Tyburn Road daily lin'd with Women and Children, and the Gallows as carefully watch'd by Night, lest he should be hang'd Incog. For a Report of that nature, obtain'd much upon the Rabble; In short, it was a Week of the greatest Noise and Idleness among Mechanicks that has been known in London... (pp. 27-8) [12]

By his portrayal of Sheppard as someone with supernatural powers Defoe appears to give substance to the frenzy which gripped the working people, but in fact he deliberately builds up this image in order to show how shallow it is and, ultimately, to demolish it. For him Sheppard's power is like the tailor's suit of clothes, merely a facade. He shows that rather than being superhuman Sheppard is sub-human, on the same level as animals which lack the human power of reason. After meeting Lyon Sheppard is no longer a man possessing human qualities, he is merely an animal with brute instincts. It was one of Defoe's favourite authors, Locke, who compared criminals with "a Wolf or a Lyon" and other "Beasts of Prey" which "are not under the ties of the Common Law of Reason, but have no other Rule, but that of Force and Violence". [13] Such power as he has is not magical nor is it founded on an elevated status within the social structure, instead it relies on the shortlived fear which even rational people often have of animals.

Sheppard's animality is shown in various ways. He celebrates robberies and escapes in drink. [14] In his book A

System of Magick: or, A History of the Black Art (1727) Defoe traces the effects of drink back to the antediluvian period and concludes that it lay at the root of human evil. [15] In The History drink is also the symptom of evil and a metaphor for the descent into brutishness. Sheppard also lacks normal human caution. After his escape with Lyon from New Prison "Sheppard not warn'd by this Admonition, returns like a Dog to his Vomit" (p. 10) to his old neighbourhood where recognition and capture are inevitable. Later, following his first escape from Newgate, he is apprehended, and, although as has been seen he quickly recovers his confidence, his instant reaction is that of a cornered and terrified animal:

> He being shock'd with the utmost Fear, told them he submitted, and desir'd they would let him live as long as he could... (pp. 25-6)

What appears as bravery is at the most a fragile animal cunning. [16]

Sheppard's relationships with other people lack the basic human qualities of loyalty and honour. He encourages Anthony Lamb, an apprentice, to break the trust of his master and to assist in the robbery of one his master's tenants (pp. 10-11). Sheppard himself robs the house of Mr. Kneebone, where he had lived before becoming an apprentice; shocked at this Kneebone, when he visited Sheppard in New Prison, asked him, "how he could be so ungrateful to rob him, after he had shown him so much kindness?" (p. 16) Between Sheppard and his

criminal associates there is no loyalty, merely a scramble to turn Crown evidence and so escape the gallows: his friend James Sykes (pp. 7 & 12), his brother Thomas (p. 6) and Elizabeth Lyon (pp. 14 & 29) all betray him, and Sheppard himself betrays a fellow prisoner in Newgate called Fowles who had helped him to escape (pp. 19-20). To press home the point Defoe also uses animal metaphors to describe Sheppard. However, it is worth noting that while Sheppard is "a Dog" (p. 10), "the slippery Ele" (p. 25) and a Lost Sheep", Lyon is the beast of prey, the "she Lyon" (p. 3).

In addition to the way in which the superhuman qualities of Sheppard are undermined by the bestial associations the narrative is overshadowed by the constant image of "the fatal Tree" (p. 3). This further reminds readers that Sheppard is no magician and that the inversion of the power relations is more apparent than real. Sheppard, like a wild animal, makes others frightened of him, but his dominance is shortlived. He escapes only to be rearrested, and inevitably he will hang. Even though at the time that The History was published Sheppard was at large the reader is reminded in the Dedication at the beginning of the work that, "Restless Vengeance is pursuing", and there is a feeling that he will inevitably be recaptured. In spite of his undoubted skills Sheppard's brutishness makes him not a superior, but an inferior being. The counterposing of images of the supernatural and the animal entertains, but it also enables

Defoe to demonstrate that appearances can deceive. He neatly turns the narrative around from one which seems to subscribe to the view that Sheppard's breach with his master led to the acquisition of supernatural powers to a view in which such skills as he possesses through nature and training are wasted in a pointless and unproductive series of escapes: Sheppard, once "a promising young man", has become "an old Man in Sin". Defoe demonstrates that no one can overturn or escape the "natural" order of society and so reinforces that order which seemed to have been fundamentally challenged by Sheppard. Attempts to escape that order may initially succeed, but they inevitably end in recapture.

5. The History and the Newpapers

In this section I compare the account of Sheppard's life given in The History with some contemporary newspaper reports. I do not wish to claim that newspapers provide an objective yardstick for accuracy, indeed I do not believe that any objective measure of historical "fact" exists. All the historian can do is to seek to cross refer different accounts and interpret this material. We can look at the records of Stepney Parish and confirm Sheppard's birth in 1702, we can also confirm that he was entered as an apprentice in the records of the Carpenters' Company, and we can find the indictment which led to him being condemned. These official records, although by no means possessing the quality of holy writ, do provide points of references from sources not controlled by the commercial interests of the publishers and so they allow some checking of the biographies. But for more than these bare bones, for the individual character of Sheppard's life, we have to use the biographies and newspaper reports, and having the opportunity to refer to several accounts is a rare luxury for the historian of crime.

Of course, the identification of areas of agreement between these different sources does not confirm the accuracy of any of them. The reprinting by newspapers of items from other newspapers was commonplace; so, for instance, the

Evening Post seems to have copied its longer reports of Sheppard from the Daily Journal, although its shorter reports were probably independently produced. Similarly, those who wrote biographical pamphlets undoubtedly indulged in similar acts of plagiarism. Yet it would have been curious if Defoe had not made use of newspapers as a source material. Indeed since Defoe was a prodigious journalist, it is possible that, beyond the work he did on Sheppard for the Original Weekly Journal, he also wrote for other newspapers. He used the Daily Journal, indeed it is the only newspaper which he refers to and quotes from. This is not so surprising since it was a newspaper with which Applebee was involved. [1] There are also interesting points of similarity between the Daily Journal and The History in their common use of distinctive phrases. To take just one example, the Daily Journal reported an attempted escape by Sheppard in October by saying that he "found means to release himself from the Staples", similarly The History reported that he "found Means to release himself from the Staples". Although the Evening Post once again reproduced the Daily Journal account, nothing about this attempt appeared in the Daily Post, however the defective state of eighteenth-century journalism may provide the answer to the latter's omission. [2] Of course, none of this means that Defoe wrote both accounts, it might simply indicate conscious or unconscious plagiarism, or else the use of

identical sources of information, certainly the reports differ sufficiently in their presentation of detail to make it impossible to judge which of these explanations applies.

It is not possible to compare the whole of The History with newspaper reports because one of the main differences between the two forms was that for the most part the newspapers reported only current events, so that usually it is to the biographies alone that the historian can turn for information on the early life of those hanged at Tyburn. So it is only possible to compare the reporting of the later stages of Sheppard's life following his first escape from Newgate. The newspapers do confirm his relationship with Elizabeth Lyon. Following Sheppard's first escape in August 1724 the Daily Post notes that "The Wife of John Sheppard" had been put in Poultry Compter for "aiding and assisting" his escape [3], and the Daily Journal adds that this woman had been arrested by Jonathan Wild [4], confirming the account in The History [5]. The name of his wife is later reported as being "Elizabeth Lyon, alias Elizabeth Sheppard, alias Edgeworth Bess... his reputed Wife". [6] The Daily Journal and the Evening Post provide fuller accounts of his first escape from Newgate than that which appears in The History, although they seem roughly comparable. [7] His use of a boat to travel from Blackfriars Stairs to the Horse Ferry at Westminster is confirmed by the Daily Journal which simply adds to the story in The History that Sheppard paid

7d. for the journey and that the waterman, although he saw Sheppard's chains, was too frightened to do anything. [8] Sheppard's association with William Page after this escape is confirmed, and although the Daily Post claims that Page was "a Butcher's Son", the Daily Journal and the Evening Post agree with The History that he was "an Apprentice to a Butcher in Clare-Market". [9] The Daily Journal reported, like The History, that after the escape Sheppard and Page had spent some time near Northampton at the house of a relative of Page. [10] The circumstances of his capture on Finchley Common noted in The History are broadly similar to the newspaper reports, with them all reporting, for instance, that both Page and Sheppard were disguised in butcher's clothes. [11] Soon after Sheppard's return to Newgate the Daily Post, the Daily Journal and the Evening Post report that the keepers found tools in his cell hidden in a Bible and a chair, and this incident also appears in The History. [12] The Daily Journal reported that Sheppard spoke at length to the Ordinary's deputy, Rev. Wagstaffe, and, as the title-page reveals, Defoe claimed to have used material gathered by Wagstaffe, although the particular confession referred to in the newspaper does not appear in The History. [13] The newspapers' descriptions of Sheppard's second escape from Newgate on Thursday, 15 October confirm in general terms the more detailed account contained in The History. [14]

A comparison between The History and the newspapers is important not simply because the latter provided a source material for him, but also because in his work Defoe was reacting to those newspaper reports and the image which they provided of Sheppard. So, as has been seen in section 4 of this chapter, Defoe's technique was, first, to acknowledge the myth created by the newspapers of Sheppard as the skilful prisonbreaker by enhancing it through an emphasis on the supernatural element and then to set about deconstructing that myth.

6. Some Problems with The History as a Source for the Life of John Sheppard

In this section I will present a reading of The History which is very much at variance with that presented by Bleackley and Hibbert, but which demonstrates the way in which the text sought to conceal certain tensions. The narrative of The History hangs upon three main threads: the first is the implicit assertion that the relationship between Sheppard and Wood presented no problems, the second is that Sheppard was better off in that relationship, and the third is that this relationship was destroyed by the intervention of Lyon. However, if The History is read within the context of the eighteenth century rather than apart from it these threads come under a great deal of strain.

In the eighteenth century an apprenticeship was still regarded as the usual way in which children were given a start in life. Under the Statute of Apprentices of 1563 in order for a person to pursue certain trades it was first necessary to be free of the relevant London guild, and this, in general, involved serving an apprenticeship. That apprenticeship could not start until the person was 14 years old and it usually lasted for seven years, although eight and nine year terms were not uncommon. Many apprentices were not, however, bound according to the custom of one of the London guilds, especially if the apprenticeship was outside London or involved a parish pauper. Under the Poor Law Act of 1601

the parish authorities, with the assent of two justices of the peace, could bind a pauper child to an apprenticeship until, if male, the age of 24 years, or, if female, the age of 21 years or marriage, whichever was the earlier. [1] Pauper apprentices, as Sheppard appears to have been, were typically exploited as a source of cheap labour "making this sort of apprenticeship a system of child-slavery involving years of misery, drudgery and oppression." [2]

Apart from the essentially oppressive nature of the apprenticeship there were other problems faced by apprentices in general and also problems within the carpentry trade which may have contributed to Sheppard's dissatisfaction; problems which had little to do with his relationship with Lyon. Defoe presents the quarrels between Sheppard and Wood within the context of the commencement of the relationship with Lyon and within a discourse in which total obedience to the master was the only acceptable form of behaviour. The dissent is included to prove the decisive nature of Lyon's influence which was turning Sheppard from "a very sober and orderly Boy" into a quarrelsome individual. However, another viewpoint can be discerned which was entirely connected to problems with the apprentice relationship.

There is no doubt that the question of the training of apprentices was regarded as important, but equally it is clear that many masters and mistresses were failing in their obligations in this sphere. Apprentices were urged, in the

words of John Dunton, "to penetrate as far as possible into the Mysteries of... Trade; for unless a Man look well into the Nature of his Business, and see every Reference that it Bears, he'll scarce make any thing of it, when he begins to depend upon his own Bottom."[3] Similarly, Defoe in The Complete English Tradesman (1727) advised those apprenticed to tradespeople "to endeavour to gain a good judgment in the wares of all kinds that he is likely to deal in" and to study buying and selling, for if the apprentice does not "he enters into Trade without his most useful tools, and must use spectacles before his time." But, of course, an apprentice could only "penetrate... into the Mysteries of... Trade" as far as a master or mistress allowed. [4] An example of the obstruction which might be faced by an apprentice from the end of the seventeenth century was the case of Francis Allchin, an apprentice, who complained to the Stationers' Company about his master, Mr. Heath. The customs of the company required the master to instruct the apprentice "without concealing his Cunning or Workmanship from him". Yet Allchin complained that, amongst other things, Heath, "having kept the best part of the work to himself rendered it impossible for me to gain any further knowledge of it had I staid with him." Similarly, in 1737 an apprentice engraver successfully complained to the Westminster justices on the ground of "his Master's not finding him Work enough; It

appear'd that the Master would not let his Man see him Work, fearing he might make too great a Proficiency in his Business". [5] Defoe believed that this was a general problem, and he wrote in The Complete English Tradesman of the "masters" who "hinder an apprentice" by keeping them apart from customers so that the apprentice might not take them away when his or her term was over:

> An Apprentice who has serv'd out his time faithfully and diligently, ought to claim it as a debt to his indentures, that his Master should let him into an open acquaintance with his customers; he does not else perform his promise to teach him the art and mystery of his Trade; he does not make him master of his business, or enable him as he ought to set up in the World [6]

Other apprentices were bound to masters who had no skill to impart and no interest in the work of the apprentice, and who regarded them as a cheap source of labour. This was particularly common in parish apprenticeships, but, as Francis Place found in the late eighteenth century, [7] it was by no means a problem confined solely to them.

With these problems in mind it is possible to speculate on the view which Sheppard the apprentice had of his relationship with his master, Wood. Indeed they give some meaning to a passage in The History in which Sheppard

> began to dispute with his Master; telling him that his way of Jobbing from House to House, was not sufficient to furnish him with a due Experience in his Trade; and that if he would not set out to undertake some Buildings, he would step into the World for better Information. [8]

There was also the resentment which many apprentices

felt about the ill treatment they received. In A Narrative when Sheppard refers to the description in The History of his fight with Wood, he introduces this aspect:

> Mr. Wood cannot but remember how hard I wrought for him that Day at Islington, what Refreshment was offer'd to my Fellow-Servant and my self; the Cause of that unhappy Quarrel is still fresh in my Memory: [9]

Finally, there is the matter of the quarrel which Sheppard is said in The History to have had with Mrs. Wood. Referring to Elizabeth Lyon, she "with Tears, exhorted him against the Company of this lewd Prostitute". Sheppard, in reply, "D--n'd her Blood, and threw a Stick at his Mistress, and beat her to the Ground." [10] Aside from his apparent love for Lyon, it was a general complaint that the wives of masters interfered too much. As early as the mid-seventeenth-century a petition of the London apprentices had complained that although they were bound to a master "yet of late their mistresses had gotten predominancy over them also." [11] Nearly a hundred years later Robert Campbell, in The London Tradesman (1747), warned parents against placing an apprentice with a family in which the mistress was dominant. [12]

The relationship between a master or mistress and an apprentice in the eighteenth century was, therefore, not, as a superficial reading of The History might have suggested, unproblematical. The early termination of apprenticeships by apprentices absconding was regarded as commonplace: the Bow

Street magistrate Sir John Fielding commented later in the century that, "...Masters frequently lose their Apprentices at the latter Part of their Time, when they become most useful..." [13] Newspaper advertisments offering rewards for information about runaway apprentices show the value of the apprentice and their frequency indicates how commonplace this form of unilateral termination was. [14] Other criminal biographies also suggest that a poor relationship between master or mistress and apprentice was often the cause of such a termination, although as with The History, these conflicts are included in the biographies not as a criticism of the master or mistress, but in order to show the disobedience of the apprentice, the importance of maintaining the hegemony of the middling classes, and to justify the imposition of a strict regime for apprentices. [15] For instance, William Shelton had been apprenticed to a Dr. Halsey at Enfield:

> I continued with him two Years, but being very negligent and careless of Business, and keeping too much (tho' Reputable) Company, and my Master being in a bad State of Health, was not able to give me such Correction as was absolutely requisite for young Sparks in my Law way of Living. [16]

John Kelsey, hanged in 1736, was apprenticed to a surgeon, but absconded, as the Ordinary of Newgate Rev. Guthrie put it, "by Reason of some Misunderstanding", although this seems to rather understate the case since Kelsey's master had put him in Bridewell twice. [17] George Ward, hanged in the same year, had left his master in Ireland "having got into a

Fray". [18] John Hannah left his apprenticeship because he had quarrelled with his master. [19] Nicolas Mooney was apprenticed at 16 years of age to a paper maker near Dublin, but he left because his master and mistress took a dislike to him following a fight he had with William Reney, a journeyman. [20] Francis Freeman had been an apprentice cooper for four years, but, according to the Ordinary of Newgate, Samuel Smith, "being very stubborn, till his Master was weary of him", he left, or was dismissed. [21] William Mar, hanged in 1722, had been apprenticed to a goldsmith in Wapping, but "his being too familiar with a certain Person in the Family" he was starved and as a result ran away. [22] Henry James Saunders, who was hanged in 1750 for cow stealing, had been apprenticed at the age of 14, but had committed some thefts and so he ran off, "for fear of that Chastisement, he was sensible, he had so richly deserved." [23] Robert Greenstreet, hanged in 1751, did serve out his apprenticeship, and stayed on as a journeyman, "but being unhappily now a little more on his own hands", he mixed with bad company. His master criticised his new friends, leading Greenstreet to demand the pay he was owed so that he might leave. His master refused and struck him. During the fight which ensued Greenstreet stabbed his master to death. [24]

Of course, to say that the relationship between master or mistress and apprentice was always viewed by the

literature as one in which the apprentice was the source of the problems is not wholly accurate. There were cases of apprentices being murdered, beaten, sexually assaulted and starved by their employers. The most famous being the convictions of Mrs. Branch and her daughter in 1740 and of Mrs. Brownrigg in 1767. [25] They were, it is true, villified in the media and their actions presented as horrifying, however, this rather reinforced the view that the problem did not lie with masters or mistresses, since both cases were presented as shocking, but exceptional, whereas the evidence suggests that the only abnormal thing about the case was that the women were prosecuted at all - violence against apprentices was not only quite normal, but was actually encouraged as a means of discipline, and was, within vague limits, legal.

On top of all this the carpentry trade faced special problems in the eighteenth century. Control over all trades by the guilds was generally breaking down as trade and manufacture expanded outside London, and increasingly only those who wished to work in the City of London sought the freedom of one of the companies. [26] The situation differed between trades, but significantly it had reached a crisis in the Carpenters' Company during Sheppard's apprenticeship. The Company suffered a rapid decline from the middle of the seventeenth century. When in 1655 the number of apprentices a master carpenter was allowed to take on was officially

increased from three (the limit set in 1607) to four it was only a rather belated recognition of the impossibility of curbing the widespread evasion of the existing restrictions as work expanded beyond the capabilities of those being admitted to the trade. [27] Then, after the Great Fire of 1666, the statute 13 Charles II, c.3 gave effect to a rebuilding programme which required a rapid expansion in the number of carpenters and so it broke the Company's monopoly over admitting people. Under the Act practical experience was sufficient to make someone eligible to become free of the Company. Furthermore, even amongst those apprentices whose indentures were registered with the Company only one in three were bothering to become free by the late seventeenth century. [28] The Company's dominance over the trade had slipped, and although they made some futile efforts to reassert their control in the late seventeenth- and early eighteenth centuries, by, at the latest, the 1730s they had all but given up the struggle. [29] Carpentry became an overstocked trade and as a consequence carpenters were often poor: the Middlesex Justices' report of 1735 on gin selling referred to carpentry as one of the "inferior trades" in which gin selling was commonly used to supplement incomes. [30]

In The History Defoe wished to present the relationship between Wood and Sheppard as being unproblematic until Lyon

appeared. However, evidence both from that work and from other sources shows there is good reason to suppose that the quarrels between Wood and Sheppard emerged from their relationship and not because of Lyon. It is quite likely that Sheppard resented his seven year servitude, especially during the last year or two by which time he seems to have been trained as far as Wood was willing or able to train him. The build up of resentment is not difficult to imagine, especially in view of the short working life of a carpenter caused by the heavy nature of the work [31] and the problems of the carpentry trade as a whole. As the end of the apprenticeship drew nearer and as his own skills outstripped those of his master, so Sheppard may have felt the exploitation more keenly and that the apprenticeship was indeed a "Yoke of Servitude".

7. The History and the "crisis in Subordination"

The link between servants or apprentices and crime was a common feature of newspapers and pamphlets in the eighteenth-century. One commentator writing in the British Journal in 1723 remarked of male servants that "multitudes of them daily, for want of Employment, betake themselves to the Highway, Housebreaking, other Robbing and Sharping, or to the Stews..." [1] Jonathan Swift agreed, "The Newgate Calendar is an interesting supplement to the eighteenth-century complaints about their servants." [2]

More generally, the construction of a link between social indiscipline and the deterioration of apprenticeship can be seen from the wave of conduct books which from the late seventeenth century were directed at apprentices. In these the central concern is indiscipline and its cure subordination to a master or mistress and a strict regime. Samuel Richardson was motivated to publish his book, The Apprentice's Vade Mecum (1734), by what he referred to as "the present Depravity of Servants".[3] Defoe was quite clear that the root of the problem lay in a lack of subordination. In his The Complete English Tradesman (1727), complained:

> the affair in this age between masters and their apprentices, stands in a different view from what the same thing was a few years past; the state of apprenticeship is not a state of servitude now, and hardly of subjection, and their behaviour is accordingly, more like gentlemen than tradesmen; more like companions to their masters than like servants.

He then contrasts the period in which he was writing with that of fifty or sixty years before - a time conveniently just out of the range of living memories:

> servants were infinitely more under subjection than they are now, and the subordination of mankind extended effectually to them; they were content to submit to family-government; and the just regulations, which masters made in their houses, were not scorn'd and contemn'd, as they are now; [4]

Similarly, he wrote of apprentices, in The Great Law of Subordination consider'd (1724), that "more of them are ruin'd, debauch'd, and come to nothing, for want of Subordination, and being under Government, than was wont to be the Case". [5] The History is constructed around this theme. It takes the Lockeian view that no one is born evil, instead evil is acquired through contact like a disease: Defoe writes that Sheppard "contracted an ill Distemper" through his contact with Lyon (p. 32). [6] Youths, more particularly male youths, were regarded as most susceptible to this contagion: according to the author of The Servants Calling (1725), "the Young and Unexperienc'd are soonest tainted by the bad Air of Society, being aptest at Imitation". [7] So it is that the break between Sheppard and Wood was "a woeful parting to the former; he was gone from a

good and careful Patronage, and lay expos'd to and comply'd with the Temptations of the most wicked Wretches this Town could afford" (p. 5). The susceptibility of youths like Sheppard to the "contagion of vice" could only be guarded against by proper regulation within the disciplined environment of the apprenticeship. By this means The History seeks to show that although an apprenticeship might have seemed like "a Yoke of Servitude" in that very restraint it contained benefits for the apprentice. For these reasons Samuel Richardson, the master printer and novelist, although generally opposed to any kind of entertainment for apprentices, nevertheless urged them to read the literature of crime:

> Let the Sessions-Paper and the Dying-Speeches of unhappy Criminals tell the rest: Let them inform the inconsiderate Youth, by the Confessions of the dying malefactors, how naturally, as it were Step by Step, Swearing, Cursing, Profaneness, Drunkenness, Whoredom, Theft, Robbery, Murder, and the Gallows, succeed one another! [8]

The central problems of apprenticeship are, therefore, defined in the conduct books and The History not as the problems that apprentices might face, but as the problems with apprentices; their moral vulnerability, as illustrated by The History, justified, indeed required, the imposition of rigorous discipline through apprenticeships.

For Defoe the essential attribute of an apprentice was subordination to a master. The rubric for apprentices, and

indeed for employees in general, was, "The disciple is not above his master, nor the servant above his lord." [9] In The Complete English Tradesman (1727) he wrote that for the first three or four years of their term apprentices should be "taught submission to family orders, subjection to their masters, and dutiful attendance in their shops or warehouses;". [10] Just how restricting the life of an apprentice was meant to be can be gathered from Richardson's The Apprentice's Vade Mecum (1734): an apprentice was not to marry, nor to engage in gaming, nor to go to theatres or alehouses, nor to associate with "vile, low, groveling Company", nor to follow "the Fopperies and Apish Fashions of the Men of mode", nor to break the sabbath. The guiding principle was, "you have no Portion of Time during the Term of your Apprenticeship, that you can call your own;... you are accountable for every Hour to your master". [11]

Although youths and apprentices were picked out for special attention, this was part of a more general view that the indiscipline and moral deterioration of the labouring classes in general could only be resolved by more authoritarian employment relationships. In The Great Law of Subordination, Defoe argued that a labouring person had to be watched "not only part, but even all the time of his Work", for if the worker were left alone "you are sure to have your Work either spoil'd or neglected, or done contrary to your Order." He claimed that in part the problem was drink which

had ruined "the very Morals and Honesty of the labouring People"; in part it was that, "The labouring People have their Eyes now not at your Work, but at their own Wages". By raising wages working people became insolent and spent the extra on drink so that, "... I never knew a Servant, or a Workman in England, one farthing the better for the Encrease of his Wages". He believed that, "if it goes on, the Poor will be Rulers over the Rich... in a word, Order is inverted, Subordination ceases, and the World seems to stand with the Bottom upward." [12] Although he never suggests the wholesale abolition of wage labour he does favour measures to lower wages and to impose stricter control on working people. To some extent his support for a disciplined apprenticeship symbolises a desire for wider social control of the labouring classes within a relationship based upon work and controlled by the middling classes.

Of course, the decline in subordination raised a question mark over the actions of the masters and mistresses. At the time when Sheppard was an apprentice, it was felt that the traditional nature of apprenticeship was being eroded by masters and mistresses who took on outdoor apprentices (that is, apprentices who did not live in), and who, more generally, failed to maintain discipline. The apprenticeship relationship, in Defoe's view, imposed certain paternalistic obligations on the master or mistress. In one of his most

popular books, The Family Instructor (1720), Defoe wrote that "a Master is a Parent" and as such owed a duty of care to apprentices for "their Souls and their Bodies". [13] He, therefore, regretted that, "Custom has wickedly of late Years seem'd to discharge Masters of this Duty." [14] This theme was expanded upon in The Complete English Tradesman (1727):

> Servants out of government are like soldiers without an officer, fit for nothing but to rob and plunder; without order, and without orders; they neither know what to do, or are directed how to do it.
>
> Besides 'tis letting loose his apprentices to levity and liberty in that particular critical time of life, when they have the most need of government and restraint: when should laws and limits be useful to mankind but in their youth, when unlimited liberty is most fatal to them, and when they are least capable of governing themselves? to have a youth left without government is leaving fire in a magazine of powder, which will certainly blow it all up at last, and ruin all the houses that are near it.
>
> If there is any duty on the side of a master to his servant, any obligation on him as a christian, and a trustee for his parents, it lies here; to limit and restrain them, if possible, in the liberty of doing evil; and this is certainly a debt due to the trust repos'd in masters by the parents of the youth committed to them; if he is let loose here, he is undone of course, and it may be said indeed, he was ruin'd by his master;...
>
> To leave a youth without government is indeed unworthy of any honest master; he cannot discharge himself as a master; for instead of taking care of him he indeed casts him off, abandons him, and, to put it into scripture words, he leads him into temptation; nay, he goes farther, to use another scripture expression, he delivers him over to Satan.

So Defoe lamented that "not only servants are made haughty, and above the government of their masters... but masters also seem to have given up all family-government". He asked, "what

servants can a man expect when he leaves them to their own government, not regarding whether they serve GOD or the Devil?" [15] He had already answered his own question in The Great Law of Subordination (1724):

> 'tis a needful, a seasonable, and an unanswerable Truth, that the Want of Family Government is the Ruin of Servants; and it is since Family Discipline decay'd in England, and the good Examples of Masters ceas'd, that Servants have got the Head and Mastership over us; and untill something of an orderly and vertuous Governing of Families comes in Fashion again among us, I fear that no Laws, Acts of Parliament, or publick Regulations, will be effectual to this Purpose.

He concluded that "easy Masters make saucy Servants; the Master that will bear to be impos'd upon shall be impos'd upon". [16] The biographies of Sheppard reveal the influence of this viewpoint. In The History, when Sheppard "began to dispute with his Master" (p. 2), "Mr. Wood a mild, sober, honest Man, indulg'd him" (p. 3). A Narrative is even more explicit, for there Sheppard says,

> ...I believe if less Liberty had been allow'd me then, I should scarce have had so much Sorrow and Confinement after. My Master and Mistress with their Children were strict Observers of the Sabbath, but 'tis too well known in the Neighbourhood that I had too great a Loose given to my evil Inclinations, and spent the Lord's Day as I thought convenient. [17]

Yet such criticisms of the middling classes are never allowed to swamp the ascription of blame to Sheppard and Lyon. For Defoe to emphasise Wood's failing more than he did would have been to place doubt on the value of the apprenticeship relationship, and this, in its turn, would have amounted to a

challenge to the ability of the middling classes and hence to the legitimacy of their hegemony. The root of crime had, therefore, to be shown to lie largely outside that relationship. By introducing Elizabeth Lyon and portraying her as having engineered the break between Sheppard and Wood, the difficulties in their relationship are obscured, although they never entirely vanish.

Whilst valuing the training which apprenticeship should bring, Defoe, like Richardson, seems to have been more anxious to emphasise the discipline which he believed apprenticeship could provide. Apprenticeship was properly a "Yoke of Servitude"; that was its whole point. For Defoe, liberty was not about absolute freedom, it was about providing a guarantee against oppression and injustice which could only be done within an ordered society, and that entailed a form of restraint which could be best secured by a society structured through work.

To Defoe it must have seemed odd that apprenticeships were being relaxed at a time when increases in crime demonstrated the need for stricter measures of social discipline. Others agreed. The Ordinary of Newgate, James Guthrie, who often succumbed to the temptation of social analysis in his Accounts, wrote in 1744 that crime was increasing, this he attributed to, in part, "a Decay of Industry", by which he meant an increase in idleness. He argued:

> There are many good Laws that require the lower Sort of People to put their Children Apprentices, so that they may be provided for during the Space of seven Years, by the Care of their Masters, and be afterwards in a Condition to maintain themselves by their own Labour, in an honest Way, which Laws of late are not put in Execution, but People are left at Liberty to breed their Children how they will, by which Means they become frequently Burdens, and too often Nusances to their Country. (sic.) [18]

Defoe wrote that, "Subordination seems to be at a Crisis"[A]and his life of Sheppard was an illustration of that crisis. The relationship between master and apprentice had collapsed, and the two had become almost indistinguishable; a situation which might lead to the consequences described in The History of masters actually fearing, and being dominated by, apprentices. His general thesis is that crime emerges from a collapse of the hierarchical social order upon which, he believes, discipline depends. This exposes the young to immoral influences as symbolised by Elizabeth Lyon. The problem of criminality is, therefore, demonstrated to reside in the indiscipline of the labouring classes and the solution in the hegemony of the middling classes. Even so, there can be no doubt that The History, like The Great Law of Subordination, was also meant as a warning to the middling classes. Defoe wished to impress on them that as they became more economically powerful so they acquired civic obligations, and he criticised the way in which they allowed their duty to impose social discipline on the labouring poor to be swamped by their desire for short-term benefits.

8. The History and other Criminal Biographies

In this section I will look at other works from the literature of crime in the eighteenth-century, in order to demonstrate that the themes and narrative structure of The History, if rarely expressed with Defoe's skill, were nevertheless commonplace.

As in The History, the subjects for the biographies almost always came from the labouring classes. Their parents were generally poor, honest and hardworking. Noah Goobee, hanged in 1739, had "very honest, but poor parents", [1] and John Harris, hanged four years later, had "poor but honest Parents". [2] The parents of Benjamin Barker, hanged in 1750 for robbing the Bury coach, were "in but indifferent Circumstances, yet they were honest as well as industrious". [3] Similarly, the "Flying Highwayman", William Hawke, who was hanged in 1774, was born of "honest, but poor and industrious parents". [4] John Kirby, an industrious petty thief who was transported in 1782, had "honest and industrious parents" [5], and Patrick Madan was said to have left his "honest parents" in Ireland and turned to England and robbery, eventually being transported to Africa in 1782. [6]

John Sheppard's father died while John was still young, but his mother ensured that he received some education at a workhouse in Bishopsgate Street, and that he was taken on as an apprentice carpenter. This was also typical of others of

the "poor, but honest parents": so, Richard Keeble, hanged at Kennington Common in 1743 for returning from transportation, had "poor but honest Parents... who gave him some Education, and at a proper Age put him Apprentice to a Carpenter at Dowgate". [7] This juxtaposition of, on the one hand, the honesty and concern of the poor parents and, on the other, the fate of their child invited the reader to wonder what event could have so suddenly changed the course of this person's life, and so throw the emphasis on that event.

Young people were portrayed as having a natural inclination to stray and to succumb to temptation. In many instances apprentices are said to have run away, and, although no explanation is provided of why they did so, the implication is that it was as a result of what was regarded as the innate desire of youth to be free of subordination. William Delacore, Thomas Kelsey and William Bond all left their apprenticeships, turned to crime and ended on the gallows at Tyburn together in 1689. [8] Thomas Dorbel was 17 years old when he left the master glover to whom he was apprenticed half way through the term of his indenture and began a life of robbery which was to end some 28 years later when he was hanged at Bristol in 1714. [9] Thomas Browning had been apprenticed to a tripe man for four and a half years when he ran off. [10] Some biographies were explicit about the tendency of youth to throw off the shackles of

subordination. Nicholas Carter was only about 14 years old in 1690 when as he sat in the condemned cell in Newgate he told the Ordinary, "That his Father employed him in serving and making of Gloves: But he being Idle, and regardless of his Parents Good Admonitions, ran away from them, and joyned himself to bad Company." [11] Cole having "an unlucky and a roving Disposition, would not be bound Apprentice to any Trade", and so went to sea. [12] Caswell was apprenticed to a grocer "but not delighting in that imployment" he enlisted as a soldier, as did William Tight who had been an apprentice painter. [13] Daniel Looney, hanged for murder in 1751, was said to have been inclined to roam rather than to stay at home with his parents and work. [14] Similarly, it was reported of William Hawke that "growing weary of confinement" he had taken lodgings away from his master and so fallen into bad company. [15] Christopher Slaughterford, who was hanged for murder in 1709, "being weary of serving others" struck out on his own. [16] Richard Keeble, left his master, and "as he never had any Inclination to work, or lov'd Confinement, he was very negligent of his Business, so that his Master was glad to get rid of him." [17] James Hall, hanged in 1741 for the murder of his master, was said by Rev. James Guthrie to have been "of a roving Temper, not liking Confinement" and had, therefore, left home to go to London. [18] Patrick Rena was apprenticed to a Dublin baker, "but not liking that Trade, and being of a roving Disposition he ran away from his

Master, and came to England", where he was eventually hanged at Kennington Common in April 1749 when just 17 years of age. [19] The "Gentleman Brickmaker" Thomas Munn, who was hanged in 1750 for robbing the Yarmouth mail, had been brought up to several trades by first his father, then his elder brother and lastly his uncle:

> I now began to think I could get my own Living, and therefore took my Leave of my kind Uncle, and was above working for I did not like to have any Restraint laid on my whimsical Humour... my Spirit was above being Servant to a Man that I though used me ill... You may see by this, how the Spirit of Pride will reign in unthinking Youth, when there is none to curb and instruct them. [20]

For some the inclination to escape from their situation was put down to them having had social aspirations above their station. Joseph Powis, hanged for burglary in 1732, seems to have come from a reasonably wealthy family, but his father's fortunes declined and Joseph was put to trade, "from thence may I Date all my Misfortunes, for I never having any great Inclination, for Labour, and my Mind running upon something genteel", he turned to crime. [21] From two accounts published in 1751 it appears that the highway robber Matthias Keys was apprenticed to a wine merchant, but that he fell in with prostitutes, expensive habits and gaming and "did not serve his time out". He was put into debtor's prison, and turned to crime on his release because "he had no Way to subsist him, being too much of the Gentleman to get his Bread by honest Labour." [22] As the highwayman James

Maclaine (or Maclean) lay in Newgate in 1750 he was said to have regretted that he had not been brought up to a trade rather than to the more genteel occupation of writing and accounts. [23] John Wescote, who was condemned in 1765 for robbing the Earl of Harrington, was born of "mean parents", but, according to one account, "being of a good main and of a genius that was far from being sordid, he left his father from a disgust" to seek his fortune elsewhere. [24] Robert Ramsey, on the other hand, was the son of a baronet, but not having the money to support the life of a gentleman he was apprenticed to "chymists" in London. His employers went bankrupt half way through his indenture and he was forced into unskilled drudgery "which not suiting with his politer Notions of Life" led him to "idleness", crime and, in 1742, the gallows. [25] "Britannicus", writing on Maclaine's case, commented that it showed not only that young people required proper education in virtue, but also that "a great deal of Care should be taken that they are not educated in a Manner too high for future Life, and the Station in which Providence may possibly place them." [26]

The biographies are, therefore, underpined by the idea that it was crucial for a youth to be subject to control. Yet, as has been seen, there is a hint in The History that Sheppard's master was a little too slack and indulgent with him, and that this contributed to his downfall. Similar

indications appear in other biographies. In 1684 John Gower told the Ordinary of Newgate, in a phrase which calls to mind the words attributed to Sheppard in A Narrative, that he blamed "the Indulgence of his Master to whom he was Apprentice, that he suffered them to mispend the Sabbath-days, which was the first Step to Ruine". [27] Nine years later Smith reported similar regrets expressed by a pickpocket called John Simons: "Had his Master, he said, held a strict hand over him, he had not gone far astray from God, nor dared to have done evil Actions, but being left to his own evil Inclinations" he fell into crime and left his master. [28] In a paper handed over at Tyburn in 1704 to the Ordinary Paul Lorrain, John Smith wrote that he had been apprenticed to a barber and perriwig-maker, but "having too good a Master and Mistress, I left them". [29] William Shelton, who was hanged in 1739, had been apprenticed for two years "but being very negligent and careless of Business, and keeping too much (tho' Reputable) Company, and my Master being in a bad State of Health, was not able to give me such Correction as was absolutely requisite for young Sparks in my Lax way of Living". [30] In some cases the break with a master or mistress occurred as a result of death or bankruptcy: for instance, Henry Brian, hanged in 1751, was said to have been apprenticed to a shoemaker who died half way through the term of the indenture. [31] Samuel Pealse, an apprentice pastry cook who was hanged for burglary in 1713,

had a master who "being a good and religious Man, kept him to his Duty, and from ill Company; making him go to Church, and employ his Time well at Home." However, when he had served 5 1/2 years, Pealse had a six weeks holiday away from his master, and this absence from subordination and discipline meant that on his return became unruly. [32]

In other biographies it is the parents who are over indulgent with the youth and who fail to exercise sufficiently strict discipline. John Rann, "Sixteen string Jack", executed in 1774, had honest parents, but they "did not attend properly to his education". [33] Madan lived with his uncle but he was "his too indulgent friend", so that Madan "soon saw the easy softness of his uncle, and disregarded his instruction." [34] John Harris, hanged for the murder of his parents and their maid, was alleged to have said that his parents gave him "such liberty, he became so headstrong and lustful". [35] Occasionally, this early independence is put down to a cruel misfortune. The father of William Yates died, and "wanting his Father to excercise Authority over him, grew too stubborn to be governed by his poor Mother, whom he left and renounced all Subjection to her." [36] Noah Goobee lost both his "very honest, but poor parents" when still a child, and, being apprenticed, fell into the hands of a cruel master whom he soon left. [37] Similarly Darkin's freedom came when he was orphaned at the

age of 14. His biography states that he was clever at school,

> But alas! upon becoming his own Master so early instead of qualifying himself for trade, and improving his Faculties in useful Knowledge; for want of a proper Restraint, his researches were rather after what is called a Knowledge of the Town; [38]

The author of Memoirs Of the Right Villainous John Hall (1714) believed that parental laxity made it likely that a youth would run away from a master or mistress to whom he or she was apprenticed. The pamphlet indeed claimed that typically a thief was born of "Good and Honest Parents" who over indulged the youth and failed to provide adequate discipline:

> With these Qualifications the Child launches out into the World, but finding the difference between the Natural Indulgence and Liberty at home, and the Restraint and Severity abroad, it makes him weary of his Condition, and therefore (if Apprentice) he runs away from his Master [39]

The consequences of leaving the discipline of subordination were fairly clear since the natural inclination of youth is assumed in the biographies to lean towards idleness. It seems to have been the very nature of work which led Ralph Wilson, the highwayman turned informer, to crime. He noted in his confession, written in 1722, that he had been a clerk to a Chancery lawyer, "But his Business being very great, and my Industry at that time very little we could not agree". [40] Within the context of such literature idleness meant a situation in which people were not engaged on a legal form of work within an employment relationship; some, such

as John Sheppard himself, worked very hard at crime.

In addition independent youths succumbed to the temptations of luxury. Expensive habits led to crime since the luxuries could not be afforded on the wages (if indeed he or she received any) of an apprentice and, in any case, like idleness to which it was regarded as being closely related, an addiction to luxury was believed to militate against the inclination to work. Peter Wellington, for instance, who was hanged on Kennington Common in 1739, was said to have committed robberies in order to support his extravagancies, and the Ordinary of Newgate, John Villette, regarded this as the reason why William Hawke turned to robbery. [41] Similarly, the various biographers of the highwayman James Maclaine all agreed that his downfall was due to his vanity and to his addiction to the extravagant lifestyle of a gentleman, so that although he did acquire some money through his marriage it was insufficient and he landed in debt and crime: as one biographer put it, "he had a strong Passion for nothing but fine Cloathes and a rich Wife." [42] One of the main points about this aspect of the biographies was to emphasise that the love of luxury which led a person from work could never be satisfied by the proceeds of crime. The biographer of William Cox, condemned in 1773 for robbery, concluded that the proceeds of crime were insufficent to sustain an extravagant lifestyle, and went on to warn youth "not to engage in scenes of dissipation, which their fortunes

will by no means enable them to support the expence of, nor their abilities enable them to sustain, with any degree of reputation, which even the vicious themselves would wish to obtain." [43]

For most apprentices - including Sheppard - the break with a master or mistress and the entry into a life of idleness and extravagance occurred after they had slipped into what was referred to as "bad company", and it was a common feature of sermons, conduct books and biographies of criminals to caution against such people. [44] It was as a result of meeting such people that James Haynes, who was an apprentice at the time, was said to have developed the "distaste to industry" which led him eventually to the gallows in 1786. [45] Thomas Ellis, hanged in 1708, was apprenticed to a poulterer until he met Stephen Bunch and John Hall and turned to crime. [46] Sometimes apprentices are portrayed as having absconded after mixing with bad company, on other occasions they are said to have been dismissed. James Walters, executed in 1699, had been an apprentice "but leading a dissolute debaucht Life, his Master turn'd him away". [47]

What amounted to "bad company" was often left undefined. It could mean criminals, gamblers and drinkers, but typically the phrase was used to refer to "lewd women", and it was on them that much of the crime was blamed. The words "lewd

woman" and prostitute were regarded as interchangeable, although what these terms actually meant was often left less clear.

The assertion that a general link between "lewd women" and criminals existed is one of the most common features of the literature of crime. It was the theme of the popular Ballad of George Barnwell, [48] and of the equally popular play based on that ballad, Lillo's play The London Merchant. [49] One of the biographies of Thomas Savage, an apprentice vintner hanged in the seventeenth century for murder, was said to have been written as "a means to preserve all young men and Apprentices from being guilty of the like fact. And as a help to you therein, you are advised to be careful what company you keep." [50] Since Savage, according to the biography, had been led to commit murder by Hannah Blay who was referred to as a "Strumpet", it is clear that the company to which the author most particularly refers is that of women like her. [51] It was said of James Hall, hanged in 1741, that, "His first Step to ruin... was the falling in... with the common Women of the Town", and [52] Thomas Jones, hanged in 1751 for murder and rape, "like numbers of other unhappy criminals... was too much addicted to women". [53] Whilst in July 1731 Bernard Fink stood on the cart at Tyburn and urged officers to close a public house in St. Lawrence Lane in St. Giles's in the Fields because it was the resort of "lewd women" who drew people into crime. [54] Issac Darkin - whom

Parson Woodforde visited in the condemned cell at Oxford in 1761 - told the crowd at his execution that, "he hoped he should not see any Women among the Spectators, as that would affect him greatly, for they had been his Ruin." [55] Confrontations such as that which was reported to have occurred at Tyburn in 1775 seemed to confirm the association between "lewd women" and crime:

> during the Procession of the Malefactors to Tyburn, one of the unhappy Wretches casting his Eyes upon a Woman who stood in a Cart, and shaking his head at her, the Woman swooned. On her Recovery, she acknowledged she had been a Very principal Cause of his untimely and disgraceful End. [56]

"Lewd women" were sometimes presented in a passive way in the biographies as merely one aspect of the extravagance and idleness which were regarded as the hallmarks of the criminal. One anonymous commentator wrote in 1751, as if it hardly needed stating, that, "Every Robber, at least the most notorious [obtains money] to spend it in Debauchery". [57] Paul Wells, hanged in 1749 for forgery, typified this lifestyle since, according to his biography:

> Wine, Dainties, and Women he embrac'd with open Arms, and with great Rapidity rush'd on his Ruin. Thus he followed the Bent of his Passions, forgetting to pay a due Adoration to that Almighty Being, which with these temporal Blessings, gave him also his Existence. [58]

Matthias Keys and William Russel, two highway robbers, "just made shift to pay for their Horses and their Whores, (Keys having three and Russel two) and to maintain themselves like Gentlemen, in gaudy Clothes, lac'd Waistcoats, and good

Linnen." [59] Of William Hawkins, the highway robber, it was said, "as his way of Living Provided him with Money, so he found out loose and vicious Strumpets enough to spend it upon". [60] Similarly, it was reported of one gang of street robbers, operating in the late 1720s, that, "All the money they got by these practices was spent among the common women of the town, whose company they frequented." [61] Such extravagance led to poverty and so crime, or, as James Carrick put it in 1722, "Drinking, Gaming, and Whoring soon plunged us in our former Necessities". [62] John Skinner, "Colchester Jack", had been a relatively successful businessman until he fell into extravagancies, chief amongst which was that he had been "at a Bawdy-House for ten Days successively and spent 60 or 70 l."; as a result he went bankrupt and turned to smuggling and to living with prostitutes. [63]

More often, however, "lewd women" had an active role in the biographies. According to Nicolas Mooney, "...Whoredom was the crime I was most addicted to; this was my darling vice, and for this I sacrificed my all." [64] These women were portrayed as parasites preying off hapless youths whom they seduced and then, having gained power over them, forced them into crime in order to support their own extravagance and idleness. Captain Alexander Smith explained this in his book Lives of the Most Remarkable Criminals (1735):

> When once men have plunged themselves so far into sensual pleasures as to lose all sense of any other delight than that arises from the gratification of the senses, there is no great cause of wonder if they addict themselves to illegal methods of gaining wherewith to purchase such enjoyments; since the want of virtue easily draws on the loss of all other principles, nor can it be hoped from a man who has delivered himself over to the dominion of these vices that he should stop short at the lawful means of obtaining money by which alone he can be enabled to possess them.
>
> Common women are usually the first bane of those unhappy persons who forfeit their lives to the Law as the just punishment of their offences; these women, I say, are so far from having the least concern whether their paramours run any unhappy courses to obtain the sums necessary to supply their mutual extravagance, that on the contrary they are ever ready, by oblique hints and insinuations, to put them upon such dangerous exploits which as they are sure to reap the fruits of, so sometimes when they grow weary of them, they find it an easy method to get rid of them and at the same time put money in their own pockets. Yet so blind are these unhappy wretches, that although such things fall out yearly, yet they are never to be warned, but run into the snare with as much readiness as if they were going unto the possession of certain and lasting happiness. [65]

In Serious Advice and Warning to Servants, written after the execution in 1746 of Matthew Henderson for the murder of his mistress, Rev. Broughton warned of the dangers of associating with "lewd women":

> Their demands are high and extravagant, and they are "greedy as the grave:" ... The Instances of such unhappy Malefactors, who, in "the bitterness of their Souls," have ascribed their Ruin to their keeping Company with Lewd Women, are too numerous to be recited. [66]

In short, he concluded, they "subsist by the price of slaughtered souls." [67] The scenario was typically as in The History of the Remarkable Life of John Sheppard where youths

separated from parents, masters or mistresses became easy prey for "lewd women", but labouring people in general were susceptible. John Addison left his apprenticeship after two or three years and took up with "lewd Women". [68] John Dyer, hanged in 1729, was a journeyman cordwainer for about a year and a half, "till at last I took up with a Harlot of the Town". He warned against "Lewd Women, who has [sic] been the Chief Cause of my unhappy Fate." [69] James Glover, who was hanged at Peterborough in 1774 for returning from transportation, "declared that a young woman, who was with him when he was apprehended, was the cause of the latter part of his dissolute life." [70] James Guthrie, the Ordinary of Newgate, reported in 1741 that Richard Eades "attributed his Destruction entirely to these wicked Women, for when once he came into their Company, they would not let him go, and he not having Power enough to resist 'em, they led him into whatever Mischief they pleased". [71] Patrick Madan was said to have formed a relationship with the daughter of a prostitute "to whose artifice he became the wretched dupe." [72] Besotted youths committed crime in order to prevent the prostitutes from abandoning them. James Smith, hanged in 1756, explained that his route to crime began when he fell into debt through lavish spending on the woman with whom he lived (she is labelled a prostitute by his biography):

> My money being all gone, I was in a terrible dilemma what step I must take to support my lady-bird in her

> grandeur; and, after ruminating a long time, I took to the fatal resolution of turning collector on the king's highway without having a licence for so doing, not considering the consequence of this rash and hazardous attempt: however, I was determined I would sooner lose my life than leave my darling. [73]

John Dyer said that he robbed to maintain his mistress for "when Madam found the Money gone, she march'd off too". [74] Valentine Kealy said that the women he knew "would not look upon me, had I not money to spend upon them", so he resorted to burglary and was eventually hanged in 1725. [75] In the same year Robert Sanford was reported as saying that he "fell into Company with one Susannah Coleman a Common Woman of the Town and at last finding he could not get Money enough to supply her" he turned to robbery. [76] James Maclaine allegedly spent his earnings from crime on "lewd women", "and when the little he has collected is lavished away upon these wretched Creatures, he is encouraged and hardned [sic] by them to go out, and get more in the same way." [77] The case of Benjamin Child, hanged in 1722 for robbing the Bristol mail, was rather different. It was said that he had been forced to increase the number of crimes he committed because he lived with three women: "for more Sins than a few must be committed for the Support of three extravagant leud Women". [78]

Both biographers and commentators on crime would have agreed with the author who asserted in 1751 that behind each robber was a prostitute: he wrote that they "most certainly

are the Engines, that set them to Work, and for whose sake they hazard their Lives." [79] Indeed, the association was so familiar that the counsel prosecuting Charles Drew in 1740 for the murder of his father assigned it as a motive for the crime, telling the jury, "It was the Company and Conversation of lewd Women, that led this unhappy Youth to commit the Crime". [80] Daniel Perreau, hanged with his brother in 1775 for forgery, challenged the chief witness for the Crown, Mrs. Caroline Rudd, claiming that he had been "an innocent dupe to the arts of this most abandoned woman, whose deception, treachery, and infernal wickedness, is perhaps unparalleled in the records of iniquity." He was, therefore, "an innocent and injured though certainly a most credulous Man". [81]

The typical nascent criminal is, therefore, portrayed in the biographies as a male whose later degradations appear against a backcloth of the advantages of subordination within a well-disciplined employment relationship or family; only in that situation does the youth have prospects. The turning point is typically the contact with a "lewd woman" who traps the young apprentice into immorality and a life of crime. This is accompanied by a progressive loss of reason and a descent into animality which are depicted in the biographies in much the same way as in Defoe's The History. The biographer of Wells (1749) wrote that:

> After a man has once given way to the Temptations of the devil, Sin is of such an alluring Nature that it leads him Headlong through all its Labyrinths, without

> giving him Time for cool Reflection; by a frequent Repitition his Vices become habitual, and for the present afford Delight. [82]

The animal metaphors similar to those noted in The History occur frequently, indeed one allusion which is fairly common is the notion that if at first criminals escape punishment they merely return to their old habits: in one biography of Patrick Madan the Biblical simile used by Defoe reappears, "like the dog, returned to his vomit; and the sow, though washed, to the wallowing the mire" [83]

A feature of this descent into animality is excessive drinking, as can be seen in The History and A Narrative. When Samuel Smith asked James Selby about the circumstances of the murder for which he had been condemned in 1691, Selby said that, "he was so much disguised and made insensible by drinking, that he was changed into the likeness of a Beast more than that of a Human Creature;". [84] Another aspect is "the pernicious Itch of gaming": "Brittanicus" regarded Maclaine as an example of the way in which gaming held out the hope of gaining a fortune and so encouraged idleness. [85] Indeed any leisure activity which distracted people from work, such as "Prize-Fighting, Cock-Matches" and other "publick Diversions", was regarded as a step on the road to crime. [86]

The lack of caution, used by Defoe to indicate Sheppard's loss of even the basic human concern for self-preservation, is also common. Rev. Parker, in a sermon

occasioned by the hanging of John Ryley in 1783, was prompted to remark,

> Self-Preservation is nature's first law; and it has been frequently observed that this principle has made men obedient, both to the laws of God and man, when no other consideration could have the least influence: But it is remarkable, that when men criminally disregard their great obligations of duty to their Creator, and rebel against his laws and the checks of their own consciences, he suffers their minds to be so blinded with unaccountable gross ignorance, false, groundless hopes, or a bold, presuming confidence, that they lose the sense of self-preservation which first restrained them, and do not perceive the consequence of their blameable conduct, while every body else plainly sees their absolute ruin! [87]

Thompson, in his biography of Fanny Davies, The Female Amazon! (1786), asserted that she was arrested after having boasted of robbing a grazier called Wrigglesworth. [88] Jack Rann was arrested several times, but released through lack of evidence, prompting his biographer to comment, "How fortunate for him, that he had taken a lesson of caution from such reiterated hardships, but alas!" Before his final arrest Rann boasts of his crimes to anyone who cares to listen. [89] Such boasting often continues in the condemned cell: Richard Keeble, for example, was said to have been "very fond of bragging of his Exploits amongst his Fellow Prisoners". [90]

The History also refers to examples of the apparent lack of loyalty between criminals as another way of demonstrating their animalisitic tendencies. In 1735 Joseph Cole escaped hanging before by impeaching four of his comrades and on being arrested again in 1736 sought to repeat the trick, but

failed and was hanged, causing the Ordinary to comment in his Account:

> This is a melancholy Proof of the extream Depravity of human Nature, since it shews us, that Men are capable, first of leaguing themselves with others, to commit Facts the most abominable in their Nature; and secondly, have it in their Heads all the while to hang one another, while they are eating, drinking, and conversing together like Brothers. [91]

Besides such general assertions, the biographies are littered with the names of accomplices, indeed one of the most popular biographies of the century was John Poulter's The Discoveries of John Poulter (1753), a lengthy and important revelation of his crimes and accomplices.

The biographies present subordination within arrangements such as apprenticeships as being justified not on the ground that they provided a person with skills, but because they were a means of restraint which prevented vulnerable youth from falling prey to the temptations to which independence supposedly exposed them. John Hart told Lorrain in 1713 that,

> ... in his younger Years, he was bound to a card-maker in St. James's Steeet, Westminster; and, That when he had but one Year and an Half of his Time to serve he ran away, and became a Vagabond; and was easily enticed to those ill things, which he afterwards committed, and which prov'd at last his Ruin. [92]

Since young people were so vulnerable their only protection lay in conforming to the firm discipline of a master or mistress: James Gardner, a Scot who died at Tyburn in 1738,

> desired all Gentlemen Servants to take warning by his

> unhappy End; and particularly to avoid lewd Womens Company which was the whole Cause of his Ruin; and likewise desired them to be diligent in their Master's Service, and not to wrong them as he did his Master; [93]

Similarly in 1685 it was reported that William Charley had addressed the crowd at Tyburn:

> he desired that all young men Apprentices would seriously weigh his condition and consider by what degrees he was brought to be an Object of Misery, which he said he well hoped would be a means to continue and retain them within the Bounds of Apprentices, viz. in minding the business they were intrusted with, in pleasing their Masters, and giving themselves to sobriety and moderation, but especially to avoid evil company, for that had ruined him, and is indeed the Root of wickedness, shame & disgrace. [94]

Nicolas Mooney told in 1752 how he had absconded from his master and observed that, "this rash and inconsiderate action was the first step to my ruin: this pav'd the way for all the after-extravagances of my life." [95] Similarly, Francis Freeman told the Ordinary of Newgate, Samuel Smith, that, "if he had followed his Master's good Advice, he had not proceeded in his evil Courses". [96] Thomas Rowson had been apprenticed to "an eminent Tripe Man" whom he served for six years at which time "he grew something head strong and prodigal, and his Master indureing to admonish him, he instead of imbracing his honest Perswasions in observing his duty and his business better, he resented his seasonable advice so ill that he went away from his said Master". [97] The use of skills in crime was regarded as both fatal for the individual and also a great loss to society: in a biography

of Barrington, published in 1790, the author observed,

> however we may admire the greatness of his abilities, we cannot but lament the sad perversion of them - abilities which might have rendered him the ornament of society, he had basely employed to the destruction of it; and is now held out as an example to all men, that neither extensive knowledge, nor crafty ingenuity, are able to evade that justice which every injured fellow-creature has a right to demand. [98]

As this passage indicates the descent into crime was depicted as inevitable. One biographer wrote in 1781 of criminals in general, "There seems to be, as experience evinces, a kind of fatality hanging over them; and Justice, as it were, having once been violated to a criminal degree, pursues her victims, till she has received." [99] Sometimes this inevitability was couched in terms of divine providence: the biographer of Charles Drew, hanged for parricide in 1740, wrote that a murderer "may indeed screen himself a while from the Eyes of Men, but the piercing Eye of Providence will at length discover him, and lay him open to a just and unerring Vengeance". [100] However, the agent of providence generally turns out to be the secular authorities in the form of the criminal justice system: in Drew's case "Vengeance" is left to such authorities and divine providence plays no obvious part in the infliction of the punishment. In a significant portion of the literature the clergy do play a prominent role, but typically they concerned themselves with securing a comprehensive endorsement of the criminal justice system by obtaining from the condemned a public confession, an

acknowledgement of the justice of the punishment and restitution of stolen property. Furthermore, although the literature is frequently concerned with providing an example of how not to live in the form of the hanged person's life before being condemned, and an example of how to live in the period after condemnation culminating in the repentance at the gallows, the moral classification of the lifestyle depends on a particular set of social, political and economic values which defined sin in terms of idleness and insubordination. [101]

CHAPTER 6

DRUNKS, WHORES AND IDLE 'PRENTICES

In its portrayal of the labouring classes the biographical literature of crime illustrates views set out in a variety of other works concerned with economics, religion, morality, poverty and so forth. These other, more discursive works provide, therefore, an opportunity to examine the ideas which underpinned the strong thread of support for social control that was apparent in the biographies.

The term "the poor" was used in the eighteenth century to mean not merely those on poor relief, but, according to Eden writing in 1797, all "whose daily labour is necessary for their daily support". [1] By this he meant all those people who were within the ambit of the settlement laws, which gave parish authorities the right to remove to their place of settlement those people who owned less than a certain amount of property, even if they were not in receipt of poor relief. [2] The poor were, in other words, the labouring classes, and they formed the bulk of the population, providing workers for agriculture, manufacture and the service industries as well as soldiers and sailors. The importance of their role was readily acknowledged. The economist Charles Davenant wrote in 1695 that the poor were "the real Strength and Riches of a Country" [3] and Laurence Braddon in 1721 called them "the very Hands and Feet of every Kingdom and State". [4] One anonymous writer was rather more explicit pointing out in 1722 that the labouring poor "get Estates for the Rich, and then Fight to defend their Persons

and Properties, from becoming a Prey to any Invaders". [5] But this notion was never pressed to its democratic conclusion, instead it was used to justify "the Great Law of Subordination".

Henry Fielding complained that as a result of the collapse of feudalism the labouring poor had become "more and more independent of their superiors". [6] The general view to which Fielding and other writers subscribed amounted to a new feudalism in which the labouring poor were obliged to work and fight not for a feudal lord of the manor, but for the nation. At the same time, as has been seen, a more traditional sort of feudalism appeared in suggestions about apprenticeship discipline.

The dependence on the labouring classes was turned on its head by the claim that they were naturally idle and, therefore, had to be subjected to discipline and authority in order to make them work. Davenant pointed out that "Numbers, unless they are well employ'd, make the Body Politick big, but unweildy [sic.], strong but inactive, as to any Uses of good Government." [7] The two prevailing views of the psychology of the poor were summed up in Considerations on Taxes (1765):

> let us observe, first, That mankind in general are naturally inclined to ease and indolence, and that nothing but absolute necessity will enforce labour and industry. Secondly, That the poor, in general work only for the bare necessaries of life, and for the means of a low debauch, which when obtained they cease to

labour, till rounded again by necessity. [8]

Idleness was roundly condemned. According to Dr. Woodward, in a sermon to the Lord Mayor of London in 1697, "where Idleness prevails, it nurses Wantonness, Baseness, and Effeminacy, and almost every Vice" [9]; Defoe agreed, writing in 1731 that, "Idleness may be more justly said to be the Mother of Mischief" [10]; and an anonymous writer in 1751 adopted a phrase familiar throughout the century, "Idleness is the Root of all Evil". [11] Idleness, crime, disorder and the economy formed a continuum: Woodward preached that the idle of London "perplex the Business of the more Diligent, disturb their Quiet, pilfer their Goods" [12]; and Thomas Walker claimed in 1728 that "Idleness is the Road to the Gallows". [13] More generally, the bookseller John Dunton warned in 1705 that being idle, "ruins Thousands in a year; for it presently sets a Man a thinking how to entertain his Fancy, to divert himself with Pleasure." [14] That the poor were naturally idle was largely taken for granted: the author of Considerations on Taxes claimed that, "there are very few industrious poor (comparatively speaking) in the kingdom, particularly in our manufactories". [15]

At the same time, as the quote from Considerations on Taxes given above shows, the indulgence in luxury was also regarded as being a commonplace evil among the labouring poor. Indeed for some writers it was luxury which led to idleness, rather than the other way around: "Lewdness and

Debauchery... prevail amongst the lowest People, which keeps them idle, poor and miserable, and renders them incapable of getting an honest Livelihood for themselves and Families". [16] Defoe wrote in 1726 that any spare money was spent by men on foreign liquor, that is gin and brandy, and by women on "gay things" [17], and the nation was doubtless shocked to find in 1766 that, "we are come to that degree of luxury, that a London chimney-sweeper will not eat any but the finest bread". [18] Luxury was regarded as causing the poor to spend what they did not have and as dampening the spirit of industry, either by making working people unfit to work because of over indulgence or by diverting their energies away from work of real utility. [19]

Luxury also undermined authority: Rev. John Johnson, in an assize sermon preached at Maidstone in 1708, declared that, "Habitual Intemperance and Sensuality do by degrees harden the Heart, and deaden all sense of Religion in the Minds of Men, and when this is once done, all the most Sacred Obligations they are under to God, and their Superiors, are soon forgotten." [20] Some years later in 1751 Henry Fielding argued that "the vast torrent of luxury" [21] was due to an expansion of trade by which means, "The narrowness of their [the labouring classes'] fortune is changed into wealth, the simplicity of their manners into craft, their frugality into luxury, their humility into pride, and their subjection into

equality." [22] The lavish dress said to be common amongst servants was regarded as symbolic of the way in which luxury had broken down the distinctions between the social classes and so undermined authority. Defoe complained in 1726, "how hard it is sometimes to know the Chamber-Maid from her Mistress". [23] The maid, he claimed, was overpaid since she received a wage and also vails, and, since she had nothing to pay for food or lodgings, "she throws her whole Income upon her Back, and by this Means looks more like the Mistress of the Family, than the Servant-Wench." [24] This complaint was repeated throughout the century: for instance, one tourist wrote in 1789 that, "The appearance of a waiting-woman is that of an opulent and a fashionable person". [25] All of this was regarded as encouraging an independent frame of mind: maids not only looked like their mistresses, they thought like them, [26] prompting Defoe to ask, "how can it be expected she shou'd not be above herself, much more above her Business, and most of all, which is to my Purpose, above Reproof". [27] Similar complaints were made about apprentices. The author of A Ramble Through London (1738) complained that on Sundays and holy days apprentices were to be seen wearing:

> a Suit made after the newest Fashion, a fair Perriwig of about three or four Pounds Price; silver Buckles to his Shoes; his Shirts must be of fine Holland, set off with Cambrick Bosoms; and if he thinks fit to desist from wearing Ruffles in the first Year of his Servitude, 'tis look'd upon as a Token of great modesty and Humility. [28]

Indulgence in luxury by the labouring classes was, therefore, regarded as a pernicious vice, intimately connected with idleness, insubordination, crime and the gallows. The inevitability of the route from idleness and luxury to the gallows was often asserted: a collection of Newgate biographies, The Tyburn Chronicle (1768), has on its title page the following poem,

> How dreadful the Fate of the Wretches who fall,
> A Victim to Laws they have broke!
> Of Vice, the Beginning is frequently small,
> But how fatal at length is the Stroke!
> The Contents of these Volumes will amply display
> The Steps which Offenders have trod:
> Learn hence, then each Reader, the Laws to obey
> Of your Country, your King, and your God. [29]

This theme was also central to some of William Hogarth's most enduring images, notably The Harlot's Progress (1732), The Rake's Progress (1735) and Industry and Idleness (1747). In the last of these the wages of sin are emphasised by a parallel series depicting the profits of virtue: the Idle Apprentice is hanged and the Industrious Apprentice becomes Lord Mayor of London. The difference between this and The Rake's Progress was one of class, both the Idle Apprentice and the Rake are cast into oblivion, but while the former is hanged, the upper social class of the latter means that his sins are beyond the secular punishment, and so Hogarth leaves him in Bedlam. [30] The way in which vice progressed was summarised by the author of The Vices of the Cities of London and Westminster (1751):

> However Divines may describe the Nature of Man as prone to Evil, yet, I believe, every Man's Experience, will teach him, that few Men are born Villains; that no Man becomes wicked all at once, but debases his Nature by slow and often painful Degrees; Vice is contagious, it is communicated by Example, and improved by Habit. [31]

So people became vicious by contact with vice. Once contact was made then, as Rev. Travell put it in a popular late century S.P.C.K. tract, "the progress of every vice is rapid, and quickly hurries men to the commission of crimes, which in the beginning they could not have thought of without trembling", [32] although Rev. James Foster believed that, "Some go on faster in the paths of vice, than others", [33] so that, as Rev. John Clayton remarked, "nobody ever was a complete villain at once". [34] Yet this did not lessen the relentless nature of vice: William Dodd wrote in 1771, just six years before he was himself hanged for forgery, that "if once vice gains an entrance, much more if it becomes habitual, you will find the retreat difficult and embarrassed." [35] The way in which vice affected the mental functions of people was clearly defined. Contact with vice did not make people evil, rather, according to Henry Fielding, it removed "the Guards of Reason" and "heightens and inflames our Passions", thereby exposing the natural inclination to evil which was regarded as an inheritance of the Fall. [36] Eventually the power to reason was destroyed and those in its grip were reduced to the level of animals;

they were unable to control their passions and were unresponsive to the constraints of law, morality, religion or family. [37]

Vice also had an effect on physical health, a crucial consideration in a society dependent on a large, fit and fertile working population. According to Dr. Thomas Short, in his important book on demography which he wrote in 1750, "Intemperance, Intriguing, Night-revelling, Luxury, Excess, or other Vices" increased the likelihood of early death not only for those who indulged in them, but also for their children. [38] He concluded that the population increases, on which the country's wealth and military strength depended, required hard work and morality: "the most laborious Part of Mankind are also most fruitful in proportion to their Numbers; and the most voluptuous, idle, effeminate and luxurious are the barrenest." [39]

The assumptions about the psychology of the labouring classes were used not only to reject - or more accurately to ignore - any democratic implications which might have attached to the acceptance of the poor's importance in national affairs, but also to justify an aggressive attitude towards them: Henry Fielding, writing in 1753, argued that the labouring poor,

> having nothing but their labour to bestow on the society, if they withold this from it they become useless members; and having nothing but their labour to procure a support for themselves they must of necessity become burdensome.

> On this labour the public hath a right to insist; since this is the only service which the poor can do that society which in some way or other hath a right to the service of all its members; and as this is the only means by which they can avoid laying that burden on the public which in case of absolute incapacity alone it is obliged to support. [40]

The anti-poor law writer Rev. Robert Potter approached the issue from the other direction. He argued in 1775 that,

> Our domestic safety and comfort, our private wealth and prosperity, our national riches, strength and glory, are greatly dependent upon an industrious and well-order'd Poor; a proper attention, therefore, to their morals and support must always be the concern of every wise and good administration; [41]

The consequences of idleness and an attachment to "immoral" expenditure justified, indeed required, in the view of such commentators, the subordination of the labouring classes.

The general approach was, therefore, to denounce luxury. However, there were some who regarded its availability to the labouring poor as a positive advantage: Bishop Berkeley wrote in The Querist (1735-37) that he believed people could be made to work harder by "the creating of wants", adding the query, "whether, if our peasants were accustomed to eat beef and wear shoes, they would not be more industrious?" [42] Others were unsure exactly what "luxury" meant: Dr. Johnson criticised Mandeville's The Fable of the Bees on the ground that,

> He reckons among vices every thing that gives pleasure. He takes the narrowest system of morality, monastick morality, which holds pleasure itself to be a vice, such as eating salt with our fish, because it makes it taste better; [43]

Some, however, would not have regarded as extreme the position which Dr.Johnson criticised: for instance, The Whole Duty of Man, one of the most popular books of the period, took a fundamentalist puritan approach and denounced all excess in clothing, drink, food, sleep, play and so forth. [44] Dr. Woodward, a staunch supporter of the societies for the reformation of manners, argued that since this was a short and a "probational life", the aim of which was to secure "eternal life", there was little time for "diversion", so it was crucial to conquer "many sensual appetites, many worldly vanities, and many infernal enemies." [45] However, most commentators confined themselves to encouraging or denouncing certain activities, people and places.

Chief amongst those activities which were encouraged was the observance of the sabbath. Samuel Richardson, the printer and novelist, told apprentices in 1734 that Sunday was "a Day set apart for rivetting in you and confirming all your other Duties", and he added that the apprentice who fails to attend church "not only loses the Opportunity of hearing many excellent Things by which he might regulate his Conduct, both with regard to God and Man, but must inevitably run himself into bad and expensive Company of habitual Sabbath-breakers, who will never leave him till he is as bad as themselves." He concluded that sabbath breaking "is generally the first Step to the Ruin of all those unhappy Creatures, who are, by a

Train of evil Courses, brought to an untimely End." [46] Commercial and political considerations seem to have often been uppermost. The agricultural writer Arthur Young agreed with Addison's view that attendance at church tended "to civilize the lower classes" by forcing them to appear "dressed in their best attire". [47] The church services were not only a useful forum for the inculcation of subordination and industry, but also in the system of boxed pews at the front for the rich and benches at the back for the poor they deified through architecture the hierarchical division of society. [48] The Church also pointed out that the duties of the eighteenth-century Christian were not simply to God, but also to man: Bowdler, the avid pamphlet collector and equally avid editor, listed these duties as including the obligation to submit to earthly superiors, to pay all taxes, to be honest, sober, modest and decent, to be a diligent worker, and to bear misfortune patiently. [49] Similarly Bishop Thomas Wilson wrote in 1724 that the Christian's duty centred on obedience to the state "as it is the most effectual Means of keeping Men within the Bounds of Duty and Obedience"; Christians, he remarked, "will <u>study to be quiet, and to do their own Business</u>, and leave the Government of the World to those on whom the Providence of God has laid that Burden." [50] It is no wonder then that Rev. John Forster declared that the way to make the labouring poor good subjects was "to make them good Christians". [51]

More often the concern was with activities that were to be avoided. Edward Moore justified the tragic quality of his play The Gamester (1758) by claiming that gaming was a "prevailing and destructive vice" which brought in real life, as in the play, ruin and misery. [52] Henry Fielding argued in 1751 that gaming was "a school in which most highwaymen of great eminence have been bred." [53] The view was that poor people, having been duped by cheats, would try to recover their losses by crime. [54] More generally, Fielding told the Grand Jury of Middlesex in 1749 that "to prevent gaming among the lower sort of people, is principally the business of society... because they are the most useful members of the society; which, by such means, will lose the benefit of their labour." [55]

Of equal concern with gaming was drunkenness: "A vice by no means to be construed as a spiritual offence alone, since so many temporal mischiefs arise from it; amongst which are very frequently robbery, and murder itself", according to Fielding. [56] He was particularly concerned, as were most other commentators at that time, with what he called "a new kind of drunkenness... which, if not put a stop to, will infallibly destroy a great part of the inferior people." [57] He was referring to gin drinking, "which I have great reason to think is the principal sustenance... of more than an hundred thousand people in this metropolis", [58] adding that

it "is almost wholly confined to the lowest order of people". [59] It was not simply that he believed gin drinking to be at the bottom of much of the crime with which he, as a magistrate, had to deal, he also used an earlier work, Distilled Spirituous Liquors the Bane of the Nation (1736), in order to argue that it led to a physical deterioration in the labouring poor on whom both the national wealth and military strength depended. [60] Such assertions were not new. Mandeville had earlier referred to "intoxicating gin" as "a fiery lake that sets the brain in flame, burns up the entrails, and scorches every part within"; although in a lone voice he did add that its advantage for the poor person was that it "drowns his most pinching cares, and with his reason all anxious reflection on brats that cry for food, hard winter's frosts, and horrid empty home." [61] A committee appointed to inquire into gin shops in London reported in 1725 that gin-sodden parents were neglecting their children, forcing them to steal in order to eat; that constant use of gin "never fails to produce an invincible Aversion to Work and Labour"; that even those gin drinkers who did work were less productive; and that unless something were done to reduce the ready availability of gin it would "affect our Manufactures in the most sensible Manner, and be of the last Consequence to our Trade and Welfare." [62] Defoe, ever to the point with an unsubstantiated remark, claimed that since the advent of the gin craze "Half the Work is not done now as

formerly." [63] He put the insubordination of the labouring classes down to "that Flood of Wine and Strong-Drink, which this Nation seems to be drown'd in for so many Years past". [64] Similarly, gin was referred to in The Vices Of the Cities of London and Westminster (1751) as "that Bane of London Servants". [65] In the general assault on gin chauvinistic passions were raised by emphasising its Dutch origin, even though most gin was produced in Britain, and partly as a result of this beer was elevated, as can be seen in Hogarth's Gin Lane and Beer Street prints: beer was "wholesome and nourishing" and the basis for "Joyous... Industry and Jollity". [66]

Other activities came in for criticism. Swearing and cursing were said to lead people into "vile, low, groveling Company" and so on to other vices. [67] From the middle of the eighteenth century popular recreations came under attack, most particularly those which were the exclusive preserve of the poor, such as football. [68] The complaint was that such recreations diverted people from work and were often a source of disorder. In 1743 The Gentleman's Magazine complained about the way in which cricket diverted the labouring poor from their work. [69] Holidays were also criticised, but particularly the custom known as "Saint Monday" in which workers did not work on Mondays. [70]

Certain places were regarded as centres of vice, most

notably "places of pleasure", by which were meant fairs, alehouses - the "infernal mansion" [71] - masquerades and so forth which catered for the poor and where vicious activities, such as drinking and gaming took place, or where, as it was supposed, crimes and industrial action were plotted, or where the poor simply wasted both time and money. [72] For Henry Fielding such places meant the labouring classes "from being useful members of the society, will become a heavy burden or absolute nuisance to the public." [73] John Fielding asserted in 1758 that, "Gaming in Public-Houses, and the very low Bawdy-Houses are constant Fountains that furnish the Courts of Justice with Offenders, and the Place of Execution with Victims." [74] Fairs had originally been markets, but with the development of day-to-day consumerism so the commercial aspect receded and the fairs increasingly became places for popular recreation, and as such they were regarded with suspicion. [75] Defoe complained bitterly of the insubordination amongst "the yearly collected rabble" at the horn fair in Charleton, Kent,

> the rudeness of which I cannot but think, is such as ought to be suppressed, and indeed in a civilized well governed nation, it may well be said to be unsufferable. The mob indeed at that time take all kinds of liberties, and the women are especially impudent for that day; as if it was a day that justified the giving themselves a loose to all manner of indecency and immodesty, without any reproach, or without suffering the censure which such behaviour would deserve at another time. [76]

Finally, certain people were described as "bad company"

and regarded as highly infectious carriers of the contagion of vice. In general terms these people were said to frequent gaming houses or to drink in alehouses during church services on a Sunday. There was no loyalty in such people: having "infected" someone with vice they never assisted them when they eventually got into trouble. [77] "Bad company" consisted not simply of criminals, but also included vagrants and prostitutes. Vagrants were, according to one author in 1748, "Persons who have inured themselves to a Life of Idleness, and by their Vices have brought upon themselves the Disasters under which they labour". [78] By the middle of the eighteenth century, although mobility and crime were still inextricably linked [79] the title "vagrant" was not only applied to people who were mobile. The concerns of the early poor laws with attempts to prevent the spread of disease, to offset the problems of mobility associated in the minds of employers with the breakdown of feudalism and the higher wages which followed the Black Death, and to repress bands of demobilised soldiers and sailors [80], had tended to give way to concerns about subordination within a system based on wage labour. Hence, vagrants under the Vagrancy Act 1744 included apprentices who ran away from their masters or mistresses, workers who took perquisites, "all persons wandring abroad, and lodging in Alehouses, Barns, Outhouses or in the open Air, not giving a good Account of themselves" (section II), and those deemed not to have a visible means of legitimate

support who refused to take on waged labour, a category which included strikers. [81]

"Lewd women" or "prostitutes" were vagrants within the Vagrancy Act 1744, section 1, and they the people most often picked out as the quintessence of "bad company". In spite of the importance of such women in eighteenth-century literature, both social and fictional, there has been no substantial work done on them. Here, as with the rest of my discussion of morality, I will concentrate on the images which were presented of prostitutes rather than the reality.

The meaning of the term "prostitute" is as difficult to discover as the meaning of "luxury". It was clearly much wider than the generally accepted twentieth-century definition: for instance, the police reformer Patrick Colquhoun, in his A Treatise on the Police of the Metropolis (1806), estimated that there were 25,000 prostitutes in London, half of whom "live partly by Prostitution, including the multitudes of low females, who cohabit with labourers and others without matrimony". [82] Such a definition almost certainly covered a very large number of women since, contrary to the view of one recent historian, cohabitation was not confined to "sailors, soldiers, the criminal element and other mobile individuals" [83], rather it seems that it was common practice for people from the labouring classes to live together without marrying at least until the woman

became pregnant. On top of this there was the confused state of marriage law before Hardwicke's Act of 1753, which led to even informal marriages having certain legal consequences. [84] However, concerns over definitions were of little importance in the imagery of the prostitute in art and literature. It was the existence of a particular view of the prostitute that was important to the eighteenth-century writers, not the individual woman, and even those who, like Boswell, wrote of their contact with prostitutes recorded only one side of the relationship. The reality of the prostitute was, for the most part, evidently quite different from the rebellious, independent spirit bent on destroying society, [85] and the literary image tells us little about that reality, but then it does not mean to do so.

The prostitute was routinely associated with other vices, such as drunkeness and idleness [86], indeed she was regarded as the personification of evil. Henry Fielding in the Covent Garden Journal (1752) referred to prostitutes as:

> the lowest and meanest, so are they the basest, vilest, and wickedest of all Creatures. It is a trite Observation, that when a Woman quits her Modesty, she discards with it every other Virtue.

The result of becoming a prostitute was, Fielding added, "Age, Ugliness, Impotency, Disease". [87] The prostitute appears in the newspapers, literature, art, sermons and drama as friendless and doomed, surrounded by images of vice, crime, death and waste. If she did not die on the gallows

[88] she rarely escaped a long lingering death caused by venereal disease, the pain of which was intensified by the liberal application of mercury-based treatments.

Prostitutes were also believed to be connected with crime: so, for instance, when Thomas Green was robbed and murdered in Lord Lane, Southwark in 1748 the Whitehall Evening-Post immediately linked the incident with prostitutes solely on the ground that the area was "a constant Rendezvous for the most notorious Strumpets". [89] It was not just that prostitutes were regarded as committing such crimes, they were also believed to lead others into crime: for instance, in John Gay's The Beggar's Opera Filch commits crimes in order to support Betty Sly; [90] and John Fielding claimed in 1758 that it was in the brothels that "the Apprentice and Journeyman first broach their Morals, and are soon taught to change their Fidelity and Integrity for Fraud and Felony". [91] As a result many writers argued that the solution to male criminality lay in the removal of prostitutes. [92] More generally prostitutes were said to ruin young men by distracting them from their work: in 1734 Samuel Richardson warned apprentices against "lewd Women, who have been the Bane and Ruin of many an hopeful young Man; of which there are Multitudes of Instances within the Knowledge of every one." [93] In short prostitutes were regarded, in the words of Henry Fielding, as "a Compound of every Species of Dishonesty." [94]

Hogarth's The Harlot's Progress illustrates some of these themes: initially Mary Hackabout dresses extravagantly and lives well, but the shallow nature of her lifestyle is revealed by her decline into an association with criminals, prison, disease, poverty, degredation and an unmourned death. [95] One image in those prints is that of Hackabout dressed in silk, beating hemp in prison workshops; this is a common scene in eighteenth-century texts and symbolises a wider critique of the labouring poor through its presentation of the contradictions of luxury and squalor, idleness and work. Colquhoun claimed that many labouring class women were tempted into prostitution by "the love of idleness and dress", [96] and others writers, as has been mentioned, complained of the way in which maid servants dressed above their social status and thereby undermined the class distinctions upon which society rested. [97] The silk dress symbolises the ultimately doomed attempt by the woman from the labouring classes to climb out of her "natural" position in society, and her confinement in prison is the consequence. The beating of the hemp links her both to the fate of those young men whom she has enticed into crime in order to support her in a life of idleness and luxury, and also to her own fate: it is in this double sense that Mandeville referred to those who were "hang'd in Hemp of their own beating". [98] The symbolism of the scene is given a further twist by John

Fielding's note in 1758 that, "for as most highwaymen keep company with bad women, who generally spend half their year in the Bridewells about town, they [the "bad women"] have often impeached their paramours". [99]

For the most part prostitutes were regarded as being, as John Fielding put it in 1758, the children of "Chairmen, Porters, labourers and drunken Mechanics", [100] and as women and members of the labouring classes they were supposed to be subject to both gender and economic subordination. It was what was regarded as the prostitute's rejection of both forms of subordination that made her such a personification of evil. Defoe, for instance, wrote in Some Considerations upon Street-Walkers (1726):

> The great Use of Women in a Community, is to supply it with Members that may be serviceable, and keep up a Succession. They are also useful in another Degree, to wit, in the Labour they make for themselves, or the Assistance which they may afford their Husbands or Parents. It will be readily allowed that a Street-walking Whore can never answer either of these Ends; Riot and Diseases prevent one, and the Idleness which directs her to this Course of life incapacitates her for the other. How very useless then is such a Subject? [101]

Similarly Steele remarked of the obligations of a woman, "All she has to do in this World is contained within the Duties of a Daughter, a Sister, a Wife, and a Mother", [102] and to Lord Chesterfield women were regarded as above children, but below men. [103] Labouring class women only had an existence within society when they conformed to a fairly clear definition of their roles in the reproduction of the labour

force and in their own participation in the family economy. The prostitute failed to meet any of these criteria: she was, according to Dr. Short, barren because "a Woman by admitting many Men is so far from having more Children that she has none at all" [104], view confirmed by Saunders Welch, who estimated that out of 3,000 prostitutes in London in the early 1750s 2,500 were barren. [105] Welch also argued that the existence of prostitutes reduced the likelihood of men marrying and so further obstructed the reproduction of the labouring classes. [106] On top of all this prostitutes were represented as dominating men in a patriarchial society: Kitty, the prostitute in Cibber's The Harlot's Progress (1733), rejoices in her power over men,

> Thus in full Pow'r,
> I'll sweeten, I'll sour,
> I'll whindle, I'll bluster, I'll wheedle, I'll cant,
> I'll bubble, I'll blind,
> Make Fools of Mankind [107]

Young men in particular are portrayed as vulnerable to such women and the only protection they can obtain is within an employment relationship, such as an apprenticeship. Prostitution in eighteenth-century texts was, therefore, presented as a complex of images concerning the dangers for men and women that lay in independence from economic and patriarchal authority.

This stylised image of the prostitute was used to justify the subordination of women since it supposedly

illustrated the consequences of their independence: Dr. Johnson, as he so often did, succinctly summed up contemporary attitudes, "Nature has given women so much power that the law has very wisely given them little." [108] Certainly there was plenty of evidence that this was true: Blackstone, for instance, tells us that "the very being or legal existence of the woman is suspended" during the course of her marriage [109]; a husband murdering his wife was murder, but a wife murdering her husband was petty treason for which she was burnt at the stake, because the act,

> not only breaks through the restraints of humanity and conjugal affection, but throws off all subjection to the authority of her husband. And therefore the law denominates her crime as a species of treason and condemns her to the same punishment as if she had killed the king. [110]

Those who attacked certain sexual practices, such as prostitution, did not seek to suppress all sexual activity, indeed they regarded procreation as vital for the national well being. The reason they opposed prostitution was that the need was not simply for large numbers of children, but for children who would join the workforce and who would not be a burden on the poor rates. The family, more specifically the patriarchial family, was regarded as the context within which a disciplined and obedient worker might be produced, hence John Fielding's claim in 1758 that prostitution and criminality arose from a lack of family discipline. [111]

In their discussion of the prostitute writers addressed

not only gender issues, but also "idleness", "luxury" and "independence" amongst the labouring classes. Although in reality the prostitute offered no economic threat, she symbolised all commercially useless activity. Moreover, through her failure to fulfill the proper role of women and the proper role of a member of the labouring classes her very existence revealed the fragility of the web of authority which surrounded the labouring poor.

The link between vice and crime was not claimed to apply to all social classes. For some the indiscretions of youth were said to lead to the gallows, for others they led only to personal extinction; Tom Idle's in fate Industry and Idleness was not the fate of all sinners. The sins of the rich and of the commercial classes might - and usually were alleged to do so - result in bankruptcy, madness and suicide, but only the labouring people were hanged. This was because vice was defined in secular terms, it was a commercial and political concept: in brief, it was anything which distracted the poor from their duties, chief amongst which was their duty to work. In an age of patriotic mercantilism the failure of the labouring poor to work amounted to an act of rebellion which was regarded as entitling society to punish them.

Since the sins of the poor were defined through the values of commerce and manufacture, the solutions were

also to be found there. The writer of Considerations on Taxes (1765) concluded:

> What a variety of blessings follow in thy train, O Industry! By thee our poor would be made happy, our riches would increase, more employments would be created for our shipping, our naval power would be extended, and our riches and powere would either secure for us the quiet possession of our properties, or eanble us to repel the united efforts of our encroaching enemies [112]

The writer also believed that, "it is best for themselves, as well as for society, that the poor should be constantly employed." [113] To Arthur Young, writing in the midst of the riots of 1768, the benefits of work to public order were obvious: "It is always my opinion, and experience confirms it; that sober and industrious workmen, of any sort, never riot." [114] The solution lay in work, not merely because work provided money, occupied an individual's time and was the basis of national prosperity, but also because the employment relationship seemed to contemporary writers of all sorts of literature to offer the means of ensuring the subordination of the labouring poor. The only matter in dispute was the best way of achieving this end. The assertion - turned into assumption - that indigence and crime was caused by vice, idleness and insubordination was an important way in which the distress of the labouring classes could be laid at their own door, rather than blamed on the structure of society or the operation of the economy. The labouring

people's existence was linked to a particular view of their economic function: if they did not work, then they did not exist in economic terms, worse than that they presented a threat. [115] The worthlessness of those people explained crime, unemployment and high poor rates, and the innate tendency to turn to crime and idleness which the labouring people were supposed to possess was used to justify not merely strong measures of punishment, but also a closer control over their lives through the employment relationship.

CHAPTER 7

CRIMINAL LITERATURE AND HISTORY

In this part of the thesis I have suggested that there is evidence for believing that some of the biographical literature was based upon materials supplied by, or interviews with, the condemned. For the historian establishing this link does not, of course, guarantee the accuracy of the literature, and typically it has been dismissed as fiction because of the way in which the narrative structure is repeated. The key issue in the use of the literature by historians has, therefore, been this question of accuracy, and even those who have used it have done so in ways which tend to reinforce the general prejudice. For instance, Langbein and Linebaugh established the accuracy of, respectively, the Old Bailey Sessions Papers and the Ordinary's Accounts by cross-checking with other records. [1] The problem for both of them is that accuracy is never definitely established: so Langbein refers to his "constant sense of hazard" [2] in using the O.B.S.P.. This feeling of uncertainty tells us as much about twentieth-century historians as it does about their eighteenth-century sources. The search for scientific accuracy is hampered since it is conducted amongst sources which were never designed for the purposes to which they are being put. This is not to dismiss the value of such efforts, but rather to point out their limiting effect on the use of the literature as

a source of history. Nor am I claiming that the eighteenth-century reader was not seeking accuracy as well as authenticity in the literature, it is merely to observe that he or she would have defined accuracy differently from the way in which a modern historian inquiring in to eighteenth-century courtroom procedures would. These were journalistic products. The omissions and rearrangements which Langbein finds in the O.B.S.P., "the exaggeration, error or embellishment" detected by Linebaugh in the Accounts, and the arrangement of a biography around a structure of insubordination, vice and crime were acceptable to the eighteenth-century reader. The literature can only be properly understood if the obvious but easily forgotten fact is remembered that the literature was not only written, but it was also read. The process of writing these biographies depended on the existence of potential readers. Quite simply, if the literature failed to address issues which the readers found interesting then it did not sell. It was popular because it succeeded in this task, not because it sought to conform to twentieth-century notions of accuracy, nor, it might be added, because literary historians have since decided that it was a forerunner of the novel.

So the literature does provide insights into questions about trial procedure (although the much fuller

single trial reports provide a source which might be used alongside the often very brief O.B.S.P. reports) and the emphasis on direct contact with the condemned makes the biographical literature an important, but neglected source for the study of crime and the labouring classes. However, it is also important to recognise the dangers of being drawn into questions of accuracy. Not only is it difficult to judge what is "accurate", but such an excerise can lead to the conclusion that those sections of the literature which are not "accurate" are, therefore, fiction and as such disqualified as sources of history.

The repetition of the plot structure indicates that tc the readers this was an acceptable way of interpreting the world. One marxist position has been to argue that popular literature is a crude reflection of the values of the ruling class. Of course, it is not difficult to pick through the literature for evidence of ruling class bias, yet this view fails to explain the literature's popularity; why should people who are not members of the ruling class read such expositions of this ideology? Moreover, it fails to explain why the literature took the form it did; why was is not simply a list of ruling class values? In one respect these two issues are linked; the literature was popular partly because it took the form it did. So such biases as were fed into it were put into a

narrative form, and this process involved a translation of those biases rather than a simple transmission. The popular literature did not reproduce reality it sought to make sense of it. The materials were chosen, arranged and presented according to a particular viewpoint, one which made sense of the world for the readers. That world view was not one to which the gentry necessarily subscribed because the literature was produced by and for the middling classes, the counterparts of Mr. and Mrs. Wood, John Sheppard's employers. Therefore, the narrative structure, rather than disqualifying the literature for the historian, is at the very centre of its importance as an historical source, and the historian must be aware of the value of using the whole of the text not just parts of it.

My study of The History shows that the literature does not provide a flat view of society, it portrays tensions and conflicts, and it seeks to produce harmony by suppressing or explaining away these features. The excitement lies less in the crimes, which are often passed over quite rapidly, and more in the way in which the plot is built around the succession of order, disorder and the reestablishment of order. Interwoven with this are the conflicts. At one level there are the oppositions between: Sheppard as an apprentice and as the

consort of Elizabeth Lyon; Mr.Wood the master and Sheppard the consort of Lyon; Mrs. Wood and Lyon. At another level there are the conceptual oppositions between: subordination (apprenticeship) and independence; patriarchy, as in the apprenticeship relationship where Wood is both master and surrogate father, and a sort of matriarchy, as in the Sheppard-Lyon relationship where Lyon is dominant; "order" (when the apprenticeship holds and the employers are dominant) and "anarchy" (when the apprenticeship has been rejected, criminals dominate and the employers hide for fear of the apprentice). Overlaid on these are further, more general sets of contradictions between the employers and the labouring classes, and between men and women. In the literature these contradictions simultaneously arise and are resolved, but in the fact of their having arisen in the first place lies an indication how they might be avoided for the future. The situation of order and harmony really only prevails when the youth is an apprentice, for once that relationship is broken it can never properly be repaired since it leads to the hanging of the errant apprentice. The literature presents apprenticeship as the model of a new feudalism through which young members of the labouring classes might be brought up in a disciplined environment, so that valuable workers, like the highly skilled John Sheppard, need not be lost. In this

apprenticeship the master acts as employer, teacher and parent. This resolution legitimates the rise of the middling classes in the eighteenth century to become the hegemonic class, and is a rejection of any system of negotiation and moral economy which, in part, as the experience of the food riots shows, characterised the relations between the landed gentry and the labouring poor.

The biographies do not simply congratulate the middling classes, their popularity depended very much on the way in which they represented the contradictions inherent in the economic success of the middling classes. For many bankruptcy was a real possibility and the separation between themselves and their workers was fragile. To some extent this might have allowed empathy with those labouring people who committed crime and died on the gallows, but the literature reveals the opposite. It is about the differences between the rational, hegemonic employers and those who are portrayed as their natural subordinates, the labouring people. Feelings of empathy were swamped by the way the literature revealed the things which supposedly separated the two groups: the workers might slip into crime because of their natural immorality and indeed only the employment relationship was preventing them from doing so, but this was something

which would not happen to the employers since their engagement in business, as the manuals of advice told them, was a highly rational affair and their ability to reason guaranteed their morality.

The literature does portray problems thrown up by the economic growth which began in the late seventeenth century (a subject I will return to later in the thesis): crime is typically portrayed as a problem of urban areas, notably London, and of young, single people coming to London from the country. London's expansion in commercial terms, therefore, also carried with it a fear of the growing population of labouring people. So the literature of London crime, indeed of crime generally, revealed weaknesses in the existing system of government, and showed that those weaknesses could only be resolved by the middling classes through the constraints of the employment relationship. It is only within that sort of relationship that order prevails. The acts of the criminal are symptoms of the breakdown of order, but the deeper threat which is being posited lies in the inevitability of economic collapse if the hegemony of the employers is not asserted. To some extent the literature is calling on the middling classes to impose themselves. The depiction of the failure of employers like Wood to control their workers is not an attack on the role of the employers, but a demonstration of the need for that role

to be strengthened, to be turned into something mo closely resembling the rigid discipline of the apprenticeship relation described by Samuel Richardson in The Apprentice's Vade Mecum.

The literature does provide an important source of information on the labouring people themselves, not only the details of their lives, but also, for example, their religious beliefs, which are presented in the literature as evidence of the "obstinacy" of the condemned or the immoral state of the crowd. But the literature of crime did not reproduce reality, it defined and presented a reality. Reading the literature against the background of the period during which it was written reveals how it presents only one version of events. It sought to make sense of the life of a criminal in the terms of the middling class readers. Materials were selected, arranged and presented according to their particular world view, which for them represented truth and reality. As my discussion of the problems faced by apprentices shows, this was not the reality of the labouring people. Through examining the whole of a narrative rather than only details abstracted from it, it is possible to approach an understanding of the particular view of reality around which the biography is formed. The literature is very much of the middling classes. It contains elements of

criticism of the labouring poor and existing structures of government. The middling classes themselves are given gentle nudges about their responsibilities, but these confirm rather than undermine their importance: in other words, it is to the middling classes that the literature looks for the resolution of the problems of which crime was regarded as merely a symptom. To some extent it amounts to a looking back to a mythical golden age of apprenticeship, and in practice the middling classes tended to drift away from the traditional forms of apprenticeship. Nevertheless, the literature retained its popularity because of its presentation of the middling classes as the saviours of society, and this meant that the flawed nature of the literature was, in part, left unresolved. However, the crime panic of the late 1740s, which I discuss in detail later, did lead to a shift in some of the literature (especially newspapers, but also pamphlets) with the portrayal of the bureaucratic approach to crime, dominated by the urban middle classes as typified by the Fieldings. This branch of the literature posits the existence of a distinction between private and public aspects of life which inevitably had long term repercussions for the traditional form of literature in which the private employer's desire for profit must be fitted in with the duty of the employer as

a citizen to ensure social control of what is portrayed as an innately immoral class, the labouring people.

THE UNIVERSITY OF HULL

THE REFORM OF PUNISHMENT AND THE CRIMINAL JUSTICE SYSTEM IN ENGLAND AND WALES FROM THE LATE SEVENTEENTH CENTURY TO THE EARLY NINETEENTH CENTURY

Being a Thesis Submitted for the Degree of

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PART II

THE SPECTACLE OF THE CRIMINAL JUSTICE SYSTEM IN THE EIGHTEENTH CENTURY WITH SPECIAL REFERENCE TO CAPITAL PUNISHMENT

No Indian Prince has at his Palace
More Followers than a Roge to th' Gallows.
(Hudibras quoted in Tyburn's Worthies
(1722), title-page)

As clever Tom Clinch, while the rabble was bawling,
Rode stately through Holborn to die in his calling,
He stopt at the George for a bottle of sack,
And promised to pay for it when he came back.
His waistcoat and stockings, and breeches, were white;
His cap had a new cherry ribbon to tie't.
The maids to the doors and the balconies ran,
And said, "Lack-a-day, he's a proper young man!"
But, as from the windows the ladies he spied,
Like a beau in the box, he bow'd low on each side!
And when his last speech the loud hawkers did cry,
He swore from his cart, "It was all a damn'd lie!"
The hangman for pardon fell down on his knee;
Tom gave him a kick in the guts for his fee:
Then said, I must speak to the people a little;
But I'll see you all damn'd before I will whittle.
My honest friend Wild (may he long hold his place)
He lengthen'd my life with a whole year of grace.
Take courage, dear comrades, and be not afraid,
Nor slip this occasion to follow your trade;
My conscience is clear, and my spirits are calm,
And thus I go off, without prayer-book or psalm;
Then follow the practice of clever Tom Clinch,
Who hung like a hero, and never would flinch.
(J.Swift, "Clever Tom Clinch, going to be
hanged." (1727))

Take Warning, my dear Comrades: Think! O think! -
What would I now give, that I had another Life.
(George Manley at the gallows in Wicklow,
Gentleman's Magazine, VIII, (1738),
p.276.

CHAPTER 8

A CRITIQUE OF RECENT WRITING ON CAPITAL PUNISHMENT IN THE EIGHTEENTH CENTURY

1. Radzinowicz and the "Whig" Tradition

Although capital punishment in the eighteenth century has attracted much attention from historians and antiquarians, it was Radzinowicz who provided the first serious study in A History of English Criminal Law and its Administration from 1750. [1] This is still a central text in the field as can be judged not only from Langbein's recent defence of the work, but also from the way in which even its critics use it as a source of reference. [2] So it is surprising that, although often strongly criticised (Louis Knafla once wrote that it "is not a history of criminal law or its administration" [3]) the book has not been subjected to a full critical discussion. In this chapter I will examine the themes of that book and some of the recent responses to it.

In essence Radzinowicz's book is about historical change: he seeks to explain how and why the number of capital offences was reduced from more than 200 in 1800 to just a handful in 1839. His first sentence shows that he is firmly within that school of historiography known as the "Whig" tradition:

> Lord Macaulay's generalisation that the history of England is the history of progress is as true of the criminal law of this country as of the other social institutions of which it is a part. [4]

Since he sees history as the inevitable march of progress towards the present day Radzinowicz passes judgments on

eighteenth-century criminal law in the light of subsequent developments. As a result he detaches the criminal law from its social, political and economic context, and he applies to it value judgements based on his own twentieth-century yardsticks of internal coherence and rationality, thereby failing to consider the possibility that to the contemporary observer other considerations might have been of greater importance. It is on this ahistorical basis that he concludes, "Eighteenth century English criminal law was undoubtedly in need of extensive reform." [5] Seeing the history of criminal law simply as the march of progress also means that the book is dominated by those people whom he regards as having aided this process - "the reformers". The conservatives are portrayed as being out of touch with the feeling in the country which, according to Radzinowicz, favoured reform. However, even the work of the reformers is picked through using his modern yardsticks, and their failure to succeed earlier is explained in terms of what he regards as defects in their own programmes. As a result it is the failings of the reformers which are seen as having held up change, not the opposition of the conservatives. This completes the marginalisation of the conservatives since they are not even given the negative role of having obstructed change, and so, except in a fairly perfunctory way, their views are dismissed as of little importance. To take one example, he rejects any thought that Martin Madan's pamphlet

of 1785, which supported a full enforcement of the capital laws, might have been influential or have reflected an important strand of opinion simply because he believes that it "was clearly contrary to the current trend of public opinion." [6] Yet this does not explain how it was that whilst the reply written by Romilly, who in Radzinowicz's view was a reformer and so represented public opinion, sold very poorly, Madan's work went into a second edition. [7] By considering the views of the conservatives simply in the terms of the reformers, that is as irrational, anachronistic and obstructionist, he gives too much credibility to the influence of the reformers in the eighteenth century (a flaw which runs throughout the book). Moreover, it prevents him from seeing the possibility that the conservatives wished to preserve the existing criminal laws because they believed that these laws provided positive benefits which would be lost if they were reformed.

So Radzinowicz explains historical change either as the march of progress or as the result of the pressure of public opinion, although in practice he appears to make no real distinction between the two. To some extent the function of the reformers is relegated to the role of alerting the public to the bloody nature of the criminal law: "The development of social consciousness in the penal sphere was slow but steady and once aroused it did not allow itself to be shifted." [8]

Nowhere does he set out what he means by the term "public opinion". At first sight he appears to assert the existence of a national consensus on matters of criminal law. However, a more careful reading shows that he employs a narrower meaning of the term, and one which fits in with his view that the history of the criminal law in this period represented the triumph of rationality over irrationality.

We can arrive at Radzinowicz's definition of public opinion by eliminating those sections of society which he excludes from the concept. Since he regards it to have been a highly rational and essentially humane form of opinion those groups which he categorises as brutal and irrational are automatically excluded as sources of public opinion. His lengthy discussion of the events at the gallows is included so as to demonstrate the irrational and sadistic nature of much of the support which capital punishment received, and those who took part as spectators are, therefore, excluded from being considered as representative of public opinion: the "lower strata of society" are referred to as "a ribald, reckless, brutal mob, violently combative, fighting and struggling for foremost places, fiercely aggressive, distinctly abusive" [9], and the "higher ranks" who attended hangings are caricatured as ghouls by references to the antics of George Selwyn and others. Moreover, since reform is regarded as rational then the conservative opposition in Parliament is necessarily dismissed as irrational. So in the

end public opinion is lined up with the views of those on whom Radzinowicz confers the title "reformers", although, as has been mentioned, even the reformers are chastised for being less radical than public opinion. Radzinowicz's assertion at the start of his study of the reformers that, "it is necessary to consult contemporary authors, particularly those known to have exercised a deep influence on the moulding of public opinion" [10], therefore, turns out to be a tautology since he assumes that the reformers more or less represent public opinion.

The importance he places on public opinion means that he faces the difficulty of explaining how measures of legislative reform which enjoyed the support of public opinion were unable to make any headway until the early nineteenth century. He tackles this problem in four ways. First, he argues that reform was "impeded" by the political upheaval of the French Revolution and the social disruption of the Industrial Revolution: at such times of transition, he writes, "the Legislature becomes overridingly preoccupied with the strengthening of the State against the danger of an anticipated wave of lawlessness". [11] This is one of his rare forays into the social, political and economic situation within which the criminal law operated, but it is brief and marked by generalisations and curious inaccuracies: for instance, he assigns what he identifies as Pitt's change from

being a supporter of reform in 1785 to an opponent in 1787, to the French Revolution! [12]

Secondly, he argues that in fact the reformers did not keep pace with public opinion; their failure to include proposals for the reform of secondary punishments and the formation of a new police force meant their proposals on capital punishment were doomed to fail. For instance, he writes of Romilly,

> it was a fallacy to think that without the help of an adequate police force and an effective system of secondary punishments a revision of criminal law would by itself produce the required effect. Particularly significant is the underrating of the steadying influence of a well-organised police... [T]his prejudice against police was strongly embedded in many quarters and constituted a major obstacle to the reform of the criminal law. [13]

Yet Radzinowicz provides no evidence to support this view, nor does he explain why, if public opinion desired these measures, the reformers failed to adopt them. (In fact, in his 1786 pamphlet Romilly did support the Penitentiary Act, 1779, and also some form of police force under local control.) Furthermore, he implicitly dismisses - presumably because he finds it irrational - the contemporary view that rather than acting as a "steadying influence" a police force would undermine the social order and infringe on civil liberties.

Thirdly, Radzinowicz argues that, in fact, there was a change of attitude in Parliament well before the first capital laws were repealed since it became increasingly

difficult to enact new capital offences in the late eighteenth century. [14] I will suggest in the next chapter that Radzinowicz's reliance on the notoriously patchy reports of Parliamentary debates has led him into the error of assuming that where no report of a discussion has survived then no discussion took place, whereas other sources indicate that new capital offences were not being passed as a matter of course earlier in the century.

Fourthly, he claims that the gap between the time in the mid-eighteenth century when public opinion changed to support reform and the translation of that opinion into legislation was bridged by alterations in the administration of criminal justice which had the effect of reducing the severity of the criminal law. [15] This theme is developed in the first two parts of the book. He argues that around the middle of the century public opinion began to reject the widespread use of capital punishment, although he gives no reasons why this shift occurred. The immediate effect was not the reduction in the number of capital offences, but instead the development of various mechanisms, such as the strict interpretation of statutes and the use of the royal prerogative of mercy, which worked to reduce the severity of the law. However Radzinowicz is critical of these developments, since, although it meant that fewer people were hanged, it led to the law becoming indeterminate and therefore useless as a deterrent. Once

again Radzinowicz allows his twentieth-century assumptions about the objectives of criminal law to play an important part in his history of eighteenth-century law without presenting contemporary evidence that these were in fact the objectives. [16]

Because many of his arguments have formed the assumptions upon which later historians have operated it is worth considering the way in which Radzinowicz develops these themes at a little more length. He opens his book by arguing that the number of capital offences greatly increased during the eighteenth century [17], a proposition which for many historians, both before and after Radzinowicz, has seemed so obvious as to need no further discussion beyond a quotation from Blackstone, although Radzinowicz does at least provide a useful 49 page summary of the major capital statutes. [18] He argues that the piecemeal nature of the laws on larceny and the enactment of emergency legislation, most notably the Black Act, provided precedents which inevitably led the legislators to attach the death penalty to each new criminal offence. [19] Furthermore, a combination of other circumstances favoured this extension. The first was that "the unparalleled liberality of English criminal procedure" was successfully used in Parliament by those anxious to enact new capital offences. Yet he provides no examples of such an argument being employed in this way in Parliament, and its use during the later debates on reform is not good evidence.

Secondly, he argues that the eighteenth century saw a growth in commerce which created both wealth and greater temptation to thieves, and that this combined with the lack of a police force to create a general sense of insecurity. He relies for evidence of this feeling of insecurity principally on quotations from Smollett and Walpole. [20] However, the remarks of both writers were made in relation to specific periods - Smollett to 1730 and Walpole to the early 1750s - when they regarded the levels of crime as being quite exceptional and for that reason worthy of comment. For instance, Walpole's remark in a letter to Sir Horace Mann that, "One is forced to travel, even at noon, as if one was going to battle", is taken out of context by Radzinowicz and presented as if it were a generalisation about crime in the eighteenth century. In fact the letter was meant to convey news about current events to an Englishman who was in Italy at the time, and one of those events was what Walpole, and many others, regarded as the enormous rise in the level of crime which had occurred since Mann was last in England. That the situation was extraordinary is indicated by the tone of Mann's reply: "It is shocking to think what danger you all run from the number of villains that infest the roads and make it dangerous to travel at noon." [21] Thirdly, Radzinowicz argues that the lack of an effective secondary punishment also favoured the extension of capital punishment;

a view which, as has been seen, fits in with his discussion of the "failings" of the early reformers. Fourthly, he claims that there was a general disinterest in Parliament in the subject of criminal law during the early eighteenth century: "It is significant that practically all capital offences were created more or less as a matter of course by a placid and uninterested Parliament." [22] So, he claims, that with regard to the Black Act "no trace of any parliamentary debate on this subject can be found". [23] Douglas Hay, one of Radzinowicz's critics, has agreed: "What is certain is that Parliament did not often enact the new capital statutes as a matter of conscious public policy." [24] This, of course, returns to the point that the lack of reported debates does not mean that no debates took place.

Radzinowicz goes on to argue that at the same time as Parliament was enacting new capital laws public opinion was shifting to the view that such laws were too severe. In part, as has been seen, he assumes that public opinion and the views of the reformers are one and the same, however he also argues that evidence for this shift in public opinion can be found in the administration of criminal justice system. He seeks to show that there was a divergence between the laws as they were being enacted and their administration, and then concludes that this divergence is evidence of a difference between Parliament and public opinion. [25] He lists several mechanisms by which the criminal law was "softened".

Firstly, there were the judges who interpreted ambiguities in capital statutes in favour of the accused and in doing so went beyond what "the established rules of strict interpretation would seem to warrant." [26] He seeks to reinforce this view by a lengthy examination of eighteenth-century case law in Appendix 2 of his book, but, as I will show in the next chapter of this thesis, there are certain problems with his discussion of the case law. Radzinowicz also argues that the judges were very strict about procedural matters, particularly the wording of indictments, and that as a result many were aquitted on technicalities. [27] He concludes,

> In following this course the courts must have been actuated by a conviction that for many offences the death sentence was too severe a punishment and that the extreme severity of capital laws should be relaxed... When in a case tried under a capital statute the court felt that it would be unjust to inflict the appointed penalty, it applied any technique by which it could be evaded. [28]

This sits rather oddly with his view that the judges, led by the Lord Chief Justice, Lord Ellenborough, and the Lord Chancellor, Lord Eldon, vigorously opposed the reformers. Although the paradox may be explicable, Radzinowicz never attempts an explanation. [29]

Secondly, the juries were mitigating the severity of the criminal law. The grand juries were not finding true bills and the petty juries were either acquitting or convicting of non-capital offences by undervaluing the property stolen, or

by omitting in their verdict a circumstance which would have made the offence capital. [30] Thirdly, victims were reluctant to prosecute for capital offences. Fourthly, public opinion forced the government to use the royal prerogative of mercy: "So strong was public feeling not only against the death penalty, but against the stringency of the criminal law generally, that in some cases even after the capital charge had been eliminated by understating the value of the stolen property, pressure was still excercised to commute even the sentence of transportation." [31] Yet the evidence for the existence of this public opinion is lacking and as he himself shows the petitions for mercy were principally concerned not with denunciations of the death penalty, but with requests not to implement that penalty against a particular individual for reasons related to the circumstances of the convict or the crime.

Having argued that several devices were used to mitigate the severity of the law, Radzinowicz next claims that this tendency to mercy increased during the eighteenth century, especially after the middle of the century. This fits in with his opinion that the reform movement started in 1751 with a pamphlet by Fielding and the appointment of a Select Committee of the House of Commons to inquire into the felony laws. Using the figures of the Select Committee on Criminal Laws (1819) he seeks to demonstrate statistically not only

the existence of a divergence between Parliament and those involved in the operation of the criminal justice system, but also the way in which that divergence became more pronounced. He claims to show that in the early eighteenth century the rate of those hanged as a proportion of those capitally convicted was very high, and so concludes that the intention of Parliament in enacting these laws was that they were to have been fully implemented. He then argues that there was a decline in the hanging rate after the middle of the century which became a sharp decline in the 1790s and early nineteenth century. [32] Beyond the difficulties with the statistics in the 1819 report, which Radzinowicz acknowledges, there are certain problems with his handling of them. Firstly, he asserts that the divergence between legislation and admininstration "had continually grown", [33] whereas the figures in the Appendix to this thesis show that the hanging rate in London in the 1750s was above that of the early eighteenth century. Secondly, the figures for the Home Circuit show that there the drop in the hanging rate was not continuous, but had largely finished by the 1750s. [34] Even if this evidence is left aside and it is assumed that in the early eighteenth century the legislation was introduced with the intention that it be fully enforced, there seems no reason why later in the century members of Parliament could not have changed their minds and passed legislation with the full knowledge - indeed the expectation - that it would not

be fully enforced. More significantly there is no evidence of any difference of opinion between Parliament and the courts over the capital laws. [35]

For Radzinowicz an increasingly humanitarian public opinion was the wedge that was driven between the law and its operation. Everywhere he sees evidence for this. For instance, his interest in the aggravations added to capital punishments is motivated by his view that it provides evidence of this merciful spirit: women were strangled before they were burnt for petty treason; the heads of those who were hanged in chains were wrapped in cloth; and those convicted of high treason were drawn to the place of execution on sledges and their deaths were "much more humane than the law would seem to warrant." [36] The problem with all of these changes was, in Radzinowicz's view, that they made the law uncertain, and merely delayed a rational reform of the law. The turning point was the hanging in 1777 of Dr. William Dodd, the clergyman-forger. Radzinowicz argues that at first Dodd drew merely sympathy which led to attempts to obtain a conditional pardon for him, but that "ultimately his case helped to direct public attention to certain fundamental defects of the criminal law", namely its severity which, as this case showed, the pardon system could not always be relied upon to mitigate. Once more Radzinowicz presses on the reader a conclusion for which he provides little convincing

evidence: "The case thus marks a definite stage in the crystallisation of public opinion on the subjects of capital punishment and the royal prerogative of mercy." [37] Yet his presentation of the campaign on behalf of Dodd really reveals nothing more than a well-orchestrated show of sympathy for a particular individual, he does not manage to connect it to any of the reform campaigns which he discusses. Indeed the withdrawal of capital punishment from most types of forgery was only seriously considered more than fifty years after Dodd's death and then only after it had been removed from most other property crimes. Moreover, the execution rate for forgery remained at the pre-Dodd levels well into the nineteenth century.

Radzinowicz finally turns his attention to Parliament, charting the way in which the baton of reform was tossed from Romilly to Mackintosh and Buxton. He sums up the importance of the reformers' campaign in his comment on Romilly: "he succeeded in rousing public opinion and thus made the reform of criminal law a matter of national concern." [38] Eventually Peel makes reform part of government policy, and, although Radzinowicz is critical of his failure to introduce more radical reforms, this provides the ending to his book.

2. The Revisionist Historians: Douglas Hay and his Critics

In his essay, "Property, Authority and the Criminal Law", Douglas Hay examines a question which he feels Radzinowicz has failed to tackle, namely, "If property was so important, and reform of the criminal law would help to protect it, why did gentlemen not embrace reform?" [1] So, unlike Radzinowicz, Hay looks not at the reformers, but rather at the conservatives; after all, as he points out, it was they who were "the victors in the eighteenth century". [2] He simply cannot believe "that Parliament would have been so complacently conservative about the unreformed law unless they were convinced that it was serving their interests." [3] He argues that in the absence of a police force or a large standing army, the ideology of the criminal law was used to engineer the consent, or at least passive acquiescence of, the mass of the people to government by a tiny ruling elite. The criminal law was not so much a means of defeating crime, as an instrument for preserving this authority: "the criminal law was extremely important in ensuring... that 'opinion' prevailed over 'physical strength'." [4] For, as Hay observes, a state deals not simply in coercion, but in legitimised coercion, that is coercion to which the mass of the people consent: "A ruling class organizes its power in the state. The sanction of the state is force, but it is force that is legitimized, however imperfectly, and therefore the state deals also in ideologies." [5] The law as ideology,

he argues, can be seen in its spectacle, ritual, equality of justice and mercy which all worked to persuade the people of the justice of the status quo. Yet at the same time this system left the power of legislation and of administration to the ruling class. Hay's explanation for the resistance to reform, therefore, focuses not on the efficiency of the criminal law as a coercive instrument designed for dealing with something called crime [6] but as an ideological tool which "was crucial in sustaining the hegemony of the English ruling class." [7] The capital laws were not fully enforced not because, as Radzinowicz argues, there was a growing dislike of capital offences at a time when Parliament was enacting more of them, but rather because the gallows were used primarily to inculcate fear and a large number of hangings might have turned the people against the political system. This also made discretion crucial and so the schemes of the reformers which excluded discretion, such as that devised by Beccaria, were regarded as unacceptable.

In the end Hay claims that a division over the objectives of the criminal law arose between different men of property: on one side there were the defenders of the status quo, the gentry, with their landed property and their servants to protect their movable wealth, who used the criminal law as an instrument for maintaining their authority; on the other side, the middling people in trade,

manufacturing and farming whose property was more vulnerable and less well protected and who, therefore, looked to the criminal law to provide that protection through effectively combating crime. It was to the latter group that the arguments of the reformers had a particular appeal.

Hay's essay has come under attack. Against his contention that the landed gentry dominated the criminal law Brewer and Styles have argued that, "The law was not the absolute property of patricians, but a limited multiple-use right available to most Englishmen, apart (a big caveat this) from the labouring poor." [8] Peter King, in his essay "Decision-Makers and Decision-Making in the English Criminal Law, 1750-1800" [9], has widened this thesis by claiming that the law was in fact also available to, and widely used by, the labouring poor. King argues that no single group dominated the criminal justice system to the exclusion of other groups: "All social groups could not use [the law] with equal freedom, but it is dangerous to concentrate solely on its role as an instrument of the larger property owners." [10] For instance, he shows that at the sentencing stage the key figures were generally people from the middling classes who acted as petty jurors and character witnesses, and that although in decisions about pardons the reports of the judges were crucial these were often based on character references presented by middling people. Hay's view of the pardon system was that "the claims of class saved far more men who had been

left to hang by the assize judges than did the claims of humanity" [11], but King shows that at both the sentencing and pardon stages good character, sympathy for the young, old or weak, and poverty were the most decisive considerations. Each of the social groups had "their own particular priorities and views of the law" [12] views which, by implication, did not necessarily correspond with those of the ruling elite. Moreover, there were constraints on decision-makers which were not linked to class interest, but to "a number of deep and widely held concepts of justice" which existed before the eighteenth century, such as the need to be merciful to the young and the vulnerable, and which had to be observed if the law were to retain its legitimacy. At the same time King does recognise that the operation of the criminal law was sometimes very tightly linked to the interests of powerful groups within contemporary society.

It is clear that Hay's argument must be reassessed. Since the instruments of coercion in the eighteenth century were not particularly effective, then in order to sustain their position the ruling elite had to maintain consent to its rule amongst the mass of the people who were in the middling and labouring classes, and this required an acknowledgement, either passive or active, of the right of the ruling elite to govern. Indeed, the need for social peace to ensure both economic and military strength required

consent to a legal order. The loose nature of the governance of eighteenth-century society and the need to maintain the legitimacy of the principal expression of the basic structure of that society, the law, meant that the middling and labouring classes were able - indeed encouraged - to use the law for their own purposes: that the eighteenth-century criminal law was successful in these terms has been acknowledged by King. [13] In order for the law to draw support from the subordinate social classes it had to conform to standards of justice which did not necessarily suit the immediate purposes of the ruling elite. But admitting all this does not mean that these non-ruling classes took over the law or that it was in some way neutral, and it is naive to regard the law, however it may engage in compromises with subordinate social classes, as at bottom anything other than an expression of the ruling elite's power: for instance, although King shows as false Hay's view that at the pardon stage "claims of class" saved from the gallows many ruling-class felons, it is more significant that few of the ruling elite ever appeared as defendants before a criminal court.

Langbein's attack on Hay is much wider than that launched by King, and much of it engages in a defence of Radzinowicz's "awesome book". [14] He criticises Hay's failure to consider adequately the role of the petty jurors who often acquitted or gave partial verdicts apparently against the evidence. He claims that Hay wishes "to make the

jurors co-conspirators" with the gentry, whereas in fact petty jurors came from the middling classes and typically had "interests different from those of the propertied elite." [15] Langbein comments:

> If I were going to organize a ruling-class conspiracy to use the criminal law to terrorize the lower orders, I would not interpose autonomous bodies of non-conspirators like the petty juries. If, on the other hand, I were going to reckon the jurors among my conspirators, I would be troubled that they were so predictably humane by the standards of the day. [16]

Apart from the difficulty of knowing quite what "the standards of the day" were, indeed this is one of the key areas of dispute, it is undoubtedly true to say that propertied people, including petty jurors, did not all share exactly the same interests and objectives. The property requirements for jurors did not necessarily mean that they served property interests alone, but it did mean that they were unrepresentative of the labouring classes who formed the majority of the defendants.

Langbein distorts Hay's argument by continually referring to his "main thesis" as being "that some of the most characteristic features of eighteenth-century English criminal procedure for cases of serious crime require to be understood as "a ruling-class conspiracy" against the lower orders." [17] Having constructed this Aunt Sally he then seeks to demolish it by using the evidence that other social groups used, and were involved in decision making in, the

criminal justice system. To be sure Hay himself employs the phrase "ruling-class conspiracy" and adds that he uses it "in the most exact meaning of the word" of the gentry bending the law to their own purposes, [18] although he qualifies this by writing that he does not mean there was an explicit agreement, but rather that "the common assumptions of the conspirators lay so deep that they were never questioned, and rarely made explicit." [19] There is nothing new in such a view of the eighteenth century, indeed it was first expressed not by modern Marxist historians, but by contemporaries such as Oliver Goldsmith who wrote, "Laws grind the poor, and rich men rule the law." [20] However, Hay's analysis is richer than this and Langbein's reduction of it to "a ruling-class conspiracy", in which the rich oppress the poor and the population is divided between those who were for and those who were against the conspirators, is a crude misrepresentation. Hay's work clearly owes much to the complex writings of the Italian Marxist Antonio Gramsci and, in particular, to his formulation of the concept of "hegemony". Gramsci argued that the most effective form of government is one in which the ruling elite rules not by coercion, but rather by organising support from subordinate classes. Hay's argument is that although the criminal law was an instrument of coercion in the eighteenth century, its most important role was as an ideological system presenting a particular image of authority to the mass of the people.

Langbein fails to give adequate consideration to this important aspect of the essay and so presents only a superficial understanding of Hay's arguments. The misunderstanding which this leads to can be seen in Langbein's discussion of what he calls "the legitimation trick", by which he means, "Evidence that cuts against the thesis is dismissed as part of a sub-plot to make the conspiracy more palatable to its victims, to legitimate it." [21] According to him any event which seems to undermine the argument that the criminal law was controlled by the ruling class, for instance the hanging of Earl Ferrers, is presented by Hay as an example of an ideological device for eliciting consent from the people; yet, Langbein argues, if Ferrers had been allowed to escape the gallows that too would have fitted Hay's thesis. [22] Langbein writes:

> Suppose that the rulers of eighteenth-century England had been operating banana-republic courts, coercing confessions or lynching paupers without trial. Obviously, the ruling-class conspiracy would be equally well evidenced. [23]

Whilst this represents an adequate criticism of a very simplistic Marxist analysis it fails to deal with the more sophisticated Gramscian view: the "banana-republic courts", dealing in naked and unremitting coercion would not draw the consent of the mass of the people upon which the tiny ruling elite in the eighteenth century relied, outnumbered and unprotected either by a large army or a police force as they

were.

Langbein prefers to believe that the criminal law was devoid of any class bias: "The criminal law and its procedures existed to serve and protect the interests of the people who suffered as victims of crime, people who were overwhelmingly non-elite." [24] So presumably for Langbein the hanging of Ferrers followed logically from his view that in the eighteenth-century murderers were - if caught - hanged, Ferrers was a murderer, therefore he was hanged. Whilst the logic is superficially attractive, the view that in the midst of the eighteenth century, riddled through with inequality and patronage as it was, the light of democracy shone in its criminal law is hardly tenable.

Langbein's criticism represents a tradition in legal history which has regarded the criminal law and its institutions as apolitical instruments for dealing with crime and as, therefore, explicable in their own terms without reference to events in the society "outside" the criminal law. Indeed, the criminal justice system is not only apolitical, but also timeless: the decision-making process "turned on the good-faith consideration of factors with which ethical decision-makers ought to have been concerned." Hence, he concludes that, "From the standpoint of the rulers, I would suggest, the criminal justice system occupies a place not much more central than the garbage collection system." [25] For him the civil law with its definitions of property

and ownership seems a more important weapon for the ruling class. His own research into the history of the criminal law reflects this view in that he has typically sought for explanations for change solely within the law and its institutions. [26]

Hay's essay does undoubtedly have problems. He minimalises the role of both the middling classes and the labouring poor. The tendency of social historians to underplay the importance of the middling classes and to present eighteenth-century society as divided between the gentry and the labouring poor is most notable in the work of Edward Thompson. [27] Apart from their involvement in the criminal justice system as prosecutors, jurors, witnesses and so forth, the middling classes filled important functions in the governance of eighteenth century society: they were the churchwardens, the surveyors, the poor law overseers, the constables and, increasingly, the active urban justices of the peace. As has been seen, Hay does argue that differences arose between the middling classes and the gentry over the objectives of the criminal law which led the former to support and the latter to oppose reform, but he fails to recognise that these differences might have had implications for the administration of criminal justice.

Hay does include the labouring poor in his essay, but when they appear it is very much as puppets of the ruling

elite to be twisted and turned almost at will. Yet the manipulations required to rule eighteenth-century England and Wales were made necessary by the resistance of the labouring poor, or at least the ruling elite's expectations of such resistance. The lesson of almost three decades of research on food riots is that the labouring poor were ready to defend certain traditions and the ruling elite were prepared to compromise, within limits. Of course, Hay recognises the importance of what he calls "circumspection", and indeed he quotes Burke's advice on the need for "firmness and delicacy" over the question of the punishment of the Gordon rioters in 1780 so as to combine mercy and terror and thereby provide a lesson without provoking a reaction [28], but Hay presents this as an example of how the gentry manipulated the labouring poor rather than as a demonstration of the role played by the poor in the country's governance and the way in which they limited the freedom of the ruling elite to govern as they wished.

Hay's view of the criminal justice system presents certain difficulties for the historian seeking to understand the reduction in the number of capital laws. He portrays a system which is flexible, but which can only be stretched in a few, well-defined ways so that it never goes out of the shape imposed upon it by the ruling elite. The implication of this is that it can never undergo major changes since the essay's appeal, and its greatest defect, lies in the way in

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which it presents the criminal justice system as a jigsaw whose parts fit tightly together, each complementing the other perfectly and each, therefore, incapable of radical alteration. So change cannot be brought about by mere reform, but only by a revolution which would allow a complete break with the past. This means that the rupture occurred over a fairly short period in the early nineteenth century. During this period the old system based on the criminal law as an instrument of political authority was suddenly discarded and replaced by a new bourgeois legal order based on the criminal law as a weapon for reducing levels of crime. The reasons why this happened are left fairly vague, with Hay arguing simply that reform appealed to the pockets of "that great body of "middling men", almost half the nation [whose] property was the prey of thieves undeterred by terror". [29] The reform period is, therefore, briefer and more cataclysmic than even Radzinowicz suggests since, as has been seen, he argues that change in the administration of criminal justice had to some extent liberalised the law before legislative reform occurred. Finally, although Hay criticises Radzinowicz for his failure to consider the views of the conservatives [30], he himself does not explain why, if the conservatives were so vigorous in their support of the law and if the idea of reform was indeed revolutionary, the reform campaign in Parliament caused so little interest; after all very few

actually turned up to the debates to vote against measures proposed by Romilly: what, in other words, induced the conservatives to give up their defence of the criminal law?

Although there are many problems with Hay's essay his attempt to set the discussion of law within the social, political and economic circumstances of the period makes sense for legal historians as well social historians. The processes of defining what acts are criminal, which criminals will be punished and how they will be punished all involve, amongst other things, political and economic issues: for instance, the creation of larceny offences presupposes not only definitions of property and ownership, neither of which are self-defining concepts, but also an assertion that these things are sufficiently important to protect through the use of the criminal law. This is not to argue for an entirely deterministic view of the law, that is one in which it is regarded as merely a reflection of occurences in other fields of human activity such as economics and politics. The law had its own traditions which provided it with a degree of autonomy. This meant that it limited power as well as enabling it to be exercised and it influenced political, economic and social developments as well as being influenced by them. It is true to say that his work raises more questions than it answers, but the raising of those questions does direct scholars to fruitful lines of inquiry.

3. Other Studies on Capital Punishment in the Eighteenth Century

The book Albion's Fatal Tree, in which Douglas Hay's essay appeared, also includes an essay by Peter Linebaugh which is more specifically concerned with the practice of hanging. Linebaugh regards the gallows in the eighteenth century as "the engine of... the state's ultimate power". [1] However, in this essay and in his doctoral thesis he is predominately concerned with the way in which events around the gallows at Tyburn in London indicate the nature of the relationships within plebian society during the early eighteenth century. He argues not that the London labouring poor formed a single class, but that "communities" based on friendship, the workplace, nationality and family existed, and that evidence of these can be found in the riots against the surgeons' assistants who wished to remove corpses from the gallows for use in anatomy classes. This tends to lead Linebaugh to characterise the concerns of the labouring poor simply in terms of rescuing the corpse, so that when in 1749 Sheriff Janssen ordered that the bodies of felons hanged at Tyburn be given to their friends and then in 1752 the Murder Act directed that murderers' bodies be given to the surgeons then, according to Linebaugh, "the days of constant tumult at the gallows were over." [2] If the public hanging were such an important part of the state's coercive weaponry, one is left to wonder why it was that the authorities believed it

necessary to reduce the public nature of the hanging by such measures as the abolition of the procession to Tyburn in 1783. Linebaugh arrives at his view because he incorrectly regards the threat of the surgeons as the only one which disrupted the hanging. The activities of the condemned, the crowd and other groups, such as doctors wishing to experiment on felons, the hangman interested in his perquisites and victims seeking the return of stolen property, all worked to undermine the role of the gallows as "the engine... of the state's ultimate power".

Another problem with the essay is the way in which Linebaugh explains the nature of the relationship between the condemned person and the crowd around the gallows. He suggests that the interest in defending the corpse arose from the catastrophic effect which the death of a person of working age - and most of the hanged were young - had in a period when the family was a unit of production as well as of consumption: "When death strikes young, while men and women are fully engaged in family life and when the family as such performs a critical role in the social division of labour, a social vacuum is created whose effect was not one of sentimental loss only, but of deep moral and material consequence." [3] However, elsewhere he shows that many of the London hanged were strangers to the town who had left any family that they had behind them. [4] He does argue that family ties remained which "were often loose but not

necessarily weak" [5] by which he means not that they had any involvement in the family's economy, but that there was still a sufficiently strong tie of blood to bring long abandoned parents, brothers, sisters or spouses to London to claim the corpse. Furthermore, if the labouring poor felt the death of these people so deeply as to riot in order to protect the corpse, why did they not intervene earlier and rescue the living person from hanging? In fact the evidence which Linebaugh produces shows that there was an interest not in keeping the condemned from dying, but in the fate of the dead body because of beliefs either in the need for its integrity to be maintained or in its curative powers. The possible explanation that the presence of soldiers prevented the rescue of people before they were hanged does not fit the "Penlez hanging" in 1749, which he discusses at some length, when Sheriff Janssen worked on the correct assumption that the crowd only wished to rescue the corpses and so rejected an offer of military assistance. I will argue that a better view is that the rioters did not seek to interfere with the right of the authorities to govern, which meant the right to hang people who had been lawfully condemned, all they required was that the authorities governed according to what they considered to be proper procedures, which included not only paying due respect to the corpse, but also that the condemned should not suffer undue abuse or humiliation. I

shall also suggest that some of those gathered to defend the corpses may have come not out of solidarity, but because they were hired.

Other accounts of punishment which have referred to the gallows also provide difficulties. The most influential of these is Michel Foucault's book, Discipline and Punish (1977) [6], which also takes in the development of the prison in the nineteenth century. The highly schematic nature of this work draws something from Georg Rusche and Otto Kircheimer's Punishment and Social Structure (1939); however unlike that book it is not simply a reductionist account relating different penal measures directly to different modes of production. Foucault identifies three periods in the development of punishment. The first survived until the end of the eighteenth century and involved the public marking of the convict's body through, for instance, a public hanging; the aim being to restore the sovereign power, which had been undermined by the criminal act, by means of a display of an excess of power. The second period involved the creation of what Foucault calls "obstacle-signs". The typical punishment chosen was putting the convict on public works programmes since this benefited society in that the convict was, for instance, building roads, but more importantly "at the same time, he lets slip into the minds of all the crime-punishment sign: a secondary, purely moral, but much more real utility."

[7] So the punishment was meant to place an obstacle into the minds of the people which would deter, or, more accurately, prevent, them from committing crimes. The third period was the creation of disciplinary institutions away from public view as epitomised by the prison in which the convict's body was not touched, but rather her or his mind was trained (in part, through the regulating of the body).

Although Foucault's work has acted as an important source of discussion and new ideas, there are many difficulties with his account of the history of punishment. First, although his study is primarily based upon France, he clearly regards it as not confined to that country and, in particular, makes explicit references to the situation in England. However, differences between the two countries, such as in criminal procedures and the effects in France of the French Revolution, mean that it is dangerous and misleading to lump them together. Second, in practice his second period really existed only in the writings of penal reformers, and even then was confined mainly to French writers responding to the French Revolution. Although it is true to say public works schemes did figure in some of the works of British penal reformers and convicts were sent to work in the dockyards and on the Thames, this second period in the highly developed form in which Foucault describes it did not exist in England and Wales in the late eighteenth century - nor, incidentally, was it particularly important in France at that

time. Third, once the second period is discarded then, following Foucault's outline, the first period continued until the early nineteenth century when there occurred a sudden shift into the third period, yet Foucault fails to provide any explanation for this change. Fourth, throughout Foucault's interest in the technologies of power leads him largely to ignore the role of the condemned person, the prisoner, and the people, and so leaves the impression that all were relatively unimportant: for instance, of the disciplinary techniques in period three he writes that they functioned "increasingly as techniques for making useful individuals." [8] Fifth, he devotes a large part of the work to a discussion of the Panopticon of Jeremy Bentham because he regards it as the apogee of "the carceral archipelago" which in the period after the early nineteenth century has stretched "well beyond the frontiers of the criminal law". [9] It was an institution combining all the disciplinary techniques, "at once surveillance and observation, security and knowledge, individualization and totalization, isolation and transparency", and he asserts that the Panopticon "became the architectural programme of most prison projects." [10] Yet the Panopticon was never built, so its influence (and Bentham's) on prison building in the nineteenth century cannot be assumed and indeed is less clear cut than Foucault and most historians of the modern prison would have us

believe. His failure to demonstrate the influence of the Panopticon is serious since it plays a crucial role in his history of punishment. It is used as the antithesis against which he constructs the ideal type of the first period, and also he invites the reader to see the period after the early nineteenth century as entirely dominated by a striving for the Panopticon model. We are, therefore, directed away from the plurality and contradictions in the two periods: for instance, he ignores the non-public forms of punishment in the eighteenth century; and his concentration on the internal disciplines of the Panopticon diverts attention away from the evidence that the nineteenth century penal institutions were more about the behaviour of people outside their walls than the disciplining of those inside.

In Foucault's defence it could be said that my critique of his work - and indeed most of the discussion of his work by historians, both adherents and critics - mistakes his intention. [11] In this book and in his work generally - as his title at the College de France indicated [12] - Foucault was interested not in questions of historical change, but in systems of power, and as a result he tended to concentrate on ideal-type situations. There is much in the work of value if it is taken not as a history of punishment, but as a study of systems of power.

Recently another major work on crime and punishment in the eighteenth century has appeared, J.M.Beattie's Crime and

the Courts in England 1660-1800. Although this excellent work is based primarily on Surrey and Sussex sources, Beattie is not shy of drawing larger conclusions. In the second part of the book he charts the complex shifts in the use of different forms of punishment. He concludes that by the end of the eighteenth century "the consequences of conviction had become more serious" [13] than in the seventeenth century in that, although fewer were being hanged, those who would previously have claimed the benefit of clergy and been discharged were being transported or imprisoned. With respect to capital punishment he largely endorses Douglas Hay's view that its chief purpose was to provide suitable examples in order to terrify the people, particularly in times of crisis; the state, therefore, maintained a balance between too many executions and too few. Yet his fundamental approach is to shy away from exploring Hay's view of law as ideology, arguing that, "The law may have served interests well beyond the mere maintenance of order and the restraining of criminals, but that was plainly its most immediate and obvious task". [14] This begs the question, whose order was being maintained? Certain people were defined as criminals and were, therefore, defined as requiring restraint, but why were they defined as criminals? In part, the answer lies in the accretion of law over a number of centuries, hence the existence of a number of obsolete offences, but in part the

laws were the direct result of shifts within eighteenth century society which resulted in, for instance, the redefinition of concepts of property: forgery of bank notes became a crime because the new order depended on a stable and acceptable non-metallic currency; Jacobitism became a crime under a Hanoverian state. In his discussion of capital punishment Beattie detects the development of a reluctance amongst individual merchants and shopkeepers from about the 1760s to prosecute for minor thefts where the death penalty was a possibility, and that as a result "there was a strengthening conviction among the pragmatic middle class of London that capital punishment was ineffective". [15] In addition, Beattie notes the surge of humanitarian feeling - by which he means a dislike of cruelty - charted by Radzinowicz. So, he asserts, "humanitarian concern and doubts about the effectiveness of the law began to converge toward the end of the eighteenth century." [16] He, therefore, presents changes in criminal law and criminal justice as very much a matter for the state and strong pressure groups. For instance, at one point he argues that the chief "agents of change in penal matters" were the judges, the King, the Privy Council and Parliament, with promptings from groups such as farmers, merchants, grand juries and the City of London; to which he adds the exigencies of certain events, such as the outbreak of the American War which temporarily put an end to transportation. [17] Once again the mass of people watching

the hanging and those being hanged are given no role in the changes which occurred, and instead tend to appear as merely the passive objects of the system. This is somewhat unfair to Beattie since he deliberately does not address himself to some of these issues. From the outset it is clear that his book is an administrative history of the criminal justice system concerned with "the way the English courts dealt with crime". [18] He does make the important point that by showing the longer term nature of the change in penal practice his work has an importance for explaining changes in law and administration "if only because in pushing back their beginnings to the late seventeenth century (at least) we will have to search for explanations that do not depend on the immediate influence of Enlightenment rationality or on the social consequences of the Industrial Revolution." [19] So like all good books he urges others to press on.

All of these discussions of capital punishment provide useful insights, only some of which I am able to pursue within the compass of this thesis. So, for instance, the importance of Radzinowicz's work lies in his recognition of the role played by individuals in the reform of the criminal law, whilst Hay's value is in his attempts to connect the criminal law to the society which it served. What is required is both a fusing and a development of these different approaches. History is made by individuals, but individuals

operating within a particular historical situation that was created both by the past and by the circumstances of their present: it is as difficult to argue that reform of the criminal law only occurred because Romilly, Mackintosh and Peel were born as it is to assert that the reforms would have been the same without them. None of the historians satisfactorily addresses the problem of change. Some, like Foucault, offer no answers, others, almost without thought, either accept contemporary explanations and ascribe it to a sudden shift in opinion driven by humanitarianism and a concern over crime rises, or else they adopt a reductionist view and credit it to the growth of Britain's commercial wealth and the rise of the middling classes. However, none of these somewhat undernourished explanations is satisfactory. The end of the eighteenth century did not have the monopoly on humanitarianism, panics over crime rises and criticisms about the effectiveness of the criminal law, they had all been a feature of earlier periods; equally, trade and manufacture had been rapidly increasing since at least the late seventeenth century. This is not to argue that these issues were unimportant, however it is clear that none of them on its own provides a sufficient explanation of why the reduction of capital offences occurred when it did. Some, such as the concern over crime rises and the growth of national wealth, might equally have led to the use of more

terrifying forms of capital punishment. On the other hand, these factors all had a role to play. In the following chapters I will argue that to some extent the emphasis has been put in the wrong place. One suggestion I will make is that it was not simply the reformers who undermined the use of the gallows, but the failure of the gallows, indeed the criminal justice, to achieve its original objectives that allowed the shifting of the terms of the debate to questions of crime levels and so provided the platform which allowed the reformers to succeed, limited the opposition and indeed reduced at least the initial interest in Parliament in the reforms.

CHAPTER 9

LEGISLATORS AND LAWYERS: CRIMINAL LAW AFTER 1688, WITH REFERENCE TO THE CAPITAL LEGISLATION AND ITS INTERPRETATION BY THE JUDGES

1. Criminal Legislation in the Eighteenth Century

In this first section I will consider the assertion that the eighteenth century witnessed a spectacular growth in the capital laws. I will argue that discussion of this matter cannot be isolated from the effect on Parliament of the 1688 revolution. Moreover, I will demonstrate that criminal legislation was not always passed without any debate even in the early eighteenth century.

According to Blackstone the number of capital statutes stood at around 160 in the 1760s, by 1786 Samuel Romilly thought that this number "had been considerably increased", although the following year The Times took Blackstone's figure as correct; in 1819 Sir Thomas Buxton was prepared to be more exact and claimed that the figure was 223, although four years later Sir James Mackintosh was more cautious, telling the House of Commons that it was about 200. [1] More recently Radzinowicz, while regarding any figure as inevitably an approximation, nevertheless estimated the number at around 240. [2] These authorities do not merely contend that there was a large number of capital statutes, but also that most had been enacted during the eighteenth century. Radzinowicz writes that, "Even as late as 1688, despite the exceptionally rigorous laws which had been enacted during the reigns of the Tudors and Stuarts, no more than about fifty offences carried the death penalty... In the eighteenth century, however, their number began to

spectacularly increase." [3] Faced with the apparently overwhelming evidence provided not only by contemporary writers, but also by the statute book itself it is not surprising that others have simply repeated Radzinowicz's views. Douglas Hay, for instance, found in them ammunition for his main argument: after referring to Radzinowicz, he is able to claim that "propertied Englishmen had a fat and swelling sheaf of laws which threatened thieves with death." [4]

Such estimates seem like a useful, if rough, measure of the severity of the penal code, and to some extent they are, but they can also be rather misleading. One feature of eighteenth-century capital legislation was its tendency to be very narrow in its definition of capital offences. This was not always the case, but it was more often than not. So, for instance, rather than making all larceny subject to the death penalty, a multitude of statutes attached this punishment to certain types of larceny: one statute made shoplifting to the value of five shillings capital, another made stealing from navigable rivers to the value of forty shillings capital, others attached that penalty to embezzling goods worth forty shillings from an employer, stealing sheep and other cattle, or stealing deer. [5] Although the capital larceny laws were severe, a single statute making all larceny capital would have been counted as only one capital offence, but would have

been far more bloody.

On the other hand, there were hidden capital offences, the most important of which was that in statutes imposing a maximum penalty of transportation there was generally a provision which made it a capital offence for an offender to be at large in the country before the expiry of the term specified. [6]

Statements about the number of capital statutes take no account of the changes in Parliament which occurred after the 1688 revolution. After that time Parliament met annually and sat usually for at least five or six months. As a result of this and of the constitutional position of Parliament, the amount of legislation on all subjects rapidly increased. As a rough guide each volume of Eyre and Strahan's ten-volume work The Statutes at Large [7] is about 750 pages long, with the longest being volume IX at 820 pages. However, whereas the period up to 1660 is covered in only two volumes, the next 140 years take up 8 volumes:

Table A:

Volume I	1225-1508	283 years
II	1509/10-1640	131
III	1660-1707	47
IV	1708-26	18
V	1727-50	23
VI	1751-67	16
VII	1768-79	11
VIII	1780-87	7
IX	1788-95	7
X	1795-1800	5

Tables B and C provide further evidence of this trend. From

Legislative Activity

Table B:

		Average Per Year
To 1688:		
Henry VIII (1509-47)	415	10.9
Edward VI (1547-53)	119	19.8
Mary, Ph. & Mar. (1553-58)	84	16.8
Elizabeth (1558-1603)	272	6.0
James (1603-25)	134	6.1
Charles (1625-49)	51	2.1
Charles II (1660-85)	237	9.5
James II (1685-88)	22	7.3
179 years:	1334	
	Average of 7.4 per year	
1688 and after:		
Will. & Mar., & Will.(1688-1702)	343	24.5
Anne (1702-14)	338	28.2
George (1714-22)	377	47.1
George II (1722-60)	1547	40.7
George III (1760- (1799))	4757	122.0
111 years:	7362	
	Average of 66.3 per year	

Notes: -
The numbers are for Public Acts, and do not include Private Acts, although they do include Public and Local Personal Acts. To some extent this distorts the figures since there was a tendency in the latter eighteenth century to use the Public bill procedure for what would previously have been treated as Private bills. However, as the summary in Table C shows, broadly the same pattern emerges if Private Acts are included.

Table C:

	Public Acts	Private Acts	Per Year
Will. III	343	466	57.8
Anne	338	605	78.6
Geo.	377	381	94.8
Geo. II	1547	1244	73.4
Geo. III (to 1820)	9980	5257	254.0

Sources for Tables B & C: T.E.Thomas & J.Raithby, The Statutes at Large of England and of Great Britain: from Magna Carta to the Union of the Kingdoms of Great Britain and Ireland, 10 vols., G.Eyre & A.Strahan, London,-1811, vols. II-X; Chronological Table of the Statutes Covering the Period from 1235 to the end of 1976, HMSO, London, 1977, pp.37-202.

these figures it can be seen that not only was there an enormous increase in legislation after 1688, but also, with one exception, each decade saw more legislative activity than any previous decade. From these figures we should not be surprised to find both more criminal legislation in the eighteenth century, and also more in the second half of the century than in the first half.

However, even though the increase in criminal statutes should not be a surprise, this in itself does not explain why so many of those statutes prescribed capital punishment. Both Radzinowicz and Hay have argued that Parliament gave little time to the consideration of the criminal law and that capital laws were, therefore, passed quite easily. Radzinowicz declares, "It is signifcant that practically all capital offences were created more or less as a matter of course by a placid and uninterested Parliament. In nine cases out of ten there was no debate and no opposition." [8] Similarly, Hay has commented, "What is certain is that Parliament did not often enact the new capital statutes as a matter of conscious public policy. Usually there was no debate... the Lords and Commons enacted them for the mere asking." [9] These assertions rest on two pieces of dubious evidence. First, there are the claims of the reformers that this was what happened. [10] Their views could hardly be regarded as disinterested, and the reasons for their

allegation seem clear: seeking to avoid the allegation that Parliament consciously passed cruel laws they merely inferred that these laws were the product of a lax attitude which allowed ill-considered measures to be enacted. Secondly, there are the reports of the Parliamentary debates. The historian will look in vain for reports of any debates on criminal legislation. Even important legislation such as the Black Act of 1723 is unrepresented, leading Edward Thompson, its historian, to claim that, "At no stage in its passage does there appear to have been debate or serious division; a House prepared to debate for hours a disputed election could find unanimity in creating at a blow some fifty new capital offences." [11]

Although the major published reports provide no report of a debate on the Black Act, and it is only mentioned briefly in one Parliamentarian's diary [12], it is certain that there was quite a considerable amount of discussion in the Commons over the bill. After the second reading on 1st May 1723 the bill was sent to a Committee of the Whole House which sat on 4th May. Normally there would be only one sitting of that Committee, but on this occasion when Lord William Powlett reported back from the Committee he told the House that although progress had been made more time was needed. This was an indication that the bill was having problems. The Committee was due to sit again on 6th May, but more pressing business on the South Sea claims and on the

supply to the King squeezed it out, and instead it met on 9th May. At the end of this sitting Lord William Powlett was able to report, "That they had gone through the Bill, and made several Amendments thereunto". These were reported to the House on 13th May at which time the amendments were approved with the exception of one which would have prevented someone who had been punished under the Black Act from also being punished for the same offence under any other legislation. The third reading went through on 18th May, but even at this stage there was an amendment. It then passed to the Lords and received the Royal Assent on 27th May. So there is clear evidence on which to refute the suggestion that there was no "debate or serious division": there had been more than one sitting of the Committee of the Whole House; in that Committee there had clearly been disagreement over certain parts of the bill; disagreement also surfaced in the House at the report stage. Finally, the rejection of the amendment at the third reading also indicates that the bill was controversial since, according to P.D.G.Thomas, although debate at the third reading stage was not unknown it was not normal: "Convention usually made the whole process of the report a formality. There was a strong feeling in the House against renewed debates on matters that had already been decided", and he adds that, "Few amendments were challenged". [13] Thompson not only asserted that there had been no

debate, he also believed, along with all the other historians of the Black Act, that it was passed extremely rapidly. It received a first reading on 30th April, 1723 and the royal assent on 27th May, 1723. Yet a month for a piece of government sponsored legislation was quite normal, and more controversial bills, such as the Suspension of Habeas Corpus Act and later in the century the Royal Marriage Act passed much more quickly. Other criminal legislation of the period indicates a similar time pattern. For instance, the Mint in Southwark Act, a statute (9 Geo. I, c.28), enacted in 1723, against the debtors who took refuge in the areas called "the Mint", was given its first reading on 29th April and received the royal assent on 27th May. [14]

Of course, we are still left with the problem of exactly what the controversy was about. Debates on the principle of a bill usually took place at the second reading, the Commmittee stage being regarded as the time for debating details, so that the easy passage into the Committee stage might indicate a consensus behind the general principle, although even this much cannot be safely asserted. [15]

This task of recovering at least a general picture of what the controversy surrounding a particular bill was about is not an entirely hopelss one. Failing the reports and Parliamentary diaries the researcher can initially fall back on the Journals of the House of Commons and the House of Lords, both of which often provide indications of the points

of controversy and the main thrust of opinion during the debate. Additionally there are the manuscripts of the House of Lords, some of which are now in print. All of these sources can sometimes be used to put a little more flesh on the bare bones of the bill's passage. For instance, the manuscripts of the House of Lords shows that the Transportation Act, 1718 (4 Geo. I, c.11), which had originated in the Commons, was subject to several amendments in the Lords, and unusually the judges were called to attend the House. Some dispute arose about their proposal to make "a considerable alteration" in one of the clauses, and the Lords asked the judges to reconsider: "it was intimated to the judges to propose their amendments with as little variation as the nature of the matter would admit." The committee of the whole house sat twice, and then was discharged and a select committee set up to consider the bill - all unusual measures. The Lords added clauses on piracy and deer stealing. The latter would have given the quarter sessions the power to transport poachers, but when the Commons refused to accept this amendment it was dropped. [16] Sometimes a bill attracted petitions from interested groups which might provide some general indications, or the bill may have followed a report by a select committee.

Of course, the lack of a reported debate raises another issue. Radzinowicz, lately supported by Edward Thompson, has

written that the Black Act was "an ideological index" to the criminal law of the eighteenth century [17]; why then were no debates on such an important piece of legislation recorded? The obvious answer, which Radzinowicz and Thompson adopted, that no debate took place must be rejected. The other possibility is that the debates were regarded by the politicians who took part as being of little interest. But since debates did occur, it has to be asked in what sense did they lack interest? Clearly the subject matter provoked some interest, otherwise no one would have bothered to debate it. To some extent a failure to record these debates must indicate that they were regarded as less important than other topics which were reported, although that is not the same as saying they were of no importance. The error of those who look to reports as their source of evidence is that they assume those who wrote them did so in the way in which a time-travelling historian might do. Unfortunately politicians and political observers wrote as politicians and political observers not as historians. They were endlessly fascinated by things which only politicians would find fascinating, such as disputed elections. They had their own reasons for writing and their own view of what was worth preserving, and simply because they did not regard certain matters as coming within this category cannot be taken to mean that they did not regard them as of importance at the time. For the most part the reports and diaries are filled with what were regarded as

the major concerns of the day, and inevitably these will not always coincide with the interests of historians. If we take the diary of Edward Knatchbull which covers the period when the Black Act was passing through the House of Commons. Knatchbull only briefly mentions the bill's first appearance, although the fact that it is one of the comparatively few bills which he does mention might tentatively be taken to mean that it did have some importance; however he is more concerned with the bill to tax Catholics and the attainders of Bishop Atterbury, John Plunket and George Kelly. [18] It is a grave error to assume that a failure to record something means that it was not regarded as important or controversial at the time; on the other hand, recording patterns do reveal much about the politics of the period.

2. Criminal Legislation and the Benefit of Clergy

Any discussion of criminal legislation in the eighteenth century requires an understanding of the role of the benefit of clergy. The benefit of clergy was originally a means by which the criminous clergy were removed from the jurisdiction of the secular courts; however, by the late middle ages this aspect had become largely obsolete. [1] The starting point for a study of this institution would go back into the medieval period, but for my purposes the statute, 25 Ed. III, st.3, c.4 (1351) is early enough. This attached the

benefit of clergy to all treason and felony offences except those which affected the King, and much of the later criminal legislation concerned itself with moving away from this high point. Two strands of legislation emerged: first, there were the statutes which removed from felons the entitlement to the benefit of clergy in certain cases; and second, the benefit of clergy itself underwent significant changes. There was a further problem which can best be discussed here, that was the difficulty of dealing with those who would not put themselves to a jury trial.

The reign of Henry VIII, in particular, saw the removal of the benefit from a number of felonies as well as the creation of several new felony and treason offences. Many of these enactments were repealed in 1547 by the statute 1 Ed. VI, c.12 (see sections 2, 3, 4, 5, 10), however at the same time in section 10 of this Act the benefit of clergy was withdrawn from a number of offences: murder (also section 13), breaking into a dwelling house during the day or night when someone is inside and put in fear, highway robbery, horse stealing, stealing from a church or chapel. Subsequent legislation continued this trend. If a reason were assigned by the preamble to a statute it was typically given as being that, with respect to certain crimes, offenders, to use the words of 22 Car. II, c.5 (1670), "are the more emboldened, in respect that in those Cases the Benefit of Clergy is allowed

by Law". Normally clergy was not withdrawn in a general way from, for instance, all types of larceny, instead it was removed when certain other factual circumstances were present: for instance, 8 Eliz. c.4 (1566), section 2, made privately stealing from the person a felony without benefit of clergy. Once clergy had been withdrawn from principal offenders then generally it was soon afterwards withdrawn from accessories: for instance, the statute 4 & 5 Ph. and M., c.4 (1557), withdrew clergy from accessories to murder, petty treason, highway robbery, arson, burglary and housebreaking.

Criminal legislation was also used to tackle the problem left over from the thirteenth century of what to do with those who refused to plead to the charge or to consent to a jury trial. [2] Since such persons had not been convicted nor had they confessed then they could not be hanged. The solution had been to employ peine forte et dure. This was described by Thomas Smith in 1583: "he is layd upon a table, and an other uppon him, and so much weight of stones or lead laide uppon that table, while as his bodie be crushed, and his life by that violence taken from him." [3] For the defendants this form of death meant that their property was not forfeited since they did not die as convicted felons, and some seem to have regarded this private death as less humiliating both for themselves and their families. [4] It has always been accepted by historians that this torture was not abolished until 1772 when the statute,

12 Geo. III, c.20, entitled the court to treat those who refused their trial as if they had pleaded guilty to the charge. However, if the incidence of the use of peine forte et dure (or its substitutes [5]) in the sixteenth or seventeenth centuries is examined and then compared with the very few examples that careful antiquarians, such as William Andrews, have managed to uncover in the eighteenth century, it becomes clear that a significant change had occurred well before 1772. [6] Since the late seventeenth century the courts had employed the method of tying the thumbs together in an effort to avoid having to use the press [7], but even this was rare, and, since it was just the sort of thing which contemporary newspapers would have reported, it seems unlikely that there were many unreported occasions when either the press or thumb-tying was used. Quite simply, the courts were having to resort to these methods less frequently in the eighteenth century than in the seventeenth century, indeed they were virtually obsolete. Of course, defendants may have undergone some sort of pyschological change, but this seems unlikely, indeed since there was almost certainly an increase in the number of defendants one might have expected a rise in the numbers refusing to take their trial. The answer lies in the criminal legislation. It became a regular feature for a statute which withdrew the benefit of clergy from a convicted offender also to include a clause

treating as convicted those defendants who refused to plead to the charge or who peremptorily challenged more than 23 potential jurors. For instance, the statute 10 & 11 Will. III, c.23 (1699) by which, amongst other things, shoplifting to the value of 5/- was made a capital offence, included the following words (section 1):

> being thereof convicted or attainted by Verdict or Confession, or being indicted thereof shall stand mute, or will not directly answer to the Indictment, or shall peremptorily challenge above the Number of three and twenty Persons returned to be of the Jury, shall by Virtue of this Act be absolutely debarred and excluded of and from the Benefit of the Clergy.

Not all legislation passed during the sixteenth and seventeenth centuries had included such a provision, most notably the statute 18 Eliz. c.7 (1575) which withdrew clergy from those who confessed or were convicted of burglary, so it was that a sweeping up provision was included in the statute 3 W. & M., c.9 (1691), section 2, to withdraw clergy from those who "stand mute, or do not directly answer, or challenge peremptorily above 20". This was followed by the statute 1 Ann. st. 2, c.9 (1702), which included an equivalent provision with regard to accessories. These provisions only applied to existing felonies, but subsequently such a provision was routinely included in legislation. So the important legislation was not the 1772 Act, but rather the statutes of William & Mary and of Anne. For the vast majority of felonies the 1772 Act was irrelevant since the consequence of refusing to plead was by that time

death without benefit of clergy, and so, rather than introducing an important change to criminal justice it merely confirmed a state of affairs which had existed since the late seventeenth century. This also explains why the bill seems to have attracted no adverse comment at a time when an increasing number of people were beginning to challenge the use of capital punishment.

The other strategy was to alter the nature of the benefit of clergy itself. From the late medieval period the test for clergy was the ability to read, and the final arbiters were the judges, so that if a man - women could not claim benefit of clergy - were judged to have passed the literacy test he was admitted to his clergy without any need to show that he was in fact a clergyman. [8] Being a clergyman did, however, have advantages under the statute 4 Hen. VII, c.13. This addressed the problem of people claiming benefit of clergy more than once. Under the Act lay people could only claim the benefit once, at which time they were to be branded on the left thumb; members of the clergy, on the other hand, were allowed to claim the benefit, after the first offence, on proof that they were clergymen. Nevertheless from an early date the benefit of clergy was to some extent divorced from the clergy and this facilitated later developments. In theory those who were admitted to their clergy were meant to be handed over to the Church for

purgation, although it seems likely that for the most part this had become a formality by the Tudor period with no substantive consequences. [9] In 1575 the secularisation of the benefit was confirmed in the statute, 18 Eliz., c.7, section 2, which required that anyone admitted to clergy "shall not thereupon be delivered to the Ordinary as hath been accustomed", but was to be set free after being burnt in the hand, however, the court had a discretion to imprison for up to one year. Then in 1623 women were made eligible for the benefit of clergy under 21 Jac. I, c.6, but were not put on an equal footing with men: they were eligible only if the offence was not capital if committed by a man and did not involve the stealing of items valued at over 10/-. Once again the courts were given the discretion to add other punishments to the branding on the thumb: a woman could be imprisoned for up to a year, whipped or put into the stocks. It was not until the end of the century, under 3 W. & M. c.9 (1691), section 6, that women were treated in the same way as men. This was followed by a harsher attitude towards the punishment of those admitted to their clergy: in 1699, 10 & 11 W. III, c.23, section 6, required that they be burnt not on the left thumb as had been the case, but on the left cheek instead. [10] This penalty was apparently regarded as too severe [11] and was withdrawn in 1706, by virtue of 6 Ann. c.9, section 2, and replaced, in cases of larceny, by a return to burning in the hand together with a power for the

court to commit the offender to a house of correction or workhouse for between 6 months and two years at hard labour. The same Act in section 4 also abolished the reading test, "which by Experience is found to be of no Use". So the benefit of clergy which began as a means of protecting from the secular courts certain people who had committed virtually any crime had been turned into a privilege available to everyone, but restricted to certain crimes. The next step was to increase the severity of the punishment for those who successfully claimed the benefit, and at the same time withdraw it from an ever-widening group of crimes. In 1718 the Transportation Act, 4 Geo. I, c.11, was passed, which, in section 1, gave the court the discretion to transport those convicted of clergyable felonies for seven years. Two years later, 6 George I, c.23, section 6, made returning from transportation before the term had expired a felony without benefit of clergy which meant, in view of the frequency with which transported felons did return (or often never left) petty larceny became, in some cases, a capital offence. By this means the judges were given a wide-range of sentencing discretion over those convicted of clergyable felonies, furthermore, it shifted discretion from the jury to the judge; no longer could a jury convict of a non-capital offence and thereby determine the punishment, which generally was whipping; it was the judge who could pick from a range

which stretched from burning on the thumb to transportation. Burning on the thumb was, at least nominally, retained until 1779 when the Penitentiary Act, 19 Geo. III, c.74, was passed, section 3 of which noted that this punishment "is often disregarded, and ineffectual; and sometimes may fix a lasting Mark of Disgrace and Infamy on Offenders, who might otherwise become good Subjects, and profitable Members of the Commonwealth", so it was abolished and replaced by a discretion in the court to impose a fine or whipping. It is significant that this should be part of the Penitentiary Act since, like the rest of that Act, it was an expression of optimism about the possibility that offenders might reform; a shift - although not a shift which represented the whole of penal policy - from the view evident in the legislation of William III and Anne on the benefit of clergy that branding was meant to deter other people from crime and to warn them against criminals.

By the early eighteenth century the main features of the criminal law were already in place. First, by the withdrawal of clergy during the preceding 150 years, the capital felonies which were to claim the majority of victims during the rest of the century were established - burglary, housebreaking, robbery, arson and horse stealing. This process had been speeded up somewhat in the 1690s, when "problems", such as the large number of defendants who

refused to take their trials had been largely cleared up. Second, the benefit of clergy had been radically altered in order to give the courts a wide range of sentencing discretion over clergyable offences. In addition, it is worth noting that the idea of including large rewards for the conviction of certain felons had been introduced in the years immediately after the accession of William and Mary and that the Transportation Act, 1718, facilitated the disposal of both petty offenders (including those who had claimed the benefit of clergy) and reprieved capital offenders.

3. The Whigs and the Law in the Eighteenth Century

The development of capital legislation in the eighteenth century must be seen within the changing political, economic and ideological situation of the period. When the Whigs displaced the Tory ministry in 1714 they immediately set about reinforcing their administration. However, they faced the problems of Jacobitism, the unpopularity of George I, and the popular support for the old ministry. Popular feeling was most obviously expressed in the serious outbreaks of rioting which took place especially in the Midlands, Bristol and London on the accession to power of the Whigs and particularly in response to the Whig impeachments of Tory ex-ministers. [1] A letter from Staffordshire in July 1715 described the mood of those who were destroying the meeting

houses of dissenters:

> As far as I can learn, these poor Fellows have got a Notion that the Ministry and Dissenters have ruined Trade, on Purpose to make the Nation out of Love with the late Peace, and Peace-makers; and, because the Ministry, and secret Committee, and their Friends, will not let the Country have Peace and Trade, they resolve (if they can hinder it) the Dissenters shall not have a quiet Toleration... [T]hey look upon these Impeachments as nothing else but a Piece of Spight and Revenge in this military Ministry, because the Ratifications of Peace took some Bread off their Trenchers [2]

The ascendancy of the Whigs represented a fundamental shift in political ideologies. The Tory notion of political authority rested on the divine right and absolute supremacy of the monarch. Both were ideas to which the Whigs were fundamentally opposed. Against them they constructed, in theory at least, the bulwarks of the rule of law and the supremacy of Parliament, which were both regarded as being above individuals, even monarchs. Government was to be conducted through laws and, therefore, through Parliament. Yet this did not mean they subscribed to anything approaching popular democracy. The theory that all were equal under the law was not regarded as meaning that all should be involved in the legislative process. The Whigs firmly believed that there should be a ruling elite which both governed and made the laws, and that this elite should come from those who were sufficiently wealthy to have the education, leisure and independence necessary for these tasks. This meant that the elite should typically come from the propertied, preferrably

the landed, classes. The poor had no right to have the vote nor to be represented in the legislature, instead they were to be cared for, and disciplined by, a paternalist landed gentry. So property was not merely a form of wealth, but the whole basis of political participation in this view of society. The law, therefore, had to protect property, and to do that it had to be out of the reach of the monarch. So law was made by an independent Parliament and applied by an independent judiciary. John Locke wrote in his Two Treatises of Government that, "The great and chief end... of Mens uniting into Commonwealths, and putting themselves under Government, is the Preservation of their Property." This end was achieved in three ways: first, "an establish'd, settled, known Law"; second, "a known and indifferent Judge"; and third, the "Power to back and support the Sentence when right, and to give it due Execution." The preservation of society was "the first and fundamental natural Law, which meant, in effect, that the most extreme penalties were justified in the defence of property: "Political Power then I take to be a Right of making Laws with Penalties of Death, and consequently all less Penalties, for the regulating and Preserving of Property, and of employing the force of the Community in the Execution of such Laws, and in the defence of the Common-wealth from Foreign Injury, and all this only for the Publick Good." [3] The same doctrine still held true almost a hundred years later: the biographer of John

Matthieson, hanged in 1779 for a forgery on the Bank of England, wrote:

> As property in a great measure regulates the importance of every rank in society, it is not to be wondered at that the law should be particularly severe in punishing every encroachment upon the effects of public bodies or of individuals. [4]

This ideology which placed so much emphasis on law and Parliament meant that to a far greater extent than in the twentieth century government was run through laws, and hence through Parliament. So it was that many of the statutes, such as the plethora of legislation on roads, covered matters which today would be dealt with by administrative decisions or delegated legislation. The Whig ideology also thrust the judges and judicial decision-making, and so lawyers generally, more firmly into the forefront of society. Even if their minds ran along broadly the same tracks as the gentry in Parliament, the settlement of 1689 had made judges to some degree constitutionally independent, and the importance of law had given their work a political significance.

So the Whigs regarded one of the primary functions of the law as being to protect property. This also meant protection of the propertied, since it was on their independence that the liberty of the people was said to depend. The connection between property and political power meant that attacks on property could be regarded as attacks on authority, and, therefore, merited the death penalty. As

the cost of government rose and as the wealth of the commercial classes increased so the notions of what constituted this category of property which was fundamental to society expanded to include, for instance, commerce and finance, and inevitably attracted capital punishment. Yet it is too easy to oversimplify this and to assume that the landed gentry regarded all attacks on property as quasi-treason. A distinction had to be capable of being drawn between attacks on property which represented threats against the position of the ruling elite, and attacks on property which were not so directed: for instance, the acts of poaching deer or cutting down trees might be intended as the intimidation of figures of authority - acts of "social banditry" - or they might be committed simply as a means of eating or having sufficient fuel. The need to be able to discriminate between apparently similar actions meant that a multiplicity of punishments and fori of prosecution grew up, and so, as a result, a wide range of discretion available to victims and the judiciary developed: so tree cutting was punishable under various statutes by a fine, imprisonment, transportation or death; it could be prosecuted summarily or on indictment, before justices of the peace out of sessions, before a quarter session, or before the assize court. One of the features of the eighteenth-century criminal justice system was this element of discretion. Since the independence of the law, and of access to the law, was an important part

of Whig ideology, this range of discretion was available not simply to the ruling elite, but potentially throughout society. Indeed the interests of the ruling elite were served by encouraging all social classes to use the law and to look to it for their protection. Having said that, it should be remembered that this structure of legal institutions was firmly established on, and so limited by, the protection of certain concepts of property: for example, it defended the right to enclose common land against the commoners. Furthermore, this range of discretion and the placing of it, to some extent, in private hands also meant that it was not only - nor even typically - acts of "social banditry" [5] or, more broadly, "anti-social" acts which were potentially subject to the death penalty.

The flexibility of the law-making process means that care must be taken not to try to discover a "landed gentry connection" in all legislation and judicial decision-making. It is too easy to discuss eighteenth-century society simply in Lockeian terms, without recognising that his Two Treatises on Government appeared in 1689 and did not, therefore, address the important economic developments of the 1690s and later, such as the founding of the Bank of England and the development of public credit. There was no simple transition from a feudal economy to a capitalist economy; the eighteenth century witnessed if not the creation at least the coming-of-

age of the agrarian and commercial economies and these, together with the fiscal demands made by the regular continental wars, gave birth, and central importance, to the finance and insurance industries. Furthermore, it is wrong to see these different economies as irreconcilable, and dangerous to take as representative the criticisms of people like Swift. There is a tendency to pigeon-hole different sections of eighteenth-century society: the landed gentry interested only in land, the moneyed interest only in finance, and the manufacturers and merchants only in industry and trade. Yet many of the landed gentry were involved in mining and were heavy investors in the South Sea Company. The moneyed interest provided much of the finance for new manufacturing and mining enterprises, and the manufacturers and merchants bought land. Sir Robert Walpole readily recognised the importance to government of these other interests, and indeed, although he was a major landowner, he also made a fortune through investing in South Sea Company stock. Parliament drew its members from traders made rich by overseas trade, by manufacture and by the law, as well as from amongst the landed interest. [6] So property was not regarded as a static thing which provided the root of the Whig constitution, its role as a means of exchange and of economic development was also accepted, at least politically. The criminal legislation in the eighteenth century reveals

this diversity. Between such the owners of different types of property there was often no real difference over the desireability of protecting property both through the use of the criminal law and through altering the definitions of property whilst narrowing its ownership, for example, by enclosure legislation. However, the troubled passage of some of the criminal legislation shows that there were at least differences over the detail of how this was to be done.

4. Capital Legislation and the Government

Beyond the rather fruitless efforts to guess the number of capital offences enacted after 1688 there has been no detailed study of the policy behind such legislation. Before I undertake such a study it is worth noting that, contrary to the general belief, a few capital offences were actually repealed during the eighteenth century. Most famous of these was 9 Geo. II, c.5, passed in 1736, which repealed the main legislation on witchcraft, 1 Jac. I, c.12, and, more generally, forbade prosecutions for witchcraft. More obscure was 13 Geo. III, c.59 which repealed that part of 31 Geo. II, c.32 that had made capital the frauds with respect to the marks on silver and gold plate, and replaced it with up to 14 years transportation (sections 1 and 2). Other legislation introduced alternative punishments: for instance, under 18 Geo. II, c.27, section 1, stealing certain cloths to the value of 10/- from grounds where they had been left to dry was a capital offence, but by section 2 the judge had the discretion to transport the offender for 14 years instead. To some extent this recognised the way in which judges were able to recommend capital offenders for conditional pardons; however, it never become a common practice to include such a provision in capital legislation. Prosecutors also had a discretion as to the charge which they wished to proceed on, although the role of the examining magistrate was almost certainly important in making such a choice. Under 26 Geo.

II, c.19, the prosecutor's discretion was formalised for certain wrecking offences: by section 1 pundering goods from a wreck was made a capital offence, but section 2 enabled a prosecution for petty larceny to be brought where the amount involved was small (no actual amount is specified) and there was no violence.

An examination of the legislation shows that in most cases capital offences were not, at least in the view of the legislators, the main feature of the statute containing them (hence, although I use the term capital legislation, it should be understood with this reservation in mind), and, secondly, it reveals that a large number of the capital offences were virtually exact repetitions of previous offences. Both of these features are best illustrated by a study of the statutes which imposed stamp duties on various goods, documents and licences as a means of raising revenue, and which generally made forgery of the stamps a capital offence. So these Acts provided more capital offences than any other part of the criminal law, yet the question which engaged the minds of the legislators was the duty itself: how much should it be and to what goods should it be applied? The proposals which eventually went into such bills emerged from the committee on ways and means. That committee merely worked out the details of the taxes to be imposed; the bill was then ordered and its subsequent passage into a statute was

generally a formality: so, for instance, 25 Geo. III, c.72, which imposed a duty on linen, received its first reading on 9 August, 1784, and the royal assent on 19 August, 1784, and this speed was by no means untypical since any debate had been settled before the bill was introduced. [1] The procedures which lay behind such bills did not, therefore, allow for the consideration of the question of capital punishment, and it seems likely that none was given, penal clauses being taken from earlier analogous statutes. However, even here we can see the inconsistency of eighteenth-century criminal legislation since, although more often than not the penalty for stamp forgery was death, this was not always the case, especially before the 1750s: so, for instance, 5 & 6 Will. & Mar., c.21, section 11, imposes the death penalty for counterfeiting the stamps used on vellum, but in 6 & 7 Will. III, c.18, section 30, which imposed duty on glass ware, counterfeiting only merited a fine of £100; even those statutes in which the penalty was a fine varied, so that while in 9 Geo. II, c.37, section 2, the fine for counterfeiting the stamp on sail cloth was only £50, under 32 Geo. III, c.10, section 14, the penalty was £500 and 12 months in prison for forgery with respect to the duty on coffee and chocolate.

The practice of enacting legislation for a fixed period of time and at the end of that time renewing it for a further fixed period also led to repetition of statutes which were

exclusively concerned with criminal law: the Act against Theft and Rapine was originally passed as 13 & 14 Ca. II, c.22, it was continued by 29 & 30 Ca. II, c.2, 1 Jac. II, c.14, 7 & 8 Will. 3, c.17, 12 & 13 Will. 3, c.6, 12 Ann. c.9 and 24 Geo. II, c.57, and only made permanent by 31 Geo. II, c.42, section 1. The practice of enacting permanent legislation only really became commonplace after the middle of the eighteenth century.

As was mentioned in the first section of this chapter, capital legislation was generally narrow in character, even the infamous section 1 of the Black Act (9 Geo. I, c.22) with its multiplicity of offences is, in places, fairly specifically tied to particular factual situations and as a result was extended later, although once again the inconsistency of the legislation is evidence since some of these later additions did not automatically carry the death penalty. These extensions did not necessarily mean that the death penalty would be attached. The sending of threatening letters, unless they were in some way libellous, was not a general offence before the eighteenth century, although Parliament had legislated against local disturbances which involved such letters. [2] The Black Act (9 Geo. I, c.22) made capital the sending of a letter, which was either unsigned or signed with a fictitious name, demanding money, venison or other valuable thing. The first extension of the

legislation was specific to the woollen industry. In the statute 12 Geo. I, c.34 (1739), section 6, anyone writing or sending a letter threatening to injure someone connected with woollen manufacture, or to destroy their buildings or trees, or to kill or maim their cattle if they refused to comply with the demands of their workmen, was to be transported for seven years. This was later extended by 22 Geo. II, c.27, section 12, to cover employees in the woollen trade and also employees in various other similar trades. Following this in 1754 the statute, 27 Geo. II, c.15, extended the general, and capital, offence in the Black Act to sending a letter threatening to kill or to commit arson, but not making any demand for valuables. This was followed in 1757 by 30 Geo. II, c.24, section 1, which extended the offence to threatening to accuse someone of any crime punishable by death, transportation, pillory or other "infamous punishment" (which would cover public whipping), with the intent to extort valuables, although here the punishment was only seven years transportation.

The poor quality of drafting was also to blame for some of the capital statutes. For instance, not only was forgery of an Exchequer bill made a capital offence by different statutes, such as 3 Geo. I, c.8, section 40, 8 Geo. I, c.20, section 20 and 2 Geo. II, c.25, section 1, but omissions in these early statutes had to be repaired by later legislation. The statute 7 Geo. II, c.2, section 21, section 1, was passed

because of doubts that 2 Geo. II, c.25 did not apply to those who counterfeited acceptances on Exchequer bills, since this was the method of transferring them and since they were to some extent treated like ready money the acceptances were regarded as important; moreover, the early statute did not apply to those who altered the figures on a bill - both "omissions" were incidentally present in the other early legislation on Exechequer bills. There then came 31 Geo. II, c.22, section 78 which extended 2 Geo. II, c.25, section 1, to those whose intent was to defraud not individuals but corporations. However it did not cover the extensions to the earlier Act made by 7 Geo. II, c.2, section 21, and so another statute, 18 Geo. III, c.18, section 1, had to be passed. Similarly, with regard to duty stamps, doubts had earlier arisen as to whether the capital provisions against counterfeiting in two statutes, 9 & 10 Will. III, c.25, section 59 and 9 Ann. c.23, section 34, applied to people who altered genuine duty stamps, so 6 Geo. I, c.21, section 40, extended the offences. [3]

Criminal legislation originated principally in the House of Commons, indeed this was inevitable in the case of the many capital offences included in revenue legislation in view of the rule that money bills had to begin in the House of Commons. This meant not just bills which raised revenue, but also those which protected the revenue, such as the laws

against smugglers. [4] Only a handful of statutes which imposed capital punishment started in the House of Lords: most important amongst these were the changes to the benefit of clergy introduced in 3 Will. & Mar. c.9 (1691), the Coining Act of 1697 (8 & 9 Will. III, c.26), and the Punishment of Forgery Act (2 Geo. II, c.25).

The procedure observed in the House of Commons is well described by Professor Thomas in his book, The House of Commons in the Eighteenth Century, but my study of capital legislation enables some additional observations to be made. In the House of Commons a public bill passed through a first and second reading, then it went into committee, followed by a report stage and then a third reading; it was then passed to the Lords. Usually the bill was committed for report to a committee of the whole house chaired by someone with a major interest in the bill, and in general this committee sat only once and then reported to the House two or three days later. It was uncommon for the committee to take up more than one meeting; if it did require more time it had to make a request to the House, although this appears to have been a mere formality. It was also unusual for the House to recommit the bill, or for it to order a bill to be printed. Finally, although not exactly rare it was at least unusual for the criminal provisions of a bill to be amended substantially during its course by, for instance, the addition of new

clauses, especially at or after the report stage. The occurrence of any of these events provides an indication that the bill was controversial, as has been mentioned with regard to the Black Act. On these rough criteria the most controversial was the Offences against the Excise Act 1784 (24 Geo. III, sess. 2, c.47). A select committee to consider smuggling was set up on 21 November, 1783 and this presented a first report in December 1783 and two more in March 1784. There then followed a committee of the whole house in June 1784, after which leave was given by the House for a bill to be brought. The bill was presented three weeks later, which was fairly slow, given a first reading and was ordered to be printed. In July it reached the report stage. Initially the committee of the whole house sat twice and then reported with some amendments; the House was clearly unhappy with these and recommitted the bill. The committee sat twice more in July and then reported a second time. Once again the House was unhappy and the bill was recommitted again on 2nd August. The bill emerged on 9th August. On that day several new clauses were proposed in the House, some of which were rejected or withdrawn, but two clauses which imposed capital punishment (the eventual sections 12 and 13) were referred to the committee of the whole house for consideration; both were approved by that committee and were then passed along with the rest of the bill through the third reading stage. Time was now running short and the bill went through the Lords

fairly rapidly, and received the royal assent on 19 August. [5] Sometimes the passage of bills exhibited some of these features, but do not appear to have been the subject of any controversy. For instance, the Turnpike Act of 1735 (8 Geo. II, c.20) was originally, as the title suggests, brought in to make capital the destruction of turnpikes, but at the report stage it was extended to cover the destruction of locks or sluices erected by Act of Parliament. [6] There was no controversy here about the original bill, merely a desire to take the opportunity to extend it to other forms of property.

Most of the legislation which included some provision for capital punishment was drawn up and presented by members of the government. The list of those who had been ordered to bring in a bill by the House does not necessarily mean that these people actually drew it up. Certainly they took advice: the Coinage Act of 1697 was prepared by the judges at the request of the House of Lords [7], the judges were also brought to the House of Lords to be heard on possible additions to the statute on benefit of clergy in 1699. [8] Although often such outside advice came from the government, so, for instance, the Piracy Act of 1700 (11 & 12 Will., c.7) was drawn up by the Board of Trade. [9] Nevertheless, the membership of the committee set up to draft a bill is a useful source of information about that bill. It leads to the

conclusion that for the most part the death penalty was not available to protect the "personal interest of a few members" or "for the mere asking" [10], but was restricted to government measures; although, of course, establishing a statute as a government measure does not mean that it did not serve the personal interests of the individual members of that government.

Having said that, non-ministerial members of the Commons did appear on these committees, especially where the matter was specialised in some way. The Robberies on the Rivers Act of 1751 (24 Geo. II, c.45), as will be seen later, originated from the efforts of London traders to prevent crime on the Thames, although its provisions applied to the whole country. On the committee which drew it up were three City of London aldermen, of these two were substantially involved in overseas commerce, and one of them was the treasurer of the association of traders, the other alderman was a wealthy brewer; another member of the committee was the member for Liverpool. [11] The Turnpike Act, 1735, was prepared by Colonel John Selwyn and Sir George Caswell, neither of whom were government members although both had a leaning towards Walpole's government which may have assisted in the passage of their bill; more significantly they were landed members from the counties on the borders with Wales where much of the rioting occurred around this time. [12] The most remarkable example of "independent" members being behind the enactment

of capital offences was the statute which set up the English Linen Company in 1764 (4 Geo. III, c.37). The purpose of the Act was not only to protect the Company from foreign competition, but also to enable it to keep wages down and so allow the speculators and government contractors who made up the original proprietors to make large profits. The Act included three sections creating capital offences. Section 15 made it capital to forge the seal of the company or to use a forged bill or bond purportedly of the company, and section 26 made it a capital offence to counterfeit the stamp which was required to be impressed on cambric. Neither of these was particularly extraordinary, indeed both were quite normal for joint stock companies created by Act of Parliament: legislation on the Bank of England, the South Sea Company, and the Royal Exchange and London Assurance Corporations included similar offences. What was unusual was the capital offence in section 16: breaking into a shop, house or other building with the intent to steal or destroy linen or tools, or cutting certain sorts of cloth put out to bleach or to dry. No other industry had been given quite such protection at one sweep against the common forms of industrial action.

Yet none of these examples supports the assertion that Parliament simply passed capital offences whenever any member wished them to do so. The Robberies on the Rivers Act followed strong pressure from influential City of London

aldermen and merchants. The Turnpike Act came during a serious outbreak of rioting which the government clearly felt required overt repressive measures. In fact, when this period of major turnpike riots from 1734-38 is examined the bill emerges as merely a part of a broader policy of coercion in which the government was deeply involved. The year before, a proclamation against turnpike rioting had been issued offering a reward for the conviction of rioters; the government used the riots to justify an increase in the size of the army during peace time, and during the next few years at least three rioters were hanged, including one, Thomas Reynolds, who was taken all the way from his native Ledbury to London, prosecuted by the government and hanged at Tyburn. [13] So it seems likely that the government keenly supported the Bill. The establishment of the English Linen Company Act must be seen against the background of an ever-increasing National Debt and the recent end of yet another expensive war which had to be paid for. Its creation was engineered by a cabal of politicians, speculators, financiers, manufacturers and merchants. The original proprietors of the Company included the Earl of Verney and seven members of the House of Commons. Amongst the latter were Charles Townshend, who although out of office at this time was nonetheless highly influential, Sir George Colebrook, who had subscribed towards a recent government loan, Sir Lawrence Dundas, a loyal government supporter, and Arnold Nesbitt, an opposition

member but still an influential speculator and someone who had also been involved in financing government loans in the past and no doubt it was hoped would do so again in the near future. Moreover, the committee which was ordered to bring in the bill included Nesbitt amongst its members.

However, measures which even superficially were drawn up by members outside the government were nonetheless rare, and more often than not capital punishment was only attached to legislation which we can broadly call government measures by virtue of the presence on the committees of government members. Legislation relating to the defence of the realm or the establishment of the succession, filled with capital offences, was drawn up by government ministers, similarly the mass of revenue and public credit legislation was drawn up by ministers, usually from the Treasury. [14] Treasury ministers and officials also dominated the committees appointed to draw up bills relating to public companies, such as the Bank of England and the South Sea Company, which not only played an important role in government finance, but in which most government ministers had investments. [15] The same Treasury ministers and officials tend to appear on the different committees appointed to draw up these fiscal bills. For example, the secretary to the Treasury William Lowndes, who was a key figure in the early years of the Bank of England, was on the committee which drew up 6 Geo. I, c.4 and c.11, by

sections 56 and 50 of which Acts certain forgeries with respect to the South Sea Company were made capital; he presented for their first readings 6 Geo. I, c.18, which in section 13 made certain forgeries relating to the Royal Exchange and London Assurance Corporations capital, 8 Geo. I, c. 20, section 20 which made forging Exchequer bills a capital offence, and 8 Geo. I, c.22, in which section 1 attached the death penalty to forgeries related to the stock and dividends of public companies. Almost certainly the main concern in fiscal legislation was usually not related to the issue of punishment, and the general practice was merely to repeat the criminal offences and punishments laid out in analogous legislation. The lack of concern in fiscal legislation with questions of criminal law and punishment can be seen most strikingly in the passage of the statute, 6 Geo. II, c.11. Those who drew it up omitted to include the usual provision to make forgery in dealing with stocks and dividends of the South Sea Company a capital offence; this was evidently not discovered until after the bill had been committed, and so a clause, which became section 50, was sent by the House to the committee of the whole house to be incorporated in the bill. [16]

5. Policy and Capital Legislation

Beyond observing that it was typically the government which brought in capital statutes it is often difficult to discover why the death penalty was adopted. Sometimes the preamble to a statute may be helpful, although relying on it is dangerous. The preamble to the Act on burglary, shoplifting and the benefit of clergy, 3 Will. & Mar., c.9 (1691), blamed the benefit of clergy for crime: "Forsamuch as divers wicked and ill-disposed Persons are encouraged to commit Robberies upon Men's Persons, and in their Houses, and other Offenders, by the Privilege, as the Law now is, of demanding the Benefit of their Clergy". Only eight years later a slightly different approach to housebreaking and shoplifting is evident in the preamble of 10 & 11 Will. III, c.23 (1699): these crimes, along with the stealing of horses, "are of late years much increased... occasioned for Want of due Prosecution and Punishment of Offenders therein, and for Want of Encouragement to such as shall vigorously endeavour the apprehending of such Malefactors". The Act still pursues the policy of extending capital punishment (section 1) and adopts a harsher mode of punishment for those within the benefit of clergy, namely burning on the cheek (section 2), but the rest of the Act provides a system of rewards to encourage people to apprehend and prosecute offenders to a capital conviction. This policy was continued by 5 & 6 Ann., c.31, on housebreaking, "which Crimes might be, in great

Measure, prevented if the Encouragement be given to such as shall vigorously endeavour the Discovery and apprehending of such Malefactors, and some severe Punishment inflicted on such as shall receive or buy stolen Goods, and harbour and protect the said Offenders". This Act not only provided rewards for the conviction of housebreakers, it also attached the death penalty to those who received goods which had been feloniously taken, or who harboured felons (section 5). Section 5 also toughened the penalties for receivers from those imposed by 3 Will. & Mar., c.9, under section 4 of which receivers were to be punished in the same way as accessories. So in these statutes the structure which formed a significant part of the eighteenth-century response to crime was laid out: the removal of the benefit of clergy from a wider range of offences, the creation of capital offences for those regarded as accessories, harsher penalties for those guilty of clergyable crimes and the development of a system of rewards.

Since, as has been seen, many of the capital offences were almost certainly regarded as incidental to the main purpose of the legislation it may be that although the policy behind the statute is easily discovered, the reasons for preferring one form of punishment over another may not be so clear. The establishment of the National Debt and its expansion during the wars which followed the accession of

William and Mary were behind the gradually increasing numbers of statutes brought in each year to gather revenue. Some of the statutes were explicit in their acknowledgement of this, for instance, 10 Ann. c.19, which imposed stamp duties on soap, silk, vellum, dice and other goods and which carried with it (in sections 97, 115 and 158) the death penalty for forging these stamps, said in its preamble that it was found to be "absolutely necessary to raise large Supplies of Money to carry on the present War". The reason for imposing the death penalty was almost certainly the quite separate effect of adopting analogous provisions from previous legislation. The origin of the practice probably lay in the view that offences against the revenue were similar to offences which threatened the government itself.

The same sort of roll on effect might have been part of the reason behind the punishments which were included in the Coinage Act of 1697. The Act was passed following the coinage crisis of 1696 [1] which, in part, involved a panic over the extent of the operations of coiners and clippers. Treasury records show that spies were used extensively and that coiners were even linked to the Jacobites. [2] Undermining the coinage was regarded as equivalent to rebellion. As a result the Act in sections 1, 2, 3 and 4 created high treason offences for making counterfeiting tools, removing tools from the Mint, marking the edges of coins in a way which resembled coins from the Mint, and colouring or gilding metal to make

it resemble gold or silver coins of the realm. [3] The precedent was set and later legislation on counterfeiting gold and silver coins simply followed it: so 15 Geo. II, c.28 (1742), section 1, made it high treason to gild a silver coin to pass as a gold coin of the realm, or to alter a halfpenny or a farthing to pass as silver coins.

The application of the death penalty to smuggling offences caused more controversy. On the one hand, the legislation was regarded as a crucial part of trade protection and of governmental fiscal policy, because of the dependence on the revenues which the customs and excise brought in, while, on the other hand, merchants objected to the wide powers of stop and search which were given to customs officers, and the House of Lords feared that the gentry returning from the Grand Tour with a few items which they failed to pay duty on might be subjected to punishment as smugglers. [4] It was doubtless as a means of defusing opposition that the legislation initally took as the target for the severe criminal punishments, the smuggling gang, and almost inevitably smugglers worked in groups, defining this as a public order problem and so distinguish it from the issue of duty evasion. So 6 Geo. I, c.21 (1720), section 35, made it an offence punishable by transportation for eight or more armed persons to obstruct or wound officers, and returning before the term of transporation had expired was

made punishable by death. The offence was gradually made more stringent: by 9 Geo. II, c.35 (1737), section 10, it became an offence punishable by transportation for three or more people to assemble with arms to assist the running of goods, or to obstruct or wound an officer, and in both cases returning from transportation was punishable by death. The way was then clear to introduce the death penalty. Following an increase in smuggling activity, including the arrest of 15 members of the Hawkhurst gang in Sussex in 1745, and a parliamentary inquiry in the same year in which smugglers were identified as depraved criminals, the Offences against the Excise Act 1746 (19 Geo. II, c.34) was passed and quickly put to use, most notably by the Duke of Richmond against the Sussex smugglers. [5] This Act was a direct ancestor of the Black Act. Section 1 imposed the death penalty on three or more armed people who gathered to run goods, or to rescue impounded goods or arrested persons, or to wound officers; and it borrowed from the Black Act a provision (section 2) whereby failure to surrender following the issuing of a proclamation against those accused of section 1 offences was a capital offence. All the legislation from the Act of 1722 on sought to carry through the principle laid down by the Commissioners of Trade and Plantations in a report produced the year before that the law should seek to break "that mutual Trust and Confidence" between smugglers through rewards and through the offer of pardons to informers. [6]

Governments anxious to get such legislation through packed the committees which drew up the bills with their most dedicated adherents, and their - more specifically the Treasury's - desire to retain control over this area of legislation can best be seen in the way in which the bill that later became the 1746 Act appeared some time after a measure on smuggling had started its passage through the Commons. This other bill, a bill "to Prevent the Infamous Practice of Smuggling", was ordered on 8 April, 1746 to be drawn up by a committee which included amongst its original six members three who were vigorous opponents of the government, Vernon, Sydenham and Cornewall; the presence of Hay, who held a minor official post in the navy, and the later addition to the committee of two government supporters, Glanville and Sir Richard Lloyd, made little difference, this was not the sort of committee which would be allowed to draw up legislation on revenue. The bill faced amendments and delays in the Commons, possibly engineered by the government. In any event the government's own draconian measure was ordered to be drawn up on 3 June, 1746 by a small committee consisting of just the two law officers and Sir William Yonge, who had been a prominent whig, holding the posts of Lord of Admiralty and of Treasury, and was at this time Secretary at War. As it appeared for its first reading so its predecessor ground to a halt in the Commons. [7]

The problems surrounding the Offences against the Excise Act, 1784, have been touched upon already. It was passed against the background of the end of an expensive and, as many thought, ill-conceived war in North America, but worst of all perhaps it was a war that had been lost. The government felt the pressure not only to maximise revenues, but also to find a scapegoat which might be used to justify those increased revenues; that scapegoat was the smuggler. Petitions from London and Scottish corn distillers as well as the reports of the select committee confirmed the view that massive amounts of revenue were being lost through smuggling. The bill was put in the hands of a committee which, apart from the Chair of ways and means and the Chancellor of the Exchequer, also included four of the Lords of Treasury (John Buller, Edward James Elliot, James Graham, John Aubrey), and both secretaries to the Treasury (George Rose and Thomas Steele). Eventually the Act emerged with three capital offences: maliciously shooting at Royal Naval or Customs or Excise ships or officers (section 11), failing to surrender within forty days of being proclaimed for a felony under this Act (section 12), and harbouring those smugglers who returned from transportation before their term had expired (section 13).

Some capital offences were measures intended to reinforce a particular structure of government and became part of the law on treason, most obviously, the flood of

legislation during the late seventeenth and early eighteenth centuries which purported to protect the protestant succession and which was added to in response to each threatening gesture by the Jacobites abroad. [8] Extensions were made to the piracy laws into this area. For instance, 18 Geo. III, c.30, section 1, made it piracy for a seaman to join the enemies of the state. Other capital laws were concerned with the organisation of state violence. The statutes on discipline in the army and navy were the key statutes. They enacted the Thirty-Six Articles of War (1661), and were particularly bloody, rivalling any of the other capital statutes by the inclusion of 22 specified capital offences. [9] But, with regard to the army at least, such statutes did not always have an easy ride through Parliament where the government faced the opposition of those who regarded the maintenance of an army during peace time as a threat to liberty. It was the debates on the Mutiny Bill of 1718 which provide a rare early report of a discussion on capital punishment, although in fact the opposition to a court martial inflicting any punishment was made in order to prevent the passage of the Bill by those whose dislike of it stemmed from their opposition to a standing army. [10]

The Whigs also had their own equivalent of the treason laws, the Riot Act. Soon after replacing the Tories the Whig ministry set about deploying the means of maintaining their

power. In addition to getting rid of their opponents through impeachments, a series of repressive measures were enacted, such as the Septennial Act (1 Geo. I, stat.2, c.38), the Suspension of Habeas Corpus Act (1 Geo. I, stat. 2, c.8), and the Riot Act (1 Geo. I, stat. 2, c.5). The law of riot was very quickly seen as of little value to the Whigs in suppressing the popular disturbances which followed their accession to power. The Marian legislation on riot had long since expired and this left only the common law misdemeanour and a rather uncertain interpretation of the offence of levying war against the king (25 Edw. III, c.2). The judges certainly acknowledged that this offence extended to riot, but only to certain types of riot. In R v Damaree & Purchase (1709) [11] it was decided that where the riot was against all Presbyterian meeting houses then it amounted to a general threat to the nation and was also a declaration against the legislation which allowed religious toleration; as such it amounted to levying war against the king. On the other hand, where the riot was merely a matter of local or private concern then it was only a misdemeanour, punishable by fine or imprisonment. [12] This meant that civil and military authorities were reluctant to intervene since if the situation were only a riot then their actions were restricted by the requirement that they use reasonable force. This lay them open to civil actions and criminal prosecutions. Furthermore, the discretion which the uncertainty about the

law handed to juries, whose loyalty to the Whigs could not be guaranteed, resulted in the Riot Act being passed. The bill was drawn up by Sir Joseph Jekyll, a lawyer (later Master of the Rolls) who supported the Whig junto and had been one of the managers of the impeachment of the High Church and arch-Tory Dr. Henry Sacheverell, and John Barrington, a Whig elected for the first time in 1715 for Berwick-upon-Tweed through the support of the nonconformists, the group most directly threatened by the Church and Tory crowds. In the Act the requirements for a capital felony were clearly laid out in a way that left little leeway for a sympathetic jury. It required no actual violence by the crowd, and anyone who remained an hour after the proclamation had been read was a rioter and liable to be hanged. Moreover, those who killed rioters were indemnified. [13]

Less than a decade later, in 1723, came the Black Act about which so much has been written. [14] Despite the potential width of the Act it claimed fewer victims than the capital laws on, for instance, burglary and robbery, because it was chiefly designed for, although not totally restricted to, situations where the action was in some sense regarded as a challenge to authority - Hobsbawm's social banditry. The context of the Act indicates that deer hunting was included not simply because of poaching, but because this act as committed by the Blacks symbolised an attack on authority.

The Duke of Richmond wrote in 1749 of the importance of the Act to the landed gentry: "if cutting down plantations, heads of ponds, and burning houses are not punish'd to the utmost vigour of the Law, there will be no living in the Country". [15] There had been plenty of activity in Parliament on deer stealing: under 3 Will. & Mar. c.10 the offence was punishable by a fine; the Lords had tried to tack a clause onto the Transportation Act, 1718 [16], and legislation had actually been passed in 1719 in 5 Geo. I, c.15 and c.28, which provided terms of transportation. The Black Act prescribed the death penalty. So the prosecutor was given the ability to choose both the forum for the trial and the range of punishments. The sending of threatening letters was also included in the Act; sometimes this was a means of obtaining money, sometimes it was a form of social banditry, but on all occasions it possessed a subversive quality which represented a threat to the authority of the typically wealthy recipients. [17] Much of the rest of the notorious section 1 was interpreted as applying not to crimes against property per se, but to attacks on property as a symbol of authority. [18]

The landed forms of wealth which were the foundation of Whig power were protected by various other capital statutes. When the landowners and farmers in Middlesex and Essex complained about the stealing of sheep and cattle at night, they were rewarded in a little over two months with an Act in

1741 which made such thefts, at any time, a capital offence. [19] Doubts over the ability of employers to prosecute their servants for burglary which had been expressed by Lord Chief Justice Holt and Chief Justice Trevor in R. v. Elizabeth Clarke led Parliament to pass the Robbery in Houses Act (12 Ann., c.7), making it a capital offence for anyone who enters without actually breaking in and steals goods to the value of 40/-, or who enters without intent to commit a felony and who then commits a felony (sections 1 and 3). The reasoning behind legislation protecting employers against their servants was expressed by Rev. Broughton in 1746: "A Master may guard his house against a profest Thief, but if one of his family harbours evil designs, and is resolved to plunder, no prudence or foresight can prevent the evil." [20]

During the eighteenth century the importance of commerce to government grew, both as a source of revenue and, for the individual ministers, a source of personal wealth, moreover, rich merchants were made up an important part of the House of Commons and controlled influential bodies, such as the City of London corporation. As a result the criminal law was extended into these areas. The benefit of clergy was removed from an ever-increasing number of offences and entirely new capital offences were also created.

In the eighteenth century the use of the weapon of riot enabled the labouring people to engage in community politics from which they were, in theory, excluded. Most common were the riots over food prices, but there were also riots over turnpikes, riots around the gallows, riots over politics and religion, riots in furtherance of labour disputes and riots against the militia. [21] For the most part the Riot Act was adequate, in fact the chief problem was that where local authorities wished to respond to a riot - and they did not always seek to oppose rioters - they were unlikely to be able to do so because the military were usually not within easy reach, so that by the time they arrived the rioters had achieved their objective. However, following widespread rioting in both in rural and urban areas relating to food prices and to labour disputes during the 1760s, doubts as to whether the Riot Act applied to the demolition of mills were cleared up by a specific extension in 9 Geo. III, c.29, section 1 (1769), and section 2 of that Act withdrew the benefit of clergy from arson of mills. This measure was

enacted in a remarkably short time: it was ordered on 12 April, 1769, received its first reading on 14 April and its second reading on the following day when it was also committed for the report stage. Before the committee of the whole house sat it was ordered by the House to add provisions making it an offence punishable by transportation to demolish certain pieces of mining equipment and enclosure fences. Then on 21 April Sir Thomas Clavering reported from the Committee and the bill passed its third reading a few days later. It passed through the Lords with no trouble and on the 1 May it received the royal assent, a mere 18 days after its first reading. [22] Other analogous measures against forms of popular protest were added to the statute book, although not brought within the terms of the Riot Act, most notable amongst these was, of course, the Black Act, but also within this category was the Destruction of Turnpikes Act. In 1738, 11 Geo. II, c.22, section 2, made a second offence of using violence to prevent the exportation of corn a capital offence, and other related actions, such as removing corn from a granary or ship, were punishable by transportation - the Black Act, section 1, had already made it a capital offence to set fire to grain or barns. The policy represented by these statutes against community protest was best summarised by Mr. Justice Hardinge at the trial of three food rioters, Samuel Hill, James Luke and Aaron Williams, at Cardiff in 1801:

> Nothing is more unjust, than to be inflamed against a <u>market</u>, because the general price of it is

> dear. One may suppose a particular tradesman dishonest in his avarice. A market is governed by such principles of mutual convenience between the buyer and the seller, that it cannot be fairly accused of artifice, or oppression.

He argued that if prices were forced down by riot, then sellers would be driven from the market altogether, and to the claim that the people had a right to be fed he answered that the owners had a right to sell their property at the market price: the difference was, of course, that there was no equality of rights here, only the latter was protected by the capital laws. Hardinge went on to say that dearth was "a peril of life that we are called upon as patriots, to incur with enthusiasm!" [23]

Riot was also an important tactic used by workers in labour disputes [24], and against it employers, who, particularly in the textile industries, were anxious to introduce new machinery and to hold down labour costs, deployed not only soldiers and the magistracy, but also the death penalty. Before the enactment of the statute setting up the English Linen Company in 1764 (4 Geo. III, c.37) a report was drawn by a select committee which reveals that a large amount of capital had already been invested in 86 looms at the Winchelsea manufactory. This high capital investment, and the competitive prices of French goods, meant that the proprietors were seeking to hold labour costs down. One way in which this was being achieved was through the employment of pauper children drawn from the Foundling Hospital, workhouses and so forth, the other way can be found in the loom breaking provisions which were an effort to forestall

potential strike tactics. [25] The value of this measure was recognised by manufacturers in other textile industries, and in 1782 a new bill was drawn up by a committee consisting of Thomas Stanley, a Lancashire member and a champion of the cotton and linen industries against "foreign competition, heavy taxes, and high wages" [26], Sir Harbord Harbord, a landed gentleman and member for the cloth area of Norwich, Sir George Savile, a member for another cloth area, Yorkshire, and the Attorney-General. This became 22 Geo. III, c.40, which, in sections 1 to 3, extended the loom breaking provisions not just to other types of textiles and machinery, but also by attaching the death penalty to the mere act of entering with the intent to damage either the cloth or the machinery: the preamble recites that to prevent such action "it is necessary exemplary Punishment should be inflicted". [27] Meanwhile, as has been seen, another tactic used in labour disputes was penalised by the extension of the provisions in the Black Act on anonymous letters were by 12 Geo. I, c.34, section 6, and 22 Geo. II, c.27, section 12, which made the sending of such letters to employers and workers in certain textile industries an offence punishable by transportation.

More generally, new ways of doing business were protected by the widening of the capital laws to cover the places of transaction, most obviously shops and places of storage, such as warehouses and the bleaching grounds. [28] Coal mines were included in the arson provisions of the Black

Act by virtue of 10 Geo. II, c.32, section 5 (1737). [29] Pressure from Cumberland mine owners led to the passage of the Stealing from Black Lead Mines in 1752, although on this occasion the main offence was subject to imprisonment and corporal punishment or transportation, however there was the normal provision for the death penalty for those who were at large before the expiration of their term of transportation. The Act followed a newspaper report in January 1751 which noted that a gang in Cumberland had been stealing black lead from the mines there, that they had attacked the steward's house, and that the mine owners, whose losses were reckoned at £1,000 per year, "seem now more Intent on putting a Stop to these Rogues they they have formerly been." [30] A bill was introduced into the Commons by Henry Bankes, almost certainly a relative of one of the mine owners, and Sir Nathaniel Curzon, a local member of Parliament, however, although it passed the Commons, it never reached the statute book. The reasons for its failure are unclear, but the printed copy of the bill seems to indicate that it was intended to attach capital punishment fairly liberally to offences connected with robberies from these mines, although it is impossible to be certain because, following normal practice, the bill was printed with blanks where the punishment were to be filled in later; certainly the later bill was more moderate in its penalties. In January of the following year a petition was presented by the mine owners complaining that although they had prosecuted some of the robbers the punishment was too small to discourage them. The

petition was referred to a select committee which included Henry Bankes and, not perhaps surprisingly, the committee reported that the mines were subjected to robberies, but they estimated the losses as £2,000 per year. What probably influenced the Commons to give time and support to the bill which was drawn up was that black lead was difficult to get hold of and it was essential in the manufacture of shot and shells. [31] Overseas trade expanded during the century and with not just the government revenues from import duties, but also the insurance business. A series of capital statutes was passed which protected the transport of goods by sea and punished wreckers, either on board or on land. [32] The establishment of an increasingly national market placed more emphasis on communication and on the mails. The protection given to turnpikes and navigable rivers has already been mentioned, in addition the Post Office, always ready with large rewards to protect itself from robbery, also obtained the death penalty for any form of larceny from the mail even if, had it been any other item, it would not have been capital. [33] The curious attachment of capital punishment to certain bridges and not others cannot be explained simply by the need for efficient communication since the penalty for vandalism on most bridges was transportation. In the case of the Westminister bridge the burgesses and freeholders of Westminster petitioned the House of Commons in 1736 for a statute which would enable them to build a new bridge to cope with the increased population of the city. A large select

committee was set by to consider the matter and a report was quickly presented to the House of Commons by Lord Sundon in February. The evidence in that report gives a clue as to why capital punishment was attached to the offence of vandalising this particular bridge, for according to one witness, Captain Knoles, told the Committee, "the Members of the House of Commons frequently meet with Difficulties, in their Passage to the House, by the Stoppages made by Carts, Coaches, &c. which proceeds from the Narrowness of the Streets, insomuch that the House is obliged, every Sessions, to pass an Order to keep them clear". [34] The Robberies on the Rivers Act of 1751 (24 Geo. II, c.45) sought to protect goods in transit, making it a capital offence to steal to the value of 40/- or more from ships in any navigable river or creek. This Act was passed as part of a campaign conducted against crime on the River Thames by a group of rich London merchants. The year before they had begun a subscription for the prosecution of felons which had drawn a lot of attention from the newspapers and pamphleteers. [35] As has been mentioned four of the five men appointed to draw up the Act had interests in shipping, and one of these, Alderman Bethell, was not only treasurer of the group of merchant, but had himself been the victim of the theft of some logwood from the Thames and had seen the offender transported. [36]

The moneyed interest provided a further plank upon which the high-spending governments rested, and they too, therefore, received the protection of the capital laws for their investments. The need to resolve the coinage crisis of

1696 in part through trying to establish confidence in bank notes and Exchequer bills as methods of payment meant a constant resort to transportation and capital punishment as a means of redefining concepts of currency: the criminal legislation on forging Bank of England notes was, according to the preamble to section 6 of 8 & 9 Will. III, c.20, introduced because such forgeries worked "to the great Decay of Credit", whilst 11 Geo. I, c.9, section 6, on the same offence, added that they caused "great Hurt and Diminution of Trade and Commerce". The financial institutions sought protection not just from outside forgers, but, like the textile manufacturers, also from their own employees. The acquittal in 1743 of John Waite, a teller at the Bank of England, on a charge of stealing a bank note which had been paid in to him by a customer, led to the inclusion in the Bank of England Act (1743), 15 Geo. II, c.13, section 12, a provision extending the capital larceny laws to tellers in the Bank who received bank notes, bonds and so forth from customers. Additions relating to employees of other banks were made by 35 Geo. III, c.66, section 6, and 37 Geo. III, c.46, section 6. This was followed by a gradual widening out of the offence of embezzlement to those who worked for the South Sea Company (24 Geo. II, c.11, section 3), the Post Office (5 Geo. III. c.25, section 17, 7 Geo. III, c.50, section 1), then, following the acquittal of Joseph Bazeley in 1799, to any employee who received money on behalf of an employer (39 Geo. III, c.85, section 6), and also, following

the acquittal of the stockbroker Benjamin Rush, to those who worked as independent agents, such as stockbrokers (52 Geo. III, c.63); although there was not always consistency in the punishment attached to these different categories. [37]

6. Judges, Jurors, Textbooks and the Science of Law

The reverence given to the rule of law in the eighteenth century also enhanced the role of the judges as interpreters of the law. Their function and authority were embedded in the independence which they enjoyed under the new constitutional arrangements. However, they faced two main obstacles to their dominance, legislation and juries.

Legislation was a threat to their independence which was probably not taken seriously until the nineteenth century, nevertheless, as Bentham was to recognise, it offered the prospect of law without judges. The response of the judiciary was three-fold. First, they were critical of statute law contrasting it unfavourably with the common law. Foster, in his book Crown Law (1762), referred to the Statute of Stabbing (1 Jac. I, c.8) as "one of those Acts which... was made upon the Spur of Times. Whereas the Rules of Common-Law in cases of this Kind may be considered as the Result of the Wisdom and Experience of many Ages." [1] He believed that much of the criminal legislation was "made upon special and pressing Occasions, and savouring rankly of the Times", and would have been unneccessary if the actions complained of "had been prosecuted with due Vigour and proper Severity upon the Foot of Common-Law". [2] Others, especially the judges in court were not so explicit, instead they sometimes employed exacting techniques of interpretation which revealed legislation as an inexact source of law. Finally, they constantly used the

common law as a way of interpreting criminal legislation thereby indicating the completeness of the former and its superiority over the latter: a classic example of this was the law on arson.

The second problem was the jury. After 1670 juries could not be punished for reaching what the judge regarded as a perverse decision. This did not mean that judges restrained themselves from browbeating jurors, but it did provide a bolt hole through which the jurors might escape the influence of the judge. The response of the lawyers in general was to try and remove questions of law from the jury, although the attempt was not without resistance from within the legal profession itself. In R. v. Shipley (1783-4) [3] Erskine for the defence attacked the way in which "the liberties of Englishmen are by this new doctrine shuffled about from jury to court". [4] He argued that since criminal law was concerned with intention it was impossible to separate law from fact, and so in this case on seditious libel, "whether a writing be or be not a libel, never can be an abstract legal question for judges." [5] The jury was, for him, "the basis of all freedom." [6] Lord Mansfield, C.J., was unimpressed, referring to the jury he said,

> They do not know and are not presumed to know the law; they are not required to decide the law... [T]hey do not understand the language in which it is conceived or the meaning of the terms. They have no rule to go by but their affections and wishes... [T]he jury who usurp the judicature of law, though they happen to be right,

> are themselves wrong, because they are right by chance only, and have not taken the constitutional way of deciding the question. It is the duty of the judge, in all cases of general justice, to tell the jury how to do right. [7]

He added,

> To be free, is to live under a government by law... Miserable is the condition of individuals, dangerous is the condition of the state if there is no certain law, or, which is the same thing, no certain administration of law to protect individuals, or to guard the state... In opposition to this, what is contended for? That the law shall be in every particular cause what any twelve men, who shall happen to be the jury, shall be inclined to think liable to no review, and subject to no control, under all the prejudices of the day [8]

Of course, a mere exhortation did not necessarily prevent the jurors from reaching their determination on the basis of their own view of the law. So a number of devices were developed in order to reduce the possibility of this happening, and these were all being finely-tuned during the eighteenth century. First, the law was presented as a science and hence a profession, so that the distinction between law and fact became important with questions of law answerable only by those who defined themselves as experts, namely the lawyers. So gradually during the eighteenth century lawyers became more prominent as counsel for both the prosecution and the defence, and it seems reasonable to suppose that here lies one explanation for the judges allowing the defence counsel to cover questions of fact as well as questions of law. Lawyers debated questions of law in open court, a technique which perhaps was meant to impress the jurors with the idea that

these were matters for professionals to decide. [9] Judges withdrew decisions from the jurors by developing the law of evidence, although this was only in its infancy in the eighteenth century. There was the technique of the special verdict whereby the jurors were told that since the judge required the assistance of his brother judges in deciding a question of law, they must find the facts and leave the verdict to the judges meeting at Serjeants' Inn during the vacation. Yet despite the refinement of such devices, the judges undoubtedly recognised that the role of the jury in legitimising the criminal justice process outweighed its irritating habit of occasionally acquitting people. In any event since the jury was drawn from property owners it was unlikely to overturn the "balance" of the constitution. Moreover, from the lawyer's point of view, the jury's decision was obscured behind the general verdict of guilty or not guilty and had no function in the creation of a body of law, so, in that respect at least, it could safely be ignored.

Technical legal literature on criminal law expanded during the eighteenth century not only as a response to these developments, but also as a part of them. By presenting the law within the compass of a detailed, but obscure text the authors of these works propounded the notion that the law was knowable, certain and logical, rather than being the product of the whims of an absolute monarch, but at the same time it

was difficult, a science which required the skills of a lawyer. Generally the books on law did not raise substantial criticisms of the law, or suggest that cases were wrong, or indicate lines of development, instead they simply described, and where contradictions arose they tried to show them to be apparent rather than real. It is true that in Crown Law Foster does air some criticisms, but for the most part his approach is descriptive, attempting to expound the law as the judges have pronounced it to be. He certainly held doubts about the wisdom of the judges' decision on R. v. Midwinter and Sims, but even more than a decade after the case he bowed to Lord Mansfield and decided not to publish his criticism. [10] He tends, on the whole, to treat difficulties in the case law as aberrations of the reporter not the judge. For instance, in his discussion of provocation in homicide he regards Lutterel's case as incorrect, however he then goes on to try and demonstrate that it was not the judges who made a mistake, but rather the reporter John Strange, whom he excuses on the ground of his having to attenuate the report for publication. More bluntly he prefers Croke's report of Rowly's case to Coke's version because it is more rational in his view. Yet although he may initially excuse the faults of the reporters, ultimately he damns them because their inaccuracy is contrary to the scientific nature of the common law:

> many of the hasty indigested Things called Reports of Abridged Cases, not deserving the name of tolerable Abridgements, stuffed as they frequently are with the

> Obiter Opinions of Judges upon the Breaking of a Case, which probably never proceeded beyond one slight Argument, These Things and others of the like Kind, meer Fragments of Learning, the Rummage of dead Men's Papers, or the first Essays of young Authors, have been the Bane and Scandal of the Law considered as a Science founded on Principle. [11]

Later he wrote:

> Imperfect reports of Facts and Circumstances, especially in Cases where every Circumstance weigheth something in the Scale of Justice, are the Bane of all Science that dependeth upon the Precedents and Examples of former Times. [12]

Blackstone in his Commentaries also engaged in a certain amount of discussion of this nature, but both this work and Crown Law were primarily academic texts, one based on a set of lectures and the other titled, "Discourses upon a few Branches of the Crown Law" [13]; they were not handbooks for lawyers. Practitioners sought not an exegesis on law, but a textbook, and so they turned to Hawkins, or perhaps to Wood's Institutes, or to one of the encyclopaediae for magistrates written by Nelson or Burns in the mould of Michael Drayton's classic, The Countrey Justice. Even more so than Foster or Blackstone these texts resemble contemporary works on natural science, carefully deploying the evidence for (or the proof of) each statement, but not presenting criticism or indicating contradictions. They show the criminal law to be a system, indeed this word appears in the sub-title of Hawkins' A Treatise of the Pleas of the Crown. [14]

These texts relied heavily on works of authority, and although they use case law their authorities tend to be rather

sparse, often old and rarely to do with statutory interpretation. This was because there were few published reports on Crown cases until the end of the eighteenth century; manuscript reports did circulate [14], but the first set of reports of the discussion of the judges at Sarjents' Inn on difficult points of law were not published until 1789 by Thomas Leach. The explanation for the paucity of such reports lies partly in the late entry of lawyers and legal argument into criminal law, partly in the way in which the jury's reasoning was hidden behind the general verdict, and partly in the extreme reverence for the so-called books of authority. This reverence is exemplified in the editorial techniques employed in revisions of even eighteenth-century textbooks, such as Blackstone's Commentaries, whereby the original text was preserved as much as possible, even to the marking out of the original pagination. Even those rare few who indulged in a degree of criticism of the books of authority - most notably Foster's initial criticism of Hale's Historia Placitorum Coronae (1736) - were at the same time quick to trivialise such faults as they found. Perhaps part of the reason for this reverence lay itself in the restrictive nature of developing criminal law through cases, especially in view of the problems which the general verdict presented. In a book a writer was able to canvass a variety of problems and solutions without being limited by the facts of a particular

case. It is not until 1803 and the publication of East's Pleas of the Crown that the mould is broken. Although on a general view East's book is less important than Blackstone's, in terms of the practice of criminal law it was not Blackstone, but East who bridged the early modern and the modern periods, and it is his book that provides the model for modern textbooks. He made use of statutes, providing extensive quotations fom them, and of common law authorities, both of which had been used by writers such as Hawkins, although less well. However, he also made use of his contacts within the legal profession, and particularly the judiciary, to gain access to the case notes of contemporary judges. Other authors had used manuscript material 15], but not to the extent that East did. Whereas earlier books hardly needed to be updated because their reliance on the books of authority and the relatively few published reports which existed, East was very much up-to-date. It is centrally concerned with the judicial interpretation of legislation, and reveals the effect which statute law had on the criminal law during the eighteenth century. The difference between his book and those of, say, Hawkins or Hale reveals something of the changes of the eighteenth century; it is a difference born out of the effect of more than a century of intensive legislation which whilst not shifting the criminal law from its common law base nevertheless had an important impact. It is also a difference which reveals the active involvement of lawyers in the

courtroom. At the same time East adhered to the model of not criticising or setting an agenda for the future, and of smoothing over difficulties. Through his demonstration that statutes required interpretation he further elevated the status of the judges and lawyers, encouraged the publication of law reports and, thereby, the notion that law books had to be regulary revised.

During the eighteenth century law was demonstrated to be knowable and certain, but this did not mean that it was easy or within the understanding of untrained individuals. The meticulous care with which the lawyers worked over technicalities and the meaning of individual words increased their authority by revealing the scientific nature of the law, the skill which was apparently required for the task, and the independence of the law from considerations of anything other than reason. According to them their efforts had resulted in a system of law which was the height of reason in an age when that quality was revered, and this, they claimed, had brought rich rewards for the people: Hawkins, in A Treatise of the Pleas of the Crown (1716-21), wrote that Crown Law,

> is so agreeable to Reason, that even those who suffer by it, cannot charge it with Injustice; so adapted to the common Good, as to suffer no Folly to go unpunished, which that requires to be restrained; and yet so tender of the Infirmities of Humane Nature, as never to refuse an Indulgence where the Safety of the Public will bear it; it gives the Prince no Power, but of doing Good; and restrains the People from no Liberty, but of doing Evil." [16]

It is true that forerunners of these trends can be found in the period before 1688, but it is only with the emergence of a constitutional settlement in which the image of the rule of law becomes dominant that judges and lawyers become so central.

7. The Judicial Interpretation of Capital Statutes

So far my discussion of the judges has been confined largely to matters within the law and the trial, yet it is clear that in certain situations their decisions were often not based upon what might be called the internal logic of the legal system. The judges in quibbling with legislation did not undermine the fundamental assumptions which underpined that law: to rule that a statute which used the word cattle could not be used against someone who had stolen a sheep did not mean that the judges were actively undermining the protection of property, rather they were demonstrating the independence of the law which was a more important objective than the conviction of this individual; sooner or later another thief would undoubtedly fall within the bounds of the offence and serve the other purpose just as well. In other instances, however, very different objectives were at work and these led to different techniques of statutory interpretation.

Radzinowicz has argued that in their interpretation of

criminal legislation the judges adopted a very restrictive approach, finding in favour of the defendant where there was the least uncertainty. Contemporary authorities seem to agree with him: for instance, Hatton, in his A Treatise Concerning Statutes (1677), argued that although penal statutes were in general to be liberally interpreted because they benefited the majority, "Yet I always except those that inflict most grevious Punishments, for those are never extended by severity further than their words in some sense may bear." [1] Radzinowicz goes on to assert that the motive of the judges in employing such a principle was "the conviction that for many offences the death sentence was too severe a punishment and that the extreme severity of capital laws should be relaxed." [2] He draws on Jerome Hall's book, Theft, Law and Society for support. Hall argues that, "The judges developed many technicalities by which they effectively submerged statutory provisions of capital penalization." [3] Yet the examples both authors give are drawn entirely from the legislation on larceny. To be fair to Hall he was seeking to do no more than write about larceny, and it is Radzinowicz who applies the thesis to the whole of the criminal law. Yet he runs into certain difficulties with the Black Act and the Riot Act.

In dealing with the clauses in section I of the Black Act which related to maliciously maiming cattle, damaging trees and breaking the heads of fish ponds, the judges specified that the word "maliciously" imported the requirement that the

act be done not with the intent of injuring the animal or tree or stealing the fish, but there had to be "some malicious motive towards the owner of it". [4] The cases seem to fit in with Radzinowicz's view of the principles of eighteenth-century statutory interpretation. However, other cases manifestly do not. In 1736 the people of Ledbury, some with their faces blacked and wearing women's clothing, attacked the turnpike gates because they felt it unjust to charge people for travelling along the highway. Two of the rioters, Baylis and Reynolds, were arrested and, rather than risk a local jury, the government had them transferred to London for trial at the Court of King's Bench before one of the draftsmen of the Black Act, Philip Yorke, who had by this time been elevated to Lord Chief Justice and ennobled as Lord Harwicke. The relevant provision of the Act made it a capital offence to appear in certain places, including the highway, "armed with swords, fire-arms or other offensive weapons, and having his or their faces blacked, or being otherwise disguised". Hardwick helpfully interpreted this for the benefit of the jury:

> The several facts mentioned in this Act are not to be taken as being parts of the same offence, but are every of them several offences; and this is a distinct and separate crime from the rest; it is a single crime, and is for appearing in the high road with faces blacked, and being otherwise disguised; all the other matters proved, are but as circumstances... therefore, if upon the evidence, you believe, that the prisoners did appear in the high road with their faces blacked, that is sufficient within the Act; or, that they were

otherwise disguised, you are to find them guilty. [5] The jury duly obliged and, although Baylis, who had offered to turn informer was on that account pardoned, Reynolds was hanged at Tyburn. Hardwicke was clear on the purpose of the legislation: those who attacked the authority of the state and the profits of the turnpike trustees, and an assault on a turnpike constructed under an Act of Parliament was such an attack, had to be dealt with severely.

Hardwicke set the pattern and the other judges followed. In 1749 Midwinter and Sims were tried under the Black Act after they had maimed a horse in revenge for a prosecution that was being brought against them by its owner. [6] Sims had held the horse's head while Midwinter ripped its belly with a bill hook. Midwinter was clearly within the Act, but since the Act made no mention of those who were principals in the second degree - that is, those actually present and aiding and abetting the crime - a question arose as to whether Sims could be convicted. The case was referred to a meeting of all the judges. Rather than resorting to Hatton's (and Radzinowicz's) principle of narrow interpretation they thoughtfully remedied what they regarded as an omission in the Act.

On one view the principal in the second degree, Sims, was caught by a distinction which the judges made between statutes which removed the benefit of clergy from a common law felony and those which created new felonies without benefit of clergy. In the former, it was argued, principals in the second

degree had to be expressly excluded from their benefit otherwise they would be entitled to it [7]; in the latter the felony had all the incidents of a felony at common law, and so principals implied principals in the second degree. The maiming of a horse came within the second category and so the act of the principal was also regarded as the act of the second principal. Therefore, both Midwinter and Sims were in law held to have struck the blow with the bill hook. Mr. Justice Foster, the dissenitent voice, called this argument a "legal fiction", and argued that, "Acts of so penal a nature ought to be construed literally and strictly."

At an initial meeting the judges were divided on the issue. Only five were present and three, including Foster, favoured an acquittal of Sims. However, later the two who had supported Foster changed their mind, and the other judges took the same line. Foster was unrepentant and clearly still worried about the decision when in 1762 he came to publish his Crown Cases since he planned to have included his view of the case in a legnthy discussion of accessories. Mansfield, who had seen a manuscript of the book, wrote to Foster:

> If the determination was contrary to the former authorities, there is no hurt in it. Sims was in every view equally guilty, and in the very same degree. In real truth, and not by fiction of law, they both did the act.

He regarded the "omission" as "a slip in penning the act", and continued, "The construction is agreeable to justice; and

therefore, suppose it wrong upon artifical reasonings of law, I think it better to leave the matter where it is." [8] Mansfield had neatly turned the tables on Foster and accused him of the very artificiality that he had himself criticised. Foster relented and the case was left out of the first edition (it was not included until the 1792 edition by which time both Foster and Mansfield were dead).

Of course, there was "hurt in it" since the matter did not rest there, and many lives were lost because of the "legal fiction". The ruling had created a precedent which was to be used only six years after Crown Law appeared in the trial of seven striking coalheavers accused under the Black Act of shooting at John Green. Since it was proved that only four had been involved in the actual firing of guns and that the other three were merely present at the time, the question of principals in the second degree was raised, but summarily dismissed by the court as an issue which "hath long been settled", and all seven were hanged at Sun Tavern Fields in London. [9]

Significantly, the ruling was also used the year before in R. v. John Royce (1767) [10], a case on the interpretation of the Riot Act, another measure which formed the basis of the defence of authority in the eighteenth century. On the facts found by the jury at his trial Royce encouraged a crowd which was demolishing some dwelling houses, but he did not take part in the demolition. During the argument of counsel on

principals in the second degree Mansfield mentioned the decision in Sims, and, although he remarked that Foster disagreed, he said that "the other eleven Judges held [Sims] to be as criminal [as Midwinter]. And that determination was right." [11] On the general argument that penal statutes should be interpreted in the defendant's favour, Mansfield's opinion was that,

> Tenderness ought always to prevail in criminal cases; so far, at least, as to take care that a man may not suffer otherwise than by due course of law; nor have any hardship done him, or severity excercised upon him, where the construction may admit of a reasonable doubt or difficulty. But tenderness does not require such a construction of words (perhaps not absolutely and perfectly clear and express) as would tend to render the law nugatory and ineffectual, and destroy or evade the very end and intention of it: nor does it requre of us that we should give in to such nice and strained critical objections as are contrary to the true meaning and spirit of it. [12]

Of course, this begs the question as to what was the intention of the statute.

Radzinowicz describes these cases as "rather exceptional" [13] but this turns out to be a conclusion not a cause for inquiring into why they were exceptional. For him decisions such as Sims and Royce were abberations, and the judges really adopted the narrow approach as their primary rule of interpretation. Hall does mention the Sims case, however he quotes at great length from Foster's opinion in Crown Cases [14], entirely forgetting that he was in the minority in an 11-1 decision by the judges and that subsequently the ruling

of the majority was treated as correct in both Royce and The Coalheavers' Case. In fact, the Sims decision was no aberration. First, it followed the general approach of Hardwicke in Baylis and Reynolds. Second, the opportunity to ignore the ruling in Sims was there since it was unreported until 1792, but in Royce Mansfield specifically raises it as good law, and in the following year it is decisive in the hanging of three of the coalheavers. In 1786 Buller, J., stated the principle which guided judges in their interpretation of penal statutes in terms rather differently from those asserted by Radzinowicz:

> It is not true that the Court, in the exposition of penal statutes, are to narrow the construction. We are to look at the words in the first instance, and where they are plain, we are to decide on them. If they are doubtful, we are then to have recourse to the subject-matter; but at all events it is only a secondary rule. [15]

This leaves unanswered the question of what amounts to plain words. Clearly it does not mean what it appears since in Sims and Royce principals in the second degree were not mentioned in the statute, so the words seemed plain and yet the "secondary rule" was brought into play. Moreover, this "secondary rule" did not imply some advantage to the accused, as both Sims and Royce showed. So a body of case law was built up on the basis of Sims. The wider implications of hanging those who were merely present at a riot or a shooting were never canvassed. In these cases where authority was under threat, the rhetoric of the rule of law and due process were

forgotten. Yet at the same time and within the same statute - the Black Act - other decisions on the damaging of cattle, trees and fish ponds, which Radzinowicz regards as more normal, appear to show a narrower approach to interpretation. The difference lay in the fact that people such as the defendant in R. v. Thomas Ross [16] who broke the head of the pond in order to steal the fish were no threat to authority and could be dealt with effectively under other parts of the criminal law. The judges could afford to demonstrate the generosity of the legal system in such cases. The Black Act was aimed at those whose offence was to deal with property not as an object of larceny, but as a symbol of authority: Midwinter and Sims attacked the horse in order to threaten its owner. It is, therefore, wrong to view the eigteenth-century case law as guided by a single principle.

CHAPTER 10

SELECTION FOR THE GALLOWS

If nothing else about the statistics on crime and punishment in the eighteenth century can be established with certainty it is at least clear that not all those who were capitally convicted were hanged. As will be argued later, the eighteenth-century criminal justice system, and in particular the hanging, was constructed around the idea of a public example. Yet it was recognised that this spectacle was unlikely to succeed if all who were condemned were hanged. So some process of selection had to be undertaken. After the Gordon riots in 1780 Edmund Burke advised the government against embarking on excesses against those rioters who had been caught:

> The sense of justice in men is overloaded and fatigued with a long series of executions, or with such carnage at once as rather resembles a massacre than a sober execution of the laws. The laws lose their terror in the minds of the wicked, and their reverence in the minds of the virtuous. [1]

Similarly in the case of other offenders, "proper" objects for the gallows had to be selected. Patrick Colquhoun, a London magistrate and writer on the police, warned that "these dreadful examples should be exhibited as seldom as possible" because "by being often repeated, they lose their effect upon the minds of the People." [2] For these reasons Blackstone considered that death should only properly be used for "incorrigible" offenders, by which he meant those who had committed either a series of offences or one offence of "deep malignity", so that there seemed no "hope or probability of

amendment". [3] In the same vein, John Fielding, the Bow Street magistrate, wrote in 1774 that, "when it is necessary to make a public example by executions, wisdom, policy, and humanity dictate that the most abandoned, dangerous, and incorrigible offenders should be pointed out for this melancholy purpose." [4] Speaking of the more serious punishments a witness before the Select Committee on Gaols in 1819 said these were inflicted on the basis of "not so much the crime, as being well known to be dangerous characters." [5]

This consideration tended to mean that the hanging came at the end of a series of decisions which focussed less on the question of guilt and more on the question of punishment. The selection process drew in the government, judges, justices, grand jurors, petty jurors, victims, witnesses, and the neighbours and employers of the suspect. The whole process typically began with the decision of a victim. There was much to discourage a victim from bringing a prosecution for a serious offence at the assizes: it was expensive, time consuming, it did not guarantee that stolen property would be returned, and it might lead to retaliation. [6] Other actions were possible against offenders: some form of settlement might be negotiated through the local clergyman or justice of the peace, or the return of goods without any prosecution might be achieved through an "intermediary" such as Jonathan Wild or a newspaper advertisement. [7] Evidence of non-

prosecutorial activity is by its very nature difficult to find, but the attitude of mind that lay behind it can be seen in the popularity of such methods, even after Wild's death. [8] Informal methods of punishment were available: from some form of self-help by the victim to the rough music or duckings performed by neighbours or by those who simply happened to be on hand when an offence took place. [9] It is likely that those offenders who lived in a settled community tended to appear before the courts only after a fairly lengthy career of misdemeanours had established them as a nuisance to that community. [10] So at informal levels matters might be kept within a particular community - a certain neighbourhood, workshop, or village - whereas stepping into the formal processes widened out the sort of community which became involved, although even here the notion of the micro-community was still important. Jurors were encouraged to take part in the trial in a way which had its roots in the medieval jury: for example, at the Old Bailey in 1778 Joseph Smith and John Maberly, two jurors at the trial of Richard Gardiner for perjury during an earlier trial, told the court that they had witnessed some of the events surrounding the theft of linen which had begun the whole affair. Furthermore, as will be seen in a moment, jurors were sometimes called as character witnesses by the defendant. [11]

However, the size of a city like London meant that the

likelihood of jurors having first hand knowledge of a case was slim, and a more commonplace involvement of the micro-community in the criminal justice process was through the evidence of the defendant's character provided by witnesses. At the stage of the examination before a justice of the peace the question of the suspect's character was regarded as of primary importance. Michael Dalton, in The Countrey Justice, listed the grounds on which a justice might form a suspicion that a particular individual had committed a felony, and out of twenty-six factors ten involved character: for instance, "His parents, if they were wicked", "if a man liveth idly or vagrant", "if a common alehouse-haunter, or ryottous in dyet, play, or apparell", "of evill fame, or report". [12] Criminal trials were typically as much concerned with the question of the appropriate punishment as with the issue of guilt or innocence, for even if the evidence were clear, proof of a good character could still be crucial in saving the offender from the gallows and might even lead to an acquittal. Good character meant hard work and attachment to a stable and respectable community, and as a result the yardstick of reputation amongst one's neighbours was constantly used. Those who were rootless or whose lifestyle did not fit into a particular mould were in great danger. So it was vital to produce respectable witnesses to provide a character reference, and this was why trial reports often explained

their absence: "He could not prove what he said, or call any to his Reputation." [13]

Defendants certainly recognised the importance of producing character witnesses, as can be seen from the excuses hastily offered to the court by those who failed to do so. The note of desperation is clear. At the Old Bailey in 1772 John Dunnett said that he "had not time to send for my friends, or else my master, Mr. Cornish, at Black-friars, would have appeared." Mary Arnold told the same court in 1757 that she had not brought any of her friends, "because I did not know when my trial would come on." [14] Both were capitally convicted. Similarly, when Richard Turpin was tried at York in 1739, on being called to present his defence he replied, "I thought I should have been removed to Essex, for I did not expect to be Tried in this Country, therefore I could not prepare Witnesses to my Character." [15] At Carmarthen assizes in 1747 William Owen, a smuggler who had been accused of murdering a fencing master, complained to the court, "I have not had time Sufficient to Summons my Witnesses to appear here, by reason of the greatest distance they are off, some my Lords are in Pembrokeshire and some in Cardiganshire". [16] At Kingston in 1751 James Welch told the court that when the offence occurred, "I lived at this Time with Mr. Marryot; he is out of town". [17] Those who admitted to having no witnesses or to being strangers were in effect admitting that they were not part of a respectable, stable

community. John Collett told the Old Bailey court in 1772, "My friends are all in the country." [18] In the same year James Bolland, a former sheriff's officer accused of forgery, was reported to have said, "that all his friends were in the country." [19] In 1758 William Benisford admitted, "I have no friend within one hundred and forty miles of this place..." Like Collett and Bolland, he found none on the jury. [20] Similarly at Sussex assizes in March 1749, Henry M'Cullan, a soldier, was asked if he had brought any witnesses to his character to which he replied that he had not because "he was a Stranger in that Country." M'Cullan was condemned, as, at the same assizes, were Lawrence Kemp and Thomas Kemp; charged with housebreaking, "They said they had no Witnesses, for that they had no steady, meaning no certain, Place of Abode, for two Years past." [21] Even those who tried desparately to call character witnesses occasionally only worsened their cause by doing so: when Robert Hallam called John Benham at the Old Bailey in 1732, Benham merely said, "Your Character! I know nothing of ye!" [22]

Judges too regarded character witnesses as important. It was normal practice for the judge to ask, as at the trial of six men at Hereford assizes in 1770, "Prisoners, have you any witnesses to call to your characters?" [23] The lengthy notes of such evidence kept by one judge at the Carmarthen assizes clearly shows that this question was not asked as a matter of

form. [24] A judge at the Surrey Assizes in 1738 asked, "What character do the Neighbours give of him?... Is it that of a sober industrious one, or an indifferent Character?" [25] Moreover, the fact that judges would sometimes question the character witnesses closely in order to establish that they were themselves "reputable" persons provides a further indication of the importance which was attached to their evidence. Those who appeared at the Old Bailey to speak for Henry Rowland and Thomas Westwood in 1730 caused the judge to remark that, "the Witnesses which appeared to the Prisoners Characters; seemed to stand in need of some Persons of Reputation to support their own". [26] Mr. Justice Hardinge, out to make an example of three food rioters during the harsh year of 1801 at Cardiff, told one of them, James Luke, that his character "as given by one of your friends was <u>too good</u> and much too like that of <u>Aaron William</u>", another of the accused. [27]

There was no restriction on who might appear as a character witness, with the exception, of course, of those, such as convicted perjurors, who were ineligible to give evidence in court. No objection appears to have been raised when Robert Robottom, who was being tried at the Old Bailey for larceny in 1758, called to his character a Mr. Filewood who appears to have been a juror sitting on the case; Filewood obliged and Robottom was later acquitted. [28] Henry Edwards met with a very different fate in the same court in

1772 when he called a juror for the man simply said, "I have known you to be a vile, wicked fellow, I believe." [29] Similarly, the Carmarthen notebooks reveal two occasions on which jurors were called as character witnesses. [30] People in the court apparently as spectators might also be called. In 1729 at Old Bailey Jervis Rhodes spotted someone he knew in the court, and the man was brought to confirm that Rhodes was a property owner, but instead he said that the property was owned by Rhodes's mother and called Rhodes "the vilest Fellow on Earth". This prompted a constable, who also happened to be in the court, to add that though he did not know the prisoner, he had heard people remark of him that he was "the greatest Rogue in England". [31]

The character witnesses, it was hoped, would fit the defendant into the approved lifestyle: honest, hard-working, moral, uncomplaining and part of a stable, respectable community. Jane Backhurst, accused at the Old Bailey of passing counterfeit coins during those bloody years of the recoinage crisis at the end of the seventeenth century, brought witnesses to prove that she was "an industrious woman" and was acquitted. [32] In the same year - 1697 - when John Elton, or John Smith, and Sarah Smith were accused of counterfeiting there was not only evidence of entrapment, of which the court seemed to disapprove, but also witnesses who testified that they were "poor, harmless, indigent People,

and wrought hard for their Living", and they too were acquitted. [33] Three years earlier in 1694 Thomas Achurst, accused of clipping coins, brought several witnesses "to justify his Honesty" and to testify that "he was a great Painstaker, and used to go to Smithfield to sell Cattle for other people". [34] In 1730 both Thomas Alderman, a bricklayer, and Joseph Stroud, a labourer, were acquitted on a burglary charge after witnesses had said that in spite of many opportunities at work they had never taken anything. [35] There was also an interest in the period of time over which the character witness had known the defendant, this was not only one means of weighing the evidence presented by that witness, but it also indicated the defendant's attachment to a stable community. This is a constant feature of the Carmarthen notebooks: "David Howell a farmer - has known prisr. W. Atkin - 15 years". [36] Witnesses who appeared for David Dickson at the Old Bailey in 1730 were dismissed by the court because "their Acquaintance with him was but of short Continuance." [37] In order to establish a link with a stable community evidence as to family connections in the area might be given; the Carmarthen notebooks often include such information, for example, of one defendant, Margaret Francis, the judge wrote, "very good Character her father & mother in neighbourhood". [38]

Those, on the other hand, who were believed to have been "old offenders" generally stood little chance. The evidence

of bad character was usually not concrete, and being referred to as an "old offender" did not necessarily mean that there were any previous convictions. As with good character, so bad character was a matter of proof by witnesses, not records. So at the Old Bailey in 1689 Agnes Charles was said to "have been an old Offender", and Ann Dye and Sarah Hill were "known to be base Shoplifters". [39] In neither case was any mention made of previous convictions. When Thomas Bailsham, accused at the Old Bailey in 1697 of highway robbery, was said to have been "pretty-well known" to the courts, there appears to have been no reference to court records. [40] However, the judges, lawyers, justices and court clerks almost certainly regarded it as part of their function to allege previous offences where a person had appeared in court before. Abraham Stacey was convicted at the Old Bailey in 1691 of larceny; two years later he was tried there again for highway robbery, and the judge, apparently speaking without any reference to the records, referred to him as "a Notorious Offender, and therefore must expect no mercy here." [41] The identification of people previously tried in other courts probably depended on the chance of recognition, but the limited and centralised nature of the assize circuit, with judges and lawyers coming from London, may well have increased this chance. When Nicolas Mooney was arrested in Bristol in 1752 for highway robbery he feared that a previous conviction at the Old

Bailey would catch up with him, for, although he had not been convicted in Bristol before and, therefore, had not been recognised by the authorities locally, "considering that when the Judge came to town, there would probably be some with him that would remember me when I was cast at the Old-Baily, and that I was past all hope, a dead man". [42] The identification of previous offenders became potentially easier during the eighteenth century. Certain statutes required records to be kept by court clerks of those who had claimed benefit of clergy and those convicted of some petty offences, such as running an unlicensed place of public entertainment. However, aside from the limited nature of such records, they were designed not for direct reference by the court, but to assist prosecutors, who might then refer the court to them. [43] Neither sort of record would have helped to identify a capital offender who had been reprieved. In 1773 John Fielding addressed this issue. He suggested that Bow Street criminal records, which were being formed in order to assist in detection, be used to identify old offenders. He wrote to the government of "the valuable register of offenders which has been so carefully preserved for so many years in the public office in Bow Street." However, he intended the records to be used not at the trial, but at the stage of the application for a pardon, in particular he wished to prevent those who returned from transportation from being pardoned. [44] There is no evidence that records were

used during a trial, although this does not exclude the possibility of their having been used informally, most obviously in the construction of the prosecution case, but also through the unofficial contacts between judges and magistrates before a session began. The Old Bailey Sessions Papers were occasionally used, however, not apparently in order to discover prior convictions, but rather as a means of referring to evidence given by a person accused of perjury in a previous trial. In fact, the courts were persevering with the same method of uncovering old offenders in the early nineteenth century that they had employed at the end of the seventeenth, that is by requiring witnesses to prove character, bad or good: so in 1804 at the Old Bailey the prosecution brought a witness to testify that Mary Evans was "an old offender". [45]

Evidence of bad character went beyond allegations of previous criminal convictions, indeed these are comparatively rarely alleged, more usually witnesses appeared to testify to the defendant's lack of morals and their evidence was of a general nature. In Moll Flanders the heroine remarks on being characterised by the court as "an old offender":

> though in that they did not do me strict justice, for I was not in the sense of the law an old offender, whatever I was in the eye of the judge, for I had never been before them in a judicial way before; so the judges could not charge me with being an old offender, but the Recorder was pleased to represent my case as he thought fit.

Several of Robert Scofield's neighbours went to his trial at the Old Bailey in 1691 to testify that he "was known... to have been an idle pilfering Youth." [46] When Elizabeth Brown came to trial at the Old Bailey in 1689 on a robbery charge the evidence seemed weak, but, according to the reporter, "she was lookt upon as an idle Housewife, so she was found Guilty." [47] As has been seen evidence of a damning kind might equally come from character witnesses called by the defendant. An army sergeant, called in 1758 at the Old Bailey by three soldiers, Samuel Org, John Davis and John Allen, said that he was "a little suspicious of [Davis] for he kept late hours." [48]

The importance of character evidence also led to disputes between the prosecutor and the defendant over their relative personal merits, either as a supplement to the defendant's evidence as to his or her own character, or occasionally as a substitute for a lack of such evidence. Margaret Handsome was acquitted at the Old Bailey in 1689 of stealing some guineas after the prosecutor, a man who was said to have cohabited with her and whose morals were on this account put into doubt, was able to give "but a Lame Account how they came by the Guinea's, nor of their Lives and Conversation". [49] Two years later at the same court Sarah Taylor was acquitted when the prosecutor, from whom she was alleged to have stolen five shillings, gave "a very indifferent account of himself" and it was said that he "did

usually divert himself by picking up Women in the Streets". [50] Elizabeth Kent, tried at the Old Bailey in 1730 for robbery, was acquitted when she brought witnesses to show that the prosecutrix had been in Newgate for picking pockets and that three of her witnesses were brothel keepers. [51] The following year Henry Taplin, also charged with robbery, produced several witnesses to his own character, whereas the prosecutor was described as a bawdy-house keeper, "a vile, blasphemous, desparate Fellow." [52] At Sussex assizes in 1749 John Brown, who was being tried for highway robbery, referred to the principal evidence against him, an accomplice turned informer called Dixon, as "a drunken, idle, good for nothing Fellow, and deserv'd no Credit to be given to what he should swear." However, since there were no defence or character witnesses and "Dixon's Evidence being very circumstantially corroborated", Brown was convicted. [53] The prosecutor was sometimes accused of having taken up the prosecution for motives of revenge unconnected with the alleged crime. Thomas Willis and Michael Willis were indicted in 1730 for robbing Mary Philip. The defendants were full-time constables - they had arrested Jonathan Wild in 1725 - and they alleged that Philip had brought the charge against them because they had acted against a disorderly house which she ran. They were also able to produce three London justices, Raylton, Phillips, and Sir John Gonson, best known

for his appearance in Hogarth's The Harlot's Progress, who all testified not only that the two men had been "very serviceable in suppressing disorderly Houses", but also that Philip was "a very turbulent and disorderly Woman, and one of the vilest of her Sex". Both men were acquitted. [54] Prosecutors commonly responded to such attacks, not only because they presumably wished to see a defendant convicted, but also because of the very real possibility that if acquitted the tables might be turned with the defendant proceeding against them for perjury or conspiracy. When in 1757 at the Old Bailey Michael Burnley spoke well of the character of Margaret Rose, the defendant, and ill of the prosecutrix, Ann Goodwin, Goodwin responded indignantly, "They have kept this man all day, and fed him with beer, in order to swear against me." [55] In 1773 Sarah Tonge, accused at the Old Bailey of shoplifting, alleged that the prosecutor, William Gunstone, had been heard to say that he would see her hanged; Gunstone retorted,

> No, I have said, that as being an old offender in the trade, I was afraid if lenity was shewn to her, and that if the affair was only laid for transportation, she would get at large; I said, if it is laid capital, she may get off for transportation; that she may get out of the kingdom. For I cast one in this Court once, and she obtained a pardon, and a week after she came to the door and abused me. [56]

Similarly the Carmarthen notebooks record that when William Beynon was tried Mary Morgan appeared for the defence and claimed that the prosecutor, David John, had said, "he wd.

take care of him - the first opportunity he wd. see him hanged" - words which the judge felt were sufficiently important to be worth underlining as a reminder to include them in his summing-up to the jury. [57] Some years before, in 1758, William Ward had felt obliged to justify his prosecution of Maria Matthews for robbery rather than pocket picking, which although a capital offence was less often punished with death than was robbery:

> I do not desire the prisoner's life: I have this to add in her favour, there were no threats made use of at the time. I could not lay the indictment in any other manner than it is; for had I laid it for privately stealing the ring, that would certainly have failed, as I both saw and felt the ring go. [58]

What significance was attached to character evidence? At William Owen's trial at Carmarthen in 1747 counsel for the prosecution claimed, "My Lords we do not in behalf of the Crown Prosecute the Prisoner for his Character, but for the murder of James Lilly." [59] However, it is clear that character evidence, when raised, was important in determining the outcome of a case, indeed Henry Fielding wrote in 1751 objecting against the rule that such evidence could not be raised initially by the prosecution. [60] Others were critical of the way in which convictions were obtained on the evidence of character alone. One biographer criticised the capital conviction of William Cox at the Old Bailey in 1773 since the evidence against him was only circumstantial; the writer believed that "his general character as a notorious

thief, operated to his disadvantage". [61] Similarly, one of Patrick Madan's biographers, and indeed Madan himself, argued in 1781 that he had been convicted on the basis of his reputation. His biographer wrote that he "was found quickly guilty... for the want of character; for it is beyond a doubt, that no man, (as he expressed himself, when he received sentence) would have been found guilty death, upon the slender adduction of facts, which led to the establishment of his conviction." [62] Another biographer printed Madan's speech to the judge:

> My Lord, it is hard that I should suffer for the badness of my character; had that been unimpeached, I should not have been found guilty of the charge, as there was not a shadow of evidence which could affect the life of any man in such a case. [63]

It seems almost certain that Margery Beddingfield was convicted at the Suffolk assizes in 1763 of murdering her husband not because of any evidence against her relating to the act, but because of her affair with a servant, Richard Ringe, who had confessed to the murder. Ringe alleged that she had expressed a desire to marry him, and he also claimed that "it was agreed between them that his master should be murdered", although he said that was her only link with the crime. [64]

Evidence of good character undoubtedly led to many acquittals, and once again this was the subject of contemporary comment. For instance, one London newspaper,

reporting the trial of Mary Neal at the Old Bailey in 1782 for shoplifting, noted that,

> Several creditable witnesses appeared to her character, which, they said, had always been excellent. The Jury, after some deliberation, brought in their verdict not guilty, thinking probably that a woman of so good a character, must have taken up the muslin... through mistake along with other things that she had purchased. [65]

However, a good character did not always outweigh clear evidence that the defendant had committed the crime. At the Old Bailey in 1730 there was evidence that John Carter and Peter Rivers had been caught with pistols and some of the loot from a robbery, and they were not saved from being convicted by a witness who spoke not only of their respectability, but also of that of their fathers and grandfathers. [66] At East Grinstead assizes in 1749 witnesses testified to having seen James Boxall carrying on his back the sheep he was accused of having stolen; he denied the fact and the reporter noted that he "call'd two Persons who gave him the Character of an honest industrious Man; but the Fact being plainly proved, the Jury found him Guilty." [67] Nevertheless, one judge felt it neccessary to tell an Old Bailey jury not to acquit merely on the evidence of character witnesses in a case in which he clearly regarded the crime as proved. Captain John Davidson had been accused of shoplifting some muslin; he called several character witnesses who were "persons of the first respectability" and who "severally gave him an excellent character." Mr. Justice

Laurence told the jury:

> it was their duty, if they were satisfied with the evidence they had heard, to find him guilty, however painful the discharge of that duty might be; that character, in cases where a fair doubt could be entertained, ought to have considerable weight with a jury; but, on the contrary, where the facts were clear, and established by creditable witnesses, however good the character of the prisoner might have been up to the time of committing the felony, it was no excuse for the commission of it. [68]

If the defendant were not acquitted then he or she might be found guilty of a non-capital offence, even though charged with a capital one, by virtue of the jury undervaluing of the goods stolen: shoplifting, for instance, was only capital if goods of five shillings were stolen, and stealing from ships on a navigable river was capital if forty shillings worth of goods were taken. The question of the value of an item was often discussed as part of the evidence. [69] In a case which did not allow undervaluing, such as robbery which was capital no matter what the amount, the jury might find the defendant guilty of larceny only. This option was often used in cases in which, although the fact had been proved against the defendant, mitigating circumstances, such as extreme youth, were present, or the jury felt sympathetic to the accused's situation. In 1684 at the Old Bailey Martha Hodskins was tried for stealing silver from her master, something regarded as a breach of trust and, therefore, a particularly serious offence [70]; however, the jury found her guilty of only petty larceny following her statement that, "she was in great

poverty, that her Husband lay in prison, and she had three small Children, and that to relieve them, she had committed the said Fact." [71] When Grace Turner made a similar plea in 1697 the reporter noted that the jury "brought in a suitable verdict" of guilty of petty larceny only. [72]

Even if the defendant were capitally convicted then there was still the possibility of a pardon. The jury sometimes made recommendations to mercy where, for instance, although they felt the case had been proved, the defendant was young, the crime was a first offence, or he or she had been subjected to an irresistible temptation or had shown contrition. [73] Beyond this the community within which the condemned lived was central to any efforts which were made to obtain a pardon: the files of petitions in the State Papers testify to this. [74] The way in which such a campaign was organised can be seen from three letters about the early nineteenth-century case of William Morgan, who had been condemned for burglary at the Great Sessions. Morgan wrote from Cardiff gaol to Edward Williams requesting his assistance. Williams and a friend of his, Charles Vachell, became very active in gathering signatures for a petition to the secretary of state, and of the substantial local people only a Dr. Hall, whom Williams called "that Son of a Devil", refused to sign. Support was also obtained from as far away as London through Mr. Price, a friend of Williams. These

efforts succeeded to some extent for Morgan was transported for life, a punishment which Williams thought "severe enough, but I rejoice that his Life has been saved." [75] Typically the issue stressed in such petitions was, as at the trial, good character based upon notions of a respectable lifestyle. [76] Such petitions presented another source of important information about the view of a person held by the "respectable" property owners in the local community, and were dominated by the signatures not of rich aristocrats, but of the middling people concerned in business and in the day-to-day administration of local government.

The judge played a key role in the process of deciding whether a capital convict should be pardoned. According to his biographer, after Patrick Madan had complained about the injustice of being capitally convicted merely because of his past reputation, "The Recorder seemed not to deny the force of the observation... and promised to mention the circumstance in the report to his Majesty." [77] Madan was subsequently transported. The evidence as to character and other relevant matters presented at the trial was important in forming the judge's view of the case which he then reported to the government. So, when, at the Old Bailey in 1743, Stephen Wright pleaded guilty to robbery in the hope that the court might recommend him to mercy, he was told, "if there were any favorable Circumstances in his Case, if he pleaded guilty, the Court could not take any Notice of them;

and that the Jury cannot report any favorable Circumstances, because the Circumstances do not appear to them: Upon which he agreed to take his Trial." [78] Many of the trials seem to have been solely about this sentencing issue since it is common to find defendants presenting virtually no defence, except, to call character witnesses. The judge would also take notice of informal representations made to him by the local gentry with whom he was in such close contact throughout the assize session.

At this stage there was less likelihood of character outweighing the policy considerations concerning the nature of the crime itself. Those convicted of forgery, for instance, were unlikely to escape on the evidence of their respectability, especially since this was a crime dominated by the "respectable" classes. Forgery was described in 1779 as "so enormous in itself, and so destructive of the mercantile interest, that it ought to be discouraged in a trading nation, beyond almost any other crime" [79], and Rev. Paley, writing in 1785, believed that forgery - along with mail robbery - would lead to a decline in trade, unemployment and depopulation, "till solitude and barrenness overspread the land." [80] These were views with which the judges and the government seem to have been in agreement. In spite of strong representations it was decided that it would be "dangerous" to pardon Paul Wells, condemned at Oxford in

1749, "since the Fortunes of many of his Majesty's loving Subjects might be thereby endangered", as also, they thought, might "the Safety of Trade and Commerce". [81] The Perreau brothers, convicted in 1776 of forgery following a controversial trial, were hanged because, according to one biography, there had been a panic about "Swindlers in High-Life" who it was believed threatened credit and, therefore, trade: "Even Moderation seemed to lose its patience, and scarcely wished them common Right of Trial but for the sake of form." [82] The same year merchants interceded on behalf of William Davies because of his good character and their belief that he did not intend "ultimately to defraud", however he was left to hang it being reported that "his Majesty might have extended Mercy in this case, where there is reason to believe no injury was designed, but for the dangerous tendency of this species of crime in a commercial state." [83] At the trial of Dr. Dodd for forgery in 1777 the Recorder of London referred to "the enormity of the offence" and to its "dangerous tendency". [84] It was said that when George III mentioned the possibility of pardoning Dodd, Lord Mansfield, ever in the forefront of rigour in criminal justice, told him that if he did so then "the Perreaus have been murdered." Dodd was left to die. [85] The figures bear out the tendencies of such statements: the rate of hangings for forgery was rivalled only by that for murder. [86] The harsh treatment of mail robbers urged by the Post Office

was similarly justified because this crime was "of so dangerous a tendency in a commercial country". [87] After sentencing Thomas Jackson in 1790 for mail robbery the judge was reported to have said that, "the security of the public property made it necessary that he should suffer, and desired him not to flatter himself with any hopes of mercy", and William Lewin was told by Edward Bearcroft, the Chief Justice of Chester, in 1791, that, "the Legislature had very wisely thought fit to punish it with loss of life; for if it was otherwise, there would be an end to all commerce". [88] Servants charged with robbing their masters and mistresses could also expect little mercy: the Ordinary of Newgate, Guthrie, referring to the failure of Gardiner to obtain a pardon in 1738, remarked that, "no Favour will be extended to any Man who has robb'd his Master, or betrayed the Trust reposed in him." [89] Similarly when William Jones was condemned for stealing linen from his master in 1774 much effort was made to secure a pardon for him - even by his master - but, according to the Ordinary of Newgate, the King "is not disposed to forgive those who abuse the Trust and Confidence reposed in them by their respective maters. <u>This</u>, we hope, <u>will be Warning to Servants to be honest and faithful in their different Stations</u>." [90] The most extreme example of this principle was the case of Grace Tripp. She was a servant to Lord Torrington when a man called Peters

persuaded her to admit him into the house in order that he might carry out a robbery. In the course of the crime Peters killed the housekeeper, but although he had struck the fatal blow and had been the instigator of the plan, because Tripp had broken her trust as a servant he was admitted as evidence against her and she was subsequently hanged. [91]

The values inherent in the progression from insubordination and idleness to crime and the gallows, which were a feature of the literature of crime and the more general religious, social and economic tracts of the eighteenth century, were through the selection process for the gallows made a part of the criminal justice system. This practical aspect of what might otherwise have seemed to the labouring poor merely religious rhetoric and enjoyable fiction tied the knots of subordination tighter. Moreover, the involvement of the wider community in assessing the character of the accused and, therefore, in the decision whether or not that person should hang legitimised the hanging. The selection process utilised elements of popular notions of justice; it hanged those who were rejected by the community since the definition of who were "the most abandoned, dangerous, and incorrigible offenders" was left to an important extent to neighbours and employers in the community within which accused lived. The criminal justice system combined the particular needs of the local micro-

community and the more general needs of the state. Parliament, the assize judges and the King with his advisors provided the outer limits, but the width of the discretion within that system and its reliance on the community meant that the law was fitted into a local context. The criminal justice system was, then, able to respond to problems which threatened its stability or good order, and that stability was not simply as defined by the gentry. The flexibility also allowed the system to be twisted to particular aims, for instance, as leverage by a victim in order to obtain the return of stolen property. In many ways, then, the criminal justice system's relationship with the community was unproblematic. In general terms it did not automatically override the values of any section of the community, indeed its reliance on the community inevitably meant that it incorporated its values. In part this was a result of the lack of a coercive police force. Moreover, the members of a legal-geographic community, such as a parish, were not united and the criminal justice system did not provide true unity. The labouring poor were often in conflict with the middling classes, who were the constables and the poor law overseers, and with the gentry, who were the justices; and even if open conflict was comparatively rare, nevertheless there were still differences of culture and lifestyle which prevented the neat harmony which, superficially, the reports of character evidence often seem to present.

CHAPTER 11

THE CRIMINAL JUSTICE SYSTEM AS PUBLIC SPECTACLE

1. The Public Ritual of the Criminal Justice System

The public ritual was the most characteristic feature of both the principal stages of the criminal justice process and the hanging. In this chapter I will describe this ritual and its ability to draw huge crowds. In later chapters I will discuss how both the condemned and the crowd reacted to this.

The aim of the hanging, Johnson told Boswell, was "to draw spectators". [1] However, once there, these spectators were not intended to take part in the spectacle, but be impressed and overawed by it: in the words of Defoe, writing in 1703, the gallows were "Contriv'd to punish some, and keep the rest in awe". [2] Indeed not just the hanging, but the whole of the criminal justice process made a feature of these public rituals.

Twice a year in most provincial areas a procession of judges, lawyers, officials and their retinue went on the assize circuits, visiting the most important towns to hear both criminal and civil causes. [3] The Daily Post described the entry of the assize judge into Kingston in August 1724:

> On Monday the 3d Instant the Assizes for the County of Surrey began at Kingston before Mr. Justice Dormer... He was met about a Mile out of Town in the Afternoon by John Ellington, Esq; High Sheriff of the County, and a great Number of Gentlemen who attended on that Occasion, and had been regaled by him in a generous Manner at his House at Point Pleasant before they set out. The Commission was open'd that Evening, and next Morning they heard a Sermon preach'd by Revd. Dr. Brady, Minister of Richmond; from thence they went to Court, and the Grand Jury were sworn, who chose for their Foreman the Right Hon. the Lord Viscount Palminster. There was a great Appearance of the

principal Gentlemen of the County [4]

The assize afforded the opportunity not just for legal hearings, it was also a time when economic and political power were asserted, with the local gentry basking in the pomp and power symbolised by their friendship with the royal justices. Cottu noted in the early nineteenth century how the judge's bench was "invaded by the prettiest women of the country, the sisters, wives or daughters of grand-jurors, who have arrived for the purpose of partaking in the festivities occasioned by the assizes, and who make it a duty or a past-time to be present at the trials." [5] The assize time was also the occasion for social and business meetings: one gentleman inserted an advertisement in the Daily Journal offering some hounds for sale, "two Couple, Staunch and deep Mouth'd", to be concluded at the Old Bailey sessions which were then in progress. [6] As I suggested in my discussion of the assize sermons, the assizes were not simply a means of impressing the mass of the people with the power and authority of the judges, they were also an opportunity for the local ruling elite to realise and to express their own cohesion and their direct links with central power; in other words, it was as much a time for them to draw together as to impress others with their authority.

The assize hearings were conducted in an atmosphere of ancient ceremony and ritual: the scarlet robes, the full bottom wigs, the white gloves and the black caps of the

judges; the presence of the sheriff and his chaplain on the bench; the formal charge to the grand jury by the judge. At no time was this combination of ritual and power made more clear than when the black cap was donned and the death sentence passed. One judge at the Carmarthen assizes, anxious not to falter, carefully wrote out the form of the death sentence in his notebook before each session began. [7] After William Owen had been convicted at Carmarthen assizes in 1747 the judge passed the following sentence upon him:

> William Owen you were indicted for the Murder of James Lilly, you threw yourself upon your Country, which Country found you Guilty. - You are to go from thence to whence you came from thence to the place of execution, and there be hanged by the neck, Dead, Dead, Dead: The Lord have mercy on your Soul. [8]

After the death sentence had been passed the condemned convicts were returned to prison, where they might be viewed in their cells by the curious. The larger prisons, such as Newgate and Southwark, had a chapel at which, on the Sunday before the hanging day, the prisoners were required to attend to hear the chaplain or his deputy preach the condemned sermon. On this occasion the chapel was open to the public who filled it to the brim, not so they might hear the uplifting sentiments of the preacher, but in order "to see the unfortunates" who in Newgate sat in the centre in a large square pew. [9]

It was, however, the hanging day which provided the principal spectacle. Then it was that the different parts of

the state, both central and local, civil and military, and the church were most clearly welded together. The people were notified by the newspapers which advertised forthcoming hangings and reported on those that had occurred in the same way that they kept readers informed about horse races. The prolonged ritual of the public exposure of the condemned was a carefully stage-managed affair: as late as 1812 an observer commented on the preparations taken for the hanging in Edinburgh of some youths who had been involved in the Tron riot:

> the execution of these young men being intended as a dreadful example, to be remembered for years to come, everything possible was studiously contrived to impart, if possible, additional solemnity to a scene in itself sufficiently awful [10]

The events of the hanging day were undertaken slowly, publicly, with a high degree of ritual and formality, and the literature was often equally meticulous in its reporting of the detail. On the morning in April 1779 when Rev. James Hackman was to be hanged at Tyburn for murder he was awoken at 5 a.m. and prayed until 7.15 a.m. He then drank some tea and at about 7.30 a.m. he went to Newgate chapel with the Ordinary, Rev. John Villette, and a Rev. Porter. There he received the sacrament. At 9 a.m. he left the chapel and went to the press yard where he bid farewell to some of his friends, including James Boswell. His arms were then tied, although, contrary to normal practice, the halter was not

placed around his neck. At 9.10 a.m. he left the prison in a mourning coach accompanied by two clergymen, having been excused the normal mode of transport, a cart. "Owing to the thronging of the people" the three-mile journey to Tyburn took much longer than anticipated and he did not arrive until 10.50 a.m. There he descended from the coach and got into the cart, which stood under the gallows. He prayed with Villette and Porter for some ten minutes, was tied up and the halter put around his neck. He then engaged in further prayer and meditation, and finally the cart was driven away from under him. [11] Outside London similar processions took place. After 1736 when those condemned at the Kingston assizes were hanged on Kennington Common, the procession from Southwark gaol to the gallows could take more than four hours, and, according to the account of one hanging which took place there in 1775, when the condemned arrived, "Pigeons were thrown up to give Notice of the Arrival and Exit of the poor Wretches." [12]

Civil officials always attended in the procession from the prison to the gallows, and sometimes the military was also present. When twenty people, including Mary Young otherwise Mary Diver, were hanged at Tyburn in 1740 they went in seven carts and a coach, "each Cart being guarded by a File of Musqueteers with their Bayonets fixed to their Firelocks, and two of the Light Horse with their Swords drawn. After the Coach came eight more of the Light Horse and

about forty of the Foot, arm'd as before." [13] The unusual occasion of the hanging of a peer, Lord Ferrers, in 1760 for murder led to an even more elaborate and consequently slow-moving procession described by Horace Walpole as "pompous and tedious", and the presence of a large number of officials: there was "a very large Body of the Constables for the County of Middlesex (the greatest probably that had ever been assembled together upon any Occasion)" together with horse grenadiers and foot soldiers. [14] However, the attendance of a strong military guard was not invariable, indeed it seems likely that they did so only when trouble was expected. [15] So when Sarah Reynolds was hanged at Tyburn in 1775 for infanticide the procession consisted "only of Mr. Reynolds (the Under-Sheriff), one sheriff's officer; the Cart, with the Prisoner, the Executioner and his Man; and followed by four or five Sheriffs Officers on Horseback." [16]

Once the procession had reached the gallows there often followed prayers, the singing of the last two stanzas of Psalm 51 and the delivery of a dying speech. [17] The length of time taken up at the gallows at Tyburn varied from about half-an-hour to one and a half hours, although when William Cox was allowed the latter period in 1773 one commentator remarked that this was "a circumstance not remembered for a great many years past." [18] The length of time was flexible since this was the point at which the dying speech was made.

Rev. Guthrie told the condemned prisoners at Newgate in 1732 to "repent sincerely of all your Sins, and bring forth Fruits meet for Repentance and Amendment of Life, in the World." [19] Such fruits were a "proper" dying confession preferrably made from the gallows - although no doubt Guthrie hoped it would be filled out in his private interviews beforehand. Lorrain told Richard Town and John Crabb at Tyburn in 1712, "to speak to the Spectators that they might follow better Courses than themselves had done." [20] In A Compassionate Address to Prisoners for Crimes (1742) prisoners were instructed:

> Frequently, seriously, and earnestly, especially at the place of Execution, when you come there, warn others of those sins you have committed, which have brought you to this miserable end, and of those other sins which lead the way; and pray that others may take effectual warning, and lead quiet and peaceable lives in all godliness and honesty. [21]

Speeches such as that made by Samuel Watson in December 1689 at Tyburn provides a illustration. He is said to have,

> held a Bible in his Hand, and turning to the Spectators, said, Friends, be sure you do not keep bad Company, for I have been too much a Sufferer by it; have a care of that great Sin, Drunkenness, which brings Men to Ruin and destruction; these with the Neglect of the holy Sabbath of the Lord, have been the Occasion of my coming to such an Ignominious Death. let me beg of you all to pray for me, good Friends speak to each other to pray for me. [22]

John Hart in 1713 directed his dying warning more specifically to "all Apprentices and other young Men". [23]

There were also elaborations on the hanging, other

forms and sites of capital punishment used with the intention of marking out certain criminals and certain crimes. Particular forms of murder amounted to petty treason and were subjected automatically to an aggravated penalty: the murder by a servant of his or her master or mistress, the murder by a wife of her husband (although not uxoricide), and the murder by a clergyman of an ecclesiastical superior. [24] Whilst a man convicted of petty treason was dragged to the place of execution on a hurdle and there hanged, a woman, having been conveyed in the same fashion, was burnt. In practice she was supposed to be strangled before the fire was lit [25], but in the case of Catherine Hayes the hangman failed to do this and she was burnt alive: "the spectators beheld her pushing the faggots from her, while she rent the air with her cries and lamentations." [26] The corpse of a man hanged for petty treason would often be either dissected or hanged in chains: James Hall, a servant who murdered his master, John Penny, in 1741, was condemned at the same Old Bailey session as six other capital offenders, but "being guilty of so notorious a Crime, as the Murder of his own Master, was ordered for Execution by himself, two Days before the rest of the Malefactors"; moreover, the hanging took place not at Tyburn, but in the Strand as near to the place of the murder as was possible, and his corpse was then removed to Sheppard's Bush where it was hanged in chains. [27] At a time when policing was uncertain the gentry had to

be sure of their servants.

Hanging a corpse in chains was also used as part of the punishment of other offenders, although it seems never to have been applied in the eighteenth century to women. [28] Apart from petit treason, certain types of murder often led to the gibbet: a particularly brutal murder [29], uxoricide [30], and murder during a robbery [31], especially a mail robbery. [32] In practice the Post Office demanded that all mail robbers be gibbeted. In 1770 Mr. Justice Bathurst condemned one Franklin for robbing the Bristol mail, however since he had used no violence or weapons either in the course of the robbery or to resist arrest Bathurst decided not to order his corpse to be hanged in chains. Lord Sandwich, the Post Master General, was enraged at the danger he thought this would pose to the mails and protested to Lord Weymouth, demanding that the gibbet be used, "as had always been done in cases of mail robberies". The government complied and took the unusual step of reversing the judge's decision. [33] Smugglers were also often gibbeted: between 1731 and 1754 the corpses of at least fourteen were hanged in chains. [34]

It was fairly common for a convict to be hanged at, or near to, the place where the crime was committed, as has been seen with the hanging of James Hall. This was done, as one commentator remarked in 1742, "in order to strike a Terror on the Minds of wicked disposed People." [35] The same reason

seems to have been behind the decision in 1755, made in the midst of a string of desertions from the army, that instead of shooting deserters in Hyde Park they would be returned to be shot in front of their own corps. [36] It had long been the practice to hang those convicted by the High Court of Admiralty of capital crimes at sea on Execution Dock at Wapping, "till the tide had risen almost to his feet". [37] In 1684 John Hutchins, a solicitor, was hanged in Fleet Street for the murder committed there of John Sparks, a waterman. [38] Michael and Catherine van Berghen together with their servant Gerald Dromelius were hanged near to their public house in East Smithfield where they had allegedly robbed and murdered a guest in 1700. [39] John Brian was hanged in St. James's Street in 1707 opposite to the house which he had allegedly set fire to and robbed. [40] William Elby was hanged in Fulham in 1709 for a robbery and murder committed there. [41] In 1712 William Johnson and Jane Housden were hanged in view of both the Old Bailey and Newgate prison for the murder in the Old Bailey of Richard Spurling, an officer in Newgate. [42] The procession taking Theodore Gardelle to Tyburn in 1761 stopped for three minutes at the door of the place where the murder had been committed. [43] In 1773 Lewis Mercia, condemned for murder, was hanged at the corner of Prince's Street, London, where the crime had been committed. [44] In 1690 in the course of a single Account Rev. Samuel Smith, the Ordinary of Newgate, reported

that Anna Hereford, Constance Wainwright, Sarah Cane and Elizabeth Trant had all been hanged in Newgate Street for setting fire to the prison there in an attempt to escape, and John Bennet was hanged in Salisbury Court, Fleet Street, for a murder there. [45] This practice was also followed outside London. William Elby was hanged for parricide in 1709 in front of the door of the house near Uppingham in which the crime had taken place. [46] Thomas Piggot and William Cane, condemned for robbery at Kingston assizes in 1750, were hanged, not at Kennington Common as was usual, but at Ripley in Surrey were the crime had been committed [47]; similarly Stephen Gregory was hanged at Esher in 1770 for a murder committed there. [48] In 1751 the hanging of Thomas Colley was put off for a week so that fairly elaborate arrangements could be made for him to be taken from Hereford, where he had been condemned, to Tring so that he might be hanged at the place at which he had allegedly killed Ruth Osborne for being a witch. [49]

Sometimes whilst the hanging took place elsewhere the corpse was brought to the place of the crime and gibbeted there. [50] In 1759 the body of Eugene Aram, who was hanged in York for a murder committed at Knaresborough, had originally been ordered for dissection, but, following a petition from the grand jury, it was hanged in chains at Knaresborough instead. [51] The placing of the gibbet often

led to bitter argument in the local community: it was originally decided that the corpse of John Swan would be gibbeted near to the place of the hanging in Epping Forest, but the decision was altered following objections, "it being in full View of some Gentlemens Houses on the Forest". [52] On the other hand, in 1735 the Cornish gentry persuaded Lord Chief Justice Hardwicke not to aggravate the punishment of one Rogers, a rioter, by hanging him in chains for fear that it might provoke the people to cut the body down: Hardwicke agreed, "that it might have been very unfortunate in the event to have given the rabble an opportunity of striking the last Blow or having any new Triumph." [53] However just as the Post Master General requested that mail robbers be hanged in chains, so, as in the case of Eugene Aram, the local gentry sometimes asked for an offender to be hanged near the place where the crime had been committed. In 1752 the murder of Joseph Jeffries, for which John Swan and Elizabeth Jeffries were condemned, led the gentry in Wood Street, Walthamstow to take action: "to draw People together, they had at their own Expense built a Gallows facing where Mr. Jeffryes did live". [54] Thomas Smith and John Kennedy, condemned in 1787 for a robbery, were both hanged and gibbeted at Chorley Wood where the crime had occurred following a request from the gentlemen of the grand jury who, because there had been a spate of robberies in the area, wished to make an example. [55]

Usually, however, the place for the location of the gibbet was selected not because of its proximity to where the crime had been committed, but because it could be seen over a large part of the surrounding area: in 1791 William Lewin was hanged at Chester for robbing the mail boy and his corpse was gibbeted "on the most elevated part of Helsby Tor, about eight miles from Chester; from whence it may be conspicuously seen, and, by means of glasses is visible to the whole county, most parts of Lancashire, Flintshire, Denbighshire, Shropshire, Derbyshire, &c. &c." [56] The bodies of the smugglers John Cobby and John Hammond, hanged in 1749 for murdering a customs officer, were gibbeted "at Cesley Isle, on the beach where they sometimes landed their smuggled goods, and where they could be seen at a great distance, East and West." [57]

2. "a prodigious Concourse of People"

Much effort was, therefore, expended on trying to draw public attention to all stages of the criminal justice process, but most particularly to the hanging. If we consider the success of the criminal justice system in the terms which Johnson outlined, that is as a question of the size of the crowd which attended, it was very successful. Not surprisingly the more notorious the defendant the larger the crowd seems to have been. When "Sixteen-string" Jack Rann

appeared before the Bow Street magistrates after his arrest, "The curiosity of the people was so great to see Rann, that above a thousand people had assembled", [1] and, as has been mentioned, large numbers of the gentry and the aristocracy had crammed into Bow Street in 1750 for the examination of James Maclaine, "the Gentleman Highwayman". [2] People also went to the gaols where suspects were held: once Richard Turpin had been identified in York prison in 1737, an "abundance of People from all Parts resorted daily to see him." [3]

The procession from the prison to the court at which the trial was to take place seems to have attracted crowds. In 1770 the defendants being brought to the Surrey assizes "entered the Town of Kingston, amidst a great concourse of people" [4], and the following year John Howard described how he had seen prisoners in Essex being brought to their trials "upon a chain through the heart of the town, where numbers of the country people flock to see them and attend them from the gaol up to the courthouse." [5] After John Sheppard had been recaptured following his second and final escape from Newgate he was taken to the Court of King's Bench for formal identification, and on his return to prison he went "through the most numerous Crouds of People that ever was seen in London; and Westminster-Hall has not been so crowded in the Memory of Man." [6]

The trials were generally packed. Parson Woodforde, when a student at Oxford, attended the trial of Issac Darkin in 1761, and recorded the chaotic scene in his diary:

> Mar. 6. Went up into the Hall this afternoon after the Judge was in, and I could not get a tolerable Place some time, but at last I jumped from two men's shoulders and leaped upon the Heads of several men and then scrambled into the Prisoners Place where the Judge said I must not stay, so one of the Counsellors desired me not to make a noise, and he would let me have his Place, which was immediately under the prisoners and opposite the Judge, where I sat and heard three or four tryalls, and likewise condemnation passed on Dumas, alias Darking, alias Hamilton, alias Harris. Was up there from 5 till 9... [7]

When a Special Commission was sent to Chichester to try the Sussex smugglers in 1749, "The Court was filled with the greatest Concourse of Nobility and Gentry that ever was known in this City". [8] The numbers attending an assize at East Grinstead in 1684 were so great that the courtroom floor collapsed. [9]

Once the sessions were over the condemned felons were taken back to gaol: following her conviction for murder at Kingston in 1759 Mary Edmundson went back to the Stock-House prison "amongst the greatest Crowd of Spectators that ever was known at Kingston on such an Occasion." [10] In the gaols the prisoners were again subjected to a parade of often unwelcome visitors. Horace Walpole wrote that 3,000 people had visited Maclaine in his cell at Newgate on the first Sunday after he was condemned, and Dr. Dodd was placed in a special viewing room for two hours at the same prison in

1777. [11] Things got so bad when Elizabeth Canning was in prison in 1754 that restrictions were actually placed on visitors, "The great Resort of People to Newgate to see Elizabeth Canning, has occasioned an Order from the Sheriffs, that nobody be admitted to her without their special Leave." [12] In Newgate the public also, as has been mentioned, had access to the chapel, and on the day when the condemned sermon was preached it "was crouded with strangers, who had obtained admittance" [13]: in September 1724 John Sheppard, following his arrest after his first escape from the condemned cell, "was carried up to the Chapel in Newgate, for the first time, since his being retaken, where was a great Concourse of People to see him." [14]

However, of all the stages of the criminal justice process the largest crowds gathered for the hangings, as Samuel Johnson hoped they would. In London some stood to watch the procession pass by, others followed it, and the wealthier paid as much as half-a-crown for the seats which were precariously constructed around the gallows. One observer reported that the procession of Earl Ferrers from the Tower to Tyburn in 1760 "passed through many hundred thousand Spectators". [15] More than 50,000 people were said to have attended the hanging on Sun Tavern Fields in 1768 of James Murphy and John Dogan, two striking coal heavers who had been condemned for murdering two soldiers during a riot. [16] The hanging of the twin brothers Daniel and Robert

Perreau at Tyburn following a controversial trial for forgery in 1776 led to the gathering of a crowd estimated at 30,000 people. [17] When "the Flying Highwayman" William Hawke was hanged at Tyburn in 1774 the crowd was said to have been 20,000. [18] The following year at a hanging on Kennington Common over 200 carriages and "at least Fifteen Thousand Spectators" were said to have gathered. [19] In 1787 10,000 were said to have attended the hanging and gibbeting of Thomas Smith and John Kennedy for highway robbery. [20] Other reports wisely resist the temptation to estimate the numbers, but do comment on the remarkable size of some of the crowds: the hanging at Tyburn in 1769 of Thomas Mellor, William Dunk, Robert Merry and Richard Belchier was reported by one newspaper as having been "attended by a prodigious Concourse of People, the greatest Part of whom were Females" [21]; the hanging of Lewis Lewis in 1789 at Brecon attracted "the greatest Concourse of People ever seen here it being an uncommon sight, as no executions had taken place in the County for upwards of Thirty Years". [22] The seating which was commonly available for hire at the principal places of execution in London regularly collapsed under the weight of so many spectators anxious to get a good view: the worst incident being in 1747 when twenty people died after seating loaded with 1,000 spectators had collapsed at the beheading of the Jacobite Lord Lovat. [23] Similarly the large crowds

milling around often led to injuries: such a large crowd had gathered in 1743 to see Thomas Rounce hanged and quartered at Wapping for high treason that, according to one newspaper, "several People had their Legs and Arms broke, and were otherwise terribly bruised." [24]

Crowds also gathered for some of the funerals: Joseph Blake, alias Blueskin, had made himself famous and admired by the London poor not only because he was a friend of John Sheppard, but also for attempting to murder Jonathan Wild at the Old Bailey as Blake was being brought up for trial, and "a great Mobb" accompanied his body to the burial ground of St. Andrew's Holborn after he was hanged in November, 1724. [25]

Clearly the estimates for crowd sizes were often exaggerated. At a time when the population of London stood at no more than half a million it seems ulikely that "many hundred thousands" attended the hanging of Ferrers. However, the point is not that these figures provide an accurate calculation, but rather they indicate that contemporary observers were impressed by the size of the crowd and sought to reflect their impression.

CHAPTER 12

THE CONDEMNED

1. "all Insolence and Threats"

The criminal justice system was, therefore, successful in attracting large crowds of spectators, but the question remains as to whether it was able to achieve the objective set out by Defoe, namely to keep the crowd "in awe". My contention in this chapter and the next one is that the criminal justice system - in particular the gallows - was never completely the site at which the state's power was expressed because neither the condemned nor the crowd fitted into the role of a cypher ready to be moulded into particular ways of behaving. Furthermore, other interests with different objectives became involved, such as victims of crime seeking the restitution of stolen property or scientists wishing to test medical techniques. This chapter looks at the activities of defendants in capital cases and the condemned.

At the trial stage some prisoners complained about the confiscation of their property and refused to cooperate until it was returned. In 1723 William Spiggot and Thomas Phillips refused to plead until their horses, riding equipment and money were restored to them. [1] Similarly, in 1741 John Stevens complained that a large sum of money had been taken from him and he too refused to plead until it was returned. [2] Perhaps such demands were related to the need for money in prison, but this consideration was never mentioned, and it is more likely that the main motivation was a feeling of the

injustice of the actions of those involved in the arrest. However, in 1779 John Matthieson expressed a different reason. He had been arrested by officers of the Bank of England for a forgery, and his biographer reported that after his conviction he had made "every possible reparation", but rather than being allowed to make a voluntary surrender of the money he had acquired through the forgery, those who arrested him had "actually taken by force" not only his money, but also that which he had given to his sister. The point, as Matthieson was aware, was that being able to make restitution to the victims of a crime was a lever which might be used to avoid the gallows. [3]

The Coventry justice of the peace Hewitt was shocked by the way two prisoners, Palliser and Phillips, "mimicked [the trial judge's] words of exhortation to prepare themselves for death." [4] The defiance of those in the condemned cells was also the subject of much comment. Sometimes it took the form of what was regarded as a lack of proper concern, repentance and solemnity: in 1708 when his biographer met John Maugridge the day before he was to be hanged, Maugridge "called for a full Glass of Claret, and drank to our Happy Meeting in the next World with as much Alacrity, as a Bridegroom drinks to the happy Minute" [5]; on visiting Walter O'Connolly in Guildford gaol in 1738, Rev. Bannister was shocked to find that he "spent his Time in a ludicrous, idle Manner, either talking and joking with Persons who came to see them, or

drinking, so that he seemed to forget he was to die." [6]

Jack Rann apparently excelled in this sort of behaviour:

> Since his conviction, his behaviour is not in the least amended: On Sunday the 23d of October not less than seven girls pined [i.e. dined] with him; the company was very chearful, and wicked culprit, appeared quite insensible to the dreadful situation his crimes brought him into. [7]

Sometimes the defiance was rather more aggressive, as with Elizabeth Thompson, sentenced to death at Yarmouth in 1742 for murder, who was said to have been "all Insolence and Threats, nothing but Oaths and Execrations proceeded from her". [8]

Most of the evidence of such defiance in gaol is to be found in the writings of various clergymen who visited condemned prisoners. As has been already mentioned in my discussion of the literature of the prison chaplains [9], some prisoners simply ignored the clergymen, others argued with him or reacted violently to his presence. This caused one religious writer to remark, "I have been grieved to see, how the little time which is mercifully allowed to such is misspent; and how the helps which have been afforded them for the preparation for eternity, have been slighted". [10] In York gaol Turpin was said to have been distracted from a clergyman's advice by revelry:

> He continued his mirthful Humour to the last, spending his Time in joking, drinking, and telling Stories. He seem'd to pay but little Regard to the serious Remonstrances and Admonitions of the Reverend Clergyman who attended him, and whatever Remorse he had

> upon his Conscience, for his past Villainies, he kept it to himself, not expressing the least Concern at the melancholy circumstances he was in. [11]

Lorrain was horrified when in 1719 a prisoner called Stone placed a flea from his body on to the prayer book and said to Chickley, another prisoner, "See how he Gallops over the Prayers!" [12] In 1744 the Ordinary, James Guthrie, complained that Ann Duck spent her time in Newgate chapel talking to her friends rather than in "the more serious Affair, the Welfare of her Soul". [13] According to one newspaper report in 1773, when William Cox attended the preaching of the condemned sermon he "behaved in a manner shocking to every one present... throwing up the nosegay which he had in his hand and catching it several times" [14]; and another of his biographers described how he had been sent a religious book, "On opening the book, he cried out, in his usual style, `What's all this gammon about?'" [15]

Just as shocking to the chaplains was the way in which some of the condemned, whilst not denying their guilt, did not think their actions deserved the death penalty. Barbara Spencer, convicted of high treason for coining in 1721, was reported to have "behaved in the most indecent and turbulent manner; nor could she be convinced that she had been guilty of any crime in making a few shillings... [She] was particularly shocked at the thought of being burnt". [16] In 1723 some Reading men condemned for deer hunting under the

Black Act "could scarcely be persuaded that the crime for which they suffered merited death. They said the deer were wild beasts, and that the poor, as well as the rich, might lawfully use them". [17] The Ledbury turnpike rioter Thomas Reynolds, who had been dragged all the way from his home in Herefordshire to be capitally convicted under the Black Act by a London jury in 1736, complained to Rev. Guthrie that "he had never committed any theft or murder nor done any other crime in his life", and said that he did not think he deserved death for his offence. [18] John Catt told the Ordinary of Newgate that "he thought Smuggling an Offence, but no great Sin, and could not be persuaded to think or say otherwise, pretending one Excuse or other... often weeping at the Thoughts of dying as a Criminal", while, Richard Mills, one of the Sussex smugglers hanged at Chichester in 1749 said of smuggling that he "did not think there was any harm in it." [19] James Johnson, hanged at Guildford in 1742 for sheep stealing, told the chaplain that he did not realise it was a capital offence, and indeed it had only been made capital in the previous year. [20] Thomas Colley, who was condemned in 1751 for murdering a supposed witch by subjecting her to the test of ducking in water, could not be convinced, initally at least, that he had been wrong. [21] The confusion of those hanged for what they did not regard to be crimes continued even at the gallows: Samuel Porter told

the crowd gathered at Tyburn in 1690 that he thought the clipping of coins was no sin. [22]

Some, as has been seen in Part I, maintained a silence which aggravated Ordinaries anxious for copy: Richard Wright when questioned in 1750 by the Ordinary about the highway robbery for which he had been condemned, "would neither own or deny, but obstinately refused to say any more, than that he knew what he had done, and hoped to make his Peace with God." [23] Others stubbornly kept silent when questioned about their accomplices: John Williams, condemned at Maidstone in 1750 for a robbery, "acknowledged that he had committed several others; but refused to make any particular Confession saying, it could not be of any Service to him, and might be a Prejudice to some others that he should leave behind him." [24] On the other hand, John Barry was all too willing to injure others; condemned in 1746 for forging a sailor's will in order to obtain the prize money, he "insisted That as soon as his Body was brought under his Wife's Care, she should have him bleeded, if possible, and sprinkle his Blood upon the Prosecutor's Doors, praying that the same might fall upon them and their Posterity." [25]

The chaplains regarded all such actions as evidence of irreligion and ignorance [26], and it is easy to accept, in part, their view and to depict the hanged as representing a strong vein of a sort of defiant atheism in the labouring poor. However, the descriptions provided often indicate that

the prisoners merely held to different religious beliefs. The behaviour of John Hartley and Thomas Reeves, condemned for a robbery at Hoxton in 1722, was said to have been "unbecoming persons in their unhappy circumstances. That of Reeves was particularly hardened; he would sing and swear while the other convicts were at prayers, yet he told the Ordinary that he was certain of going to heaven." [27] In 1743 James Hunt refused to pray with the prison chaplain before he was taken out to be hanged because "he knew he had taken care of his Soul, and that he was quite easy on that Account." [28] Many asked that they be given the sacrament and rejected the prison chaplain's claim that he had a right to refuse it: when the Ordinary of Newgate denied the sacrament to Paul Lewis in 1763 because he was adjudged not fit to receive it, Lewis responded angrily: "Whether I am fit or not, what is that to you! Damn you! I will beat you before I have done with you, unless you give me it. I am as good a Christian as you, you scoundrel." [29] This resentment of official forms of religion also stretched to an intense dislike of the Bellman of St. Sepulchre's Church, who delivered a religious homily to the prisoners on the night before the hanging: in 1739 one of the condemned "cry'd out of his Cell, <u>God bless my Fellow Prisoners, and hang the Cryer</u>." [30] A few even threatened violence towards the prison chaplains. In 1715 Captain Alexander Dolzell, a convicted pirate, told Lorrain

that he would kick him down the chapel stairs because in court he had interpreted the evidence of a French witness for the prosecution. [31] Some years before in 1694 one Paynes was said to have actually kicked the Ordinary out of the cart whilst it was on route to Tyburn - an action which may explain why later Ordinaries travelled by coach. [32] To the prison chaplains, and other biographers, both the threats and the popular forms of religious belief, which by their very nature were not defined and controlled by the clergy, simply confirmed the obstinate and evil nature of the prisoner and hence her or his condemnation by the criminal justice system.

The most public aspect of the defiance showed by condemned prisoners occurred on the hanging day itself. Many observers commented on the apparent unconcern of those about to die: Lacombe wrote in 1777, "Les Anglais vont au gibet avec une indifference qui approche de l'heroisme". [33] The literature of the period constantly seems to confirm Lacomb's impression: one of the Sussex smugglers hanged at Chichester in 1749 was reported to have said at the gallows, "We shall have a very jolly Hang of it". [34] In 1738 Gill Smith set out on the procession to the gallows at Guildford:

> As he was going into the Cart, he called for a Pint of Wine, saying, he had paid for it, and insisted on having it. In passing on to the Gallows, he shewed not the least Concern, but frequently smelled to a Nose gay he had in his Hand; and when he came to the fatal Tree, he was so far from being affected with his unhappy State, that... he was observed sometimes to smile [35]

At Guildford in 1742 after the irons had been removed from William Walter, prior to his being put into the cart, "he walk'd about the Yard whistling, and began to sing, Can you leave your Nancy", and later as the waggon moved towards the gallows he continued, "smiling as he went along." [36] It seems to have been quite common for prisoners to drink during the procession, although some sheriffs made regulations preventing such stops. [37] Drink was also taken at the gallows: to the evident disgust of Rev. Guthrie in 1732 Robert Elements called out for drink whilst Guthrie was praying [38]; however in Newcastle in 1744 James Maben "call'd to the Sheriff for a Glass of Wine, which was immediately order'd him." [39] When at the gallows at Chichester in 1749, Mills, one of the Sussex smugglers, was denied a drink causing him to remark angrily, "It was very hard to be refused a Pint of Beer". [40] The common complaint that the condemned were often insensible through drink seems not to be borne out by the literature in general although individual cases were alleged: Rev. Samuel Smith mentions in 1691 that James Selby "was so much disguised and made insensible by drinking; that he was changed into the likeness of a Beast more than that of a Human Creature" [41]; and in 1701 Lorrain wrote that Captain William Kidd was "inflamed with Drink" when he arrived at the gallows at Wapping. [42]

Talking to friends and relatives during the procession and at the gallows was commonplace. Some of those on their

way to be hanged at Tyburn in February 1772, "kissed several of their Acquaintances that were close to the Cart" just before they set out from Newgate. [43] The crush of people pressing forward to speak to or touch the condemned as they went in procession created a "Scene of Confusion". [44] Comrades and relatives often joined the condemned at the gallows. As his last act on the gallows at Newcastle Maben "took Leave of several of his Acquaintances about him". [45] The prisoners often engaged in various other actions at the gallows thought inappropriate to their situation. In 1722 James Carrick was said to have spent all his time at Tyburn "in giggling, taking snuff, and making apish motions to divert himself and the mob". [46] At Peterborough gallows in 1774 as James Glover stood eating an orange a woman "desired to have a piece of his orange, which she ate very greedily, and afterwards begged his nosegay". [47] In 1722 Rev. Purney, the Ordinary of Newgate, complained that whilst he ministered to some of the condemned on the gallows, others were "taking Leave of Friends, or throwing Books or Handkerchiefs to them among the Croud". [48] Lorrain deplored the way in which Edward Bird - who had already disgraced himself in Lorrain's eyes by writing a defence against his conviction - acted in 1719 at Tyburn: Bird "instead of applying himself to his Devotion, and desiring the Spectators to pray for him, and take Warning by him, turn'd himself first one way, then

another, and call'd for a Glass of Wine; but being told it could not be got there for him, he desir'd, a Pinch of Snuff; and taking it, he bow'd to the Gentlemen near the Cart, and said, Gentlemen, I wish you Health." [49]

Some of the condemned engaged in arguments and accusations at the gallows. In 1709 George Skelthorp said that, although he had committed the street robbery for which he had been condemned, the evidence against him was false in certain respects, and at Tyburn, seeing "one of the Witnesses that had sworn against him, close by the Cart", he took the opportunity to enter "upon a Discourse with him in his own Justification of the facts he was charg'd withal." [50] When John Poulter was about to be hanged he saw in the crowd "F--d, of Bath" - probably John Ford, a Bath silversmith - and, referring to the book The Discoveries of John Poulter, accused him of being a receiver of stolen goods:

> Hearing that F--d, of Bath, was among the spectators, he called out for him to come to him, and then told him, that every thing he had related of him in his Book, about being privy to their robberies, and melting down plate for them was true. F--d denying this with bitter imprecations, Poulter affirmed, that as he was going to appear before his great judge and hoped to receive mercy from him, what he had said was true [51]

Although the condemned, it was hoped, would make a speech of contrition to the crowd from the gallows, it is unclear how many actually did so. [52] When Rev. Smith urged Francis Robinson in 1684 to give a warning to the crowd at Tyburn he refused, "saying, it would signifie nothing, that

notwithstanding the many Warnings were given in a year by men that suffered yet the like Crimes were again committed... That the Confession he had to make was to God Almighty". [53] William Elby, although willing to pray with Lorrain at Tyburn refused to inform on his comrades and so told Lorrain not to ask him any further questions about them. [54] In 1737 Carr refused the assistance of Guthrie at Tyburn, telling him to help the others, "if you can make them understand you, which I fear; for they have all declared to me, they could not receive any Benefit from you." [55]

In some dying speeches the condemned, far from confessing, were reported as having asserted their innocence: in 1777 Thomas Burrow not only declared his innocence in a speech at Tyburn, but also "threw a Paper among the Crowd" to the same effect [56]; four years later William Meyer spent an hour and ten minutes talking to his wife and family and to the under-sheriff, and then addressing the crowd on the injustice of his punishment. [57] According to the rather cynical editor of Select Trials (1742) "hardly a Day of Execution passes without an Instance of some condemn'd Criminal, who, by solemn Protestations in the last Moments of his Life does not endeavour to persuade the World that he dies innocent." [58] Once more those who maintained their innocence at the gallows were portrayed as particularly hardened, and these claims were treated as providing proof as good as a confession that the person had indeed committed the

crime. For instance, of Benjamin Oldroyd, hanged at York at the end of the eighteenth century, it was said that his conduct "has been of the most hardened nature, he persisted in his innocence to the last, and behaved in the most indecent and unbecoming manner, to the moment of his execution." [59]

During the procession and at the gallows assaults by the condemned on the hangman were also reported. In 1772 one Jones on being lifted into the cart at Newgate in order to start on the procession to Tyburn, "struck the Executioner, to fulfill a Promise he had made that he would knock him down if he could." [60] Whilst at Tyburn in 1700 Joseph Fisher was said to have "spent most of his time in quarrelling with the Executioner". [61]

2. Shoes and Clothes: the Symbolism of Dress

Less easy to decipher are the symbolic actions of the condemned. At Tyburn in 1737 Richard Sampson, who had been convicted of robbery, and John Simmonds, condemned for forgery, were reported by Guthrie to have stepped into the cart "both of them having taken their Shoes off"; whilst at Maidstone in 1751 when Peter Furlonger was hanged it was reported that, "Hero like, to avoid the Reflection of dying in his Shoes, gave them to his Wife when he got into the Cart". Mary Lynn, just before she was burnt in 1731 in

Norfolk for petty treason, declared, "My Mother always told me I should die in my Shoes, but I will make her a Lie", and she threw them away. [1] One of the cant phrases meaning to be hanged was to die in one's shoes, so that the kicking off of the shoes seems to have been meant as a denial of the act of hanging itself. Another, less obscure act of defiance was for the condemned to jump off the ladder or cart rather than wait for the hangman to push her or him. At Oxford in 1761 Issac Darkin, convicted of highway robbery, "behaved with great intrepidity at the gallows, preparing his neck for the rope, putting it on, and then throwing himself off the ladder, without giving the executioner the signal agreed on to turn him off." [2] At Tyburn in 1763 Hannah Dagoe got her hands free under the scaffold and then struggled violently with the hangman, eventually he secured her again and put the rope around her neck, but "she threw herself out of the cart, before the signal given". Similarly as soon as the cap was pulled over the face of Elizabeth Thompson at Yarmouth in 1736 "she cry'd out, <u>let me jump. let me jump</u>". [3] In 1774 Hawke combined both of these acts of defiance:

> About a minute before they were turned off, Hawke kicked off his shoes with great violence; at the instant the cart moved he drew up his knees to his breast, so as to fall with a violent jerk, which almost instantly deprived him of life. [4]

Another very common act involved the way prisoners dressed at the public stages of the criminal justice process.

Although the meaning of clothes here is obscure, the care taken over the question of dress not only by the prisoner, but also by those reporting on the events indicates its importance. [5] When Jack Rann appeared before Sir John Fielding at Bow Street in 1774, "his irons were tied up and decorated with blue ribbons, and he had an enormous bouquet of flowers affixed to the breast of his coat". [6] In May of that year Brenen, Madden and Crockhall were charged before Fielding with street robbery and it was reported that they "seemed very hardened and impudent, and appeared at the bar with large nosegays in their hands." [7] The linking by contemporary writers of dress and defiance or unconcern can also be seen at trials. At the Old Bailey Rann "appeared very careless and indifferent, having by no means a proper sense of the unfortunate and truly wretched situation in which all the spectators viewed him. He was dressed in a new coat and waistcoat of pea green cloth, with new buckskin breeches, ruffled shirt, and a hat bound round with silver strings." [8]

But it was on the hanging day that most attention was paid both by the prisoner and by the media to the matter of dress. So when Elizabeth Branch and her daughter were hanged at Ivelchester in 1740 it was regarded as worthy of comment that, "They went ordinarily drest" [9], for, as the traveller Misson noted in 1698, "He that is to be hang'd, or otherwise

executed, first takes Care to get himself shav'd, and handsomly drest, either in Mourning or in the Dress of a Bridegroom". [10] Looking through the reports it is possible, to some extent, to employ Misson's categorisation of dress, although I shall argue that he - and more recently Linebaugh - confuses the symbolism of the clothes by doing so.

Arundel Coke, a lawyer hanged at Bury St. Edmunds in 1722 under the Coventry Act, wore "a Mourning Suit" both at his trial and his hanging. [11] Mary Blandy was hanged at Oxford in 1752 dressed in "a black Bombazine short Sack and Petticoat, with a clean white Handkerchief drawn over her face." [12] In 1761 Issac Darkin "was dressed in Mourning, with a striped Waistcoat under his Black one, and had on a clean ruffled Shirt." [13] Joseph Kello, hanged in 1762 for forgery, went to Tyburn "dressed in black, and had a queue wig". [14] John Donellan, hanged in 1781 for murder, "was dressed in a suit of deep mourning." [15] In 1782 George and Joseph Weston were reported to have been "dressed in new mourning, with silk breeches, and ruffled shirts." [16] Some were unable to afford mourning clothes, such as the servant Mary Saunders, burned at Monmouth in 1764 for petty treason, so she adapted her ordinary clothes: "she was dressed in a light colour'd Camblet Gown, a clean white Handkerchief, and a Silk one tied round her Neck, black Ribbons round her head, and a black Bonnet on." [17] On the other hand, those rare few wealthy people who ended on the gallows, like Earl

Ferrers and earlier the Italian nobleman, the Marquis Palliotti, hanged at Tyburn in 1718 for murdering his servant, could afford to be very lavish: Palliotti "had a new Suit of Black Cloaths, with every thing Suitable, a Mourning Coach and a pair of Horses, to carry him to the place of Execution, and a Mourning Hearse and a Covered Coffin to receive his Body when Executed." [18]

The other favoured choice of colour in clothing was white: for instance, at Newcastle in 1744 James Maben was "dress'd all in White" [19]; Mrs. Phipoe, hanged outside Newgate in the late eighteenth century, wore "a long white bedgown, had a white ribbon in her cap, and her dress, which was compleatly white, exhibited a neat and clean appearance." [20] Although sometimes such dress appears to have resembled wedding clothing, more often it was some form of shroud. Philip Thomas, condemned at Aylesbury in 1735 for horse stealing, was described as having been "drest in his Shroud, with a Pair of white Gloves on, a Crape Hatband ty'd with a white favour, and a Nosegay in his Hand." [21] Similarly Andrew Millar was hanged in his shroud at Wapping in 1743 [22], and army deserters apparently wore shrouds under their clothes when they were shot in Hyde Park. [23] Others, like Sarah Chandler, who was hanged outside Newgate in 1796, wore white trimmed with black. [24]

Unravelling the meaning of such dress is difficult.

Occasionally the significance of an item is obvious as, for instance, with the wearing of Wilkite cockades in the 1760s. [25] On other occasions the meaning can be discovered with a little research. When Earl Ferrers was hanged in 1760 it was reported that he was dressed in a wedding suit of "light Clothes, embroided with Silver", and although his comment to Sheriff Vaillant that he had "particular Reasons" for wearing the outfit was published, the reasons were not. Fortunately the leading gossip of his age Horace Walpole provided the explanation for this attire in his comments on Ferrers' behaviour: "Little was wanting to grace his catastrophe but less resentment to his wife, the peculiarity of being executed in his wedding habit too strongly marking that he imputed his calamity to that source." Ferrers alleged that his wife tricked him into marriage when he was drunk and that, after they had separated, his steward, Johnson, made payments to her for which Ferrers, in a fit of rage, shot him dead. [26] Some, particularly those from the middling classes who had committed crimes which might lead them to expect rough treatment from the spectators, wore clothes which hid their faces: for instance, in 1740 although Elizabeth Branch and her daughter, who had murdered a parish apprentice, as has been noted, "ordinarily drest", the former wore "a black Silk Hood over her Face" and the later had on "a large Straw Hat". [27]

The connection between white and innocence might explain

the popularity of that colour [28]: in January 1765 Horace Walpole wrote that John Wesket, or Wescote, "went to Tyburn with a white cockade in his hat, as an emblem of his innocence." [29] However, white was also the colour of repentance, a symbol drawn from Isiah 1.18, "though your sins be as scarlet, they shall be as white as snow", and penance in church involved standing dressed in a white sheet during a service. [30] Furthermore, the practice of women dressed in white seeking a reprieve for a condemned man seems to have represented not a plea of innocence, but more likely a plea that he be allowed to start a new life and as such involved a form of repentance. After Thomas MacNemera had been condemned for a robbery in 1710 Elizabeth Bliss, a "Gentlewoman", delivered a petition "attended in Company of Eleven other Gentlewomen, Dress'd in White Sattin, and introduc'd by Two Embassadors." In the petition Bliss said that she was engaged to MacNemera and that his death would inevitably lead also to her's; she, therefore, requested his release so that they might be married. The petition, however, failed and MacNemera was hanged two days later. [31] In 1722 John Hartley "procured six young women, dressed in white, to go to St. James's and present a petition in his behalf." In the petition the women promised that "if [the King] extended the royal mercy to the offender, they would cast lots which whould be his wife, but his majesty said that he was more

deserving of the gallows than a wife, and accordingly refused their request." [32]

In his brief discussion of gallows clothing Peter Linebaugh gets drawn into an interesting discussion of the symbolism involved. He argues that a parallel can be drawn with the burial of young women and girls in wedding clothes as an indication of "the failure of life to reproduce itself". [33] The fact that the majority of the hanged at Tyburn were young tends to support this view. Certainly some of the condemned expressed their feelings of the waste that their death entailed: for instance, in 1708 John Maugridge began his last confession with the words, "I am now in the Vigour of my Age". [34] But Linebaugh concentrates on white clothes, generally assuming that they were wedding clothes, and ignores the predominance amongst the condemned of mourning clothes, suggesting links not with marriage but with funerals. This might suggest a lack of fear of death. Undoubtedly for some the hanging, like birth and marriage, represented a rite of passage, and the clothing might have reflected this. In 1752 the Methodist convert Nicolas Mooney woke at three in the morning of the hanging day and declared, "My wedding-day is come at last!" Similarly two years before when Reynolds was being put into the cart at Newgate, he said that, "he went to be hang'd with as much Satisfaction as if he was going to be married, for that he was innocent of the Crime for which he suffer'd, and freely forgave his

Prosecutor." [35] When the Jacobite Dr. Archibald Cameron met the hangman in 1753 he said, "So - you are come? this is a glorious day to me! 'tis my new birth-day; there are more witnesses at this birth than were at my first!" [36] Similarly, in popular culture the hanging was used to symbolise an important life change: divorce by means of the wife sale involved bringing the woman to the place of the sale with a halter around her neck. [37]

Whilst not discounting the idea that the clothes worn sometimes symbolised certain ideas, there is another, perhaps more easily generalised explanation which is that the condemned were concerned to appear well dressed. The pious Nicolas Mooney was anxious to point out that although he wore mourning clothes on the day he was hanged, "I do it not out of vanity but neatness." [38] Anthony Hilliar, writing about 1710, remarked on how the condemned appeared "dress'd in their best Clothes, with white Gloves and Nosegays, if it be the Season." [39] At his trial at the Old Bailey in 1721 Nathaniel Hawes refused to plead saying that,

> as he had always lived like a man, he was resolved to die like one; and not go to the gallows in such a shabby coat as he then appeared in. That when he was apprehended, he had a handsome suit of cloaths at his lodgings, which was then seized, and had been ever since detained from him [40]

He agreed to plead and so allow the trial to proceed only after the judgment of _peine forte et dure_ had been passed on him and a weight of 250 lbs. placed on his chest, but he

"said nothing in his defence, and only insisted upon having his cloaths returned." [41] Whilst in 1752 Broughton and Hayes "when they were call'd down into the Press-Yard to be halter'd... refus'd coming, without having a clean Shirt and Stockings to be hang'd in." [42] A few days before he was hanged Turpin "bought himself a new Fustian Frock and a pair of Pumps, in order to take his Leave of the World in as decent a Manner as he possibly could." [43] When he appeared at Tyburn in 1754 for returning from transportation, James Bignall was described as being "well-dressed, and had on a Ruffled Shirt." [44] Simply because the condemned wore clothes which some commentators compared to wedding clothes does not mean that the hanging symbolised a wedding for them, rather it was one of those events - like their wedding - at which they wore their best clothes. One author in the early eighteenth century wrote that the condemned "made it the greatest of their Care to make a decent Appearance to the Spectators; for Pride is the last Sin that leaves 'em in this World, and that bears 'em Company to the Gallows; so that one would take 'em for Bridegrooms going to espouse their Old Mrs. Tyburn". That this was not meant to be taken literally or symbolically, but rather ironically is revealed by this author's view of the motivation behind the wearing of these clothes: "The great Comfort of having it said, There goes a Proper, Handsome Man, something meliorates the terrible

Thoughts of the meagre Tyrant death; and to go in a Dirty Shirt were enough to save the Hangman a Labour, and makes a Man dye with Grief and Shame of being in that deplorable Condition." [45]

Yet this last quotation still leaves the problem of why some of the hanged themselves were so worried about their appearance. The answer, I would argue, lay not in "the failure of life to reproduce itself", but rather in a concern with impressions of respectability: when Anne Elliott was in Guildford gaol before she was hanged in 1742 she wrote to her mother begging her to "send my Stays by the Guildford waggon; for I have a great many Visitors every Day, and I think it is a shameful thing to see a Woman without Stays." [46] It was a constant complaint amongst contemporary commentators that the labouring poor were too much concerned with luxury and with aspiring to higher social status by emulating the habits of the rich by, for example, drinking tea, eating white bread, gaming and wearing fine clothes. The labouring poor did not express themselves through saving, but through spending on items which were linked to the lifestyle of the wealthier social classes. Through such expenditure individuals sought not to join a higher social class, but rather to acquire the increased prestige within their own social class which came with the acquisition of certain habits associated with respectability and higher status. In the same way the condemned from the labouring classes did not seek to separate

themselves from their own class, for their friends and relatives in the crowd provided them with support, they sought prestige, admiration and increased support from amongst their own people by wearing clothes which were not generally worn by people of their class other than on special occasions, or else wearing the clothes of a wealthier social class.

The labouring poor were not the only ones who used clothes as a symbol of status (real or imitated) in order to signify their respectability: the expensive clothes and funeral furniture of Palliotti and Ferrers marked out their wealth and social status; the fine mourning suits of the hanged from the middling class, such as Coke, Donellan and the Weston brothers, and the expensive bombazine dress of Blandy separated them from the poorer condemned who could afford only a surtout coat [47] or a shroud or, like Mary Saunders, a camlet gown and some black ribbons. There were also the hanged who originated from the labouring poor, such as Turpin, but who had acquired some wealth and who were concerned to present an image of acquired status in their death through clothing and funeral arrangements which resembled those of the aristocracy. [48]

To observers the care taken by the condemned over their dress was simply, as indeed Misson regarded it, another example of the lack of concern and the generally obstinate

nature of these people.

3. Hero, Degenerate or Optimist?

For the biographers these acts of defiance and apparent lack of concern posed a problem. Some did play up the image of the criminal as "a bold Desparado" [1], so, for instance, one biographer wrote of Turpin:

> he behav'd himself with amazing Assurance, and bow'd to the Spectators as he pass'd: It was remarkable that as he mounted the Ladder, his Right Leg trembled, on which he stamp'd it down with an Air, and with undaunted Courage look'd round him; and after speaking near Half an Hour to the Topsman, threw himself off the Ladder, and expired in about five Minutes. [2]

Another author admitted that "there is a great deal of Glory in dying like a Heroe, and making a Decent Figure in the Cart to the Tune of the Two last Staves of the 51st Psalm." [3] Other authors, most notably clergymen, sometimes preferred to interpret what might otherwise be regarded as defiance or unconcern as merely a fairly thin cover for the condemned prisoner's true feelings: one biographer wrote of Rann that, "he attempted to force a smile; but it was evidently the smile of a man whose heart was tortured with grief and vexation" [4]; similarly it was reported by one newspaper that although one of those hanged at Tyburn in October 1775 appeared to be indifferent "his Feelings were evidently attempted to be disguised; for his countenance was marked with Traits of unutterable woe." [5] Others keenly searched

the behaviour of the condemned for signs of repentance: Rev. Smith, the Ordinary of Newgate, wrote of Valentine Knight in 1692,

> In his Way from Newgate, he behaved himself very indecently; not like one who was to undergo such a Sentence, but rather like one who, being Fool hardly [sic.], makes light of what should have been a Shame and Sorrow to him; but when he was in the Cart, he seemed to be a little more sensible of the near Approaches of Death, and sometimes would cry out to God Almighty; but other times would suffer his Eyes to wander abroad, tho' Exhorted to the contrary by the Ordinary. [6]

Indeed an air of unconcern was sometimes viewed as evidence of a composure of spirit based on repentance: James Maben was, according to his biographer, fortified by prayer and so "embraced Death chearfully, without expressing the least Horror or Despondency in his Gate or Countenance, but with a seeming Composure and Resignation of Mind." [7]

More generally such "bravado" was presented as shocking and as clear proof of the offender's guilt and her or his hardened, obstinate and animal nature: "the common effect of ignorance and its natural and almost inseparable companion, impudence" [8]: of Benjamin Campbell Hamilton, hanged in 1750 for street robbery, it was said:

> [he] behaved under sentence, on the way, and at the place of execution, with the utmost hardiness and unconcern, not at all forced or constrained, but talked to the mob, and his fellow sufferers in the cart, with as much disengaged ease, as if he had been going to a ball or merry-making, and continued so to within a few minutes of his death, for at the place of execution, his behaviour was most intolerably indecent, talking and laughing aloud as the executioner was tying them up; making use of most scandalous and blasphemous

> expressions, at the instant of his launching into eternity, and yet astonishing as it may seem this active, wild extravagant youth, had only lived seventeen years. [9]

Another of Turpin's biographers explained at length how the behaviour he displayed on the gallows was rooted in the moral degeneration caused by a vicious lifestyle:

> The near Approach of Death, generallly causes the most awful Apprehensions, even in Persons whose Lives have been governed with the greatest Rectitude, and whose Consciences are not burden'd with the Guilt of any wilful Transgressions. It is therefore infinitely surprizing that Men, who, for many Years successively have employ'd all their Talents and Endeavours in robbing, plundering, and destroying the Lives and Properties of their Fellow Creatures, should, without any Emotion or Concern, be able to look Death in the face, contemn the Horrors of that gloomy Hour, and launch out into the boundless Orean [i.e. Ocean] of Eternity, without making the least Provision for so long and hazardous a Voyage. To what Causes can this unaccountable Phrenzy, or rather, Stupification, be imputed? They must either have work'd themselves into a firm Persuasion that there is no God to take Cognizance of their Actions; that there are no rewards or Punishment hereafter; or else their Consciences, by a long Course of vicious Practices, are so harden'd and stupified, that it is impossible for the Precepts of Religion, and the Considerations of a Future State, to make any Impressions upon them. For even the Light of Nature informs us of the Difference between Right and Wrong; that we have no Title to the Property of another Man; and that in depriving him of it, we do him a positive Injury. Justice and Injustice are wrote in indelable [sic.] Characters on the Mind of Man; and whenever he attempts to eraze or blot them out, it is a manifest and sensible Violence upon the Conscience; but if this Violence be often repeated, Conscience will at length lose its active Faculty, and in Time be quite dormant, This, we may reasonably suppose, was the Case of the unhappy Turpin; who though one of the most notorious Offenders, that his Age has produc'd; yet, after Sentence of Death was pass'd upon him, was a jovial, as merry, and as frolicksome, as if he had been perfectly at Liberty, and assured of an hundred years of Prosperity to come; and went off the Stage with as much Intrepidity and Unconcern as if he had been

taking Horse to go a Journey. [10]

While, not neccessarily dissenting from this view, other authors believed that the more direct root of such unconcern and defiance was that the condemned "flatter'd himself with the hopes of his Majesty's pardon" [11], and indeed, as will be seen later, this view was an influential factor amongst writers on criminal law in the second half of the eighteenth century. On one occasion it was said that as the condemned stood under the gallows at Tyburn they were "looking wishfully about some of them 'tis supposed expecting a Reprieve". [12] One biographer noted that when Captain Kidd was in Newgate following his conviction for piracy his behaviour was not "serious and devout", but the writer was unsure whether this originated from "a Heroick Temper" or "from conceited hopes of obtaining a Pardon, or at least a Reprieve, their being great endeavoures (tho in vain) used for that purpose". [13]

There may be some truth in this speculation since respites and pardons were, of course, extremely common, and were not uncommon even at the gallows. Indeed some pardons were deliberately held back until the prisoner was on the brink of death in order to create an effect of terror combined with a powerful public display of mercy, indicating the power of those in whose hands such extremes of mercy and terror rested. In 1748 at the height of the troubles which followed the end of the War of the Austrian Succession seven

sailors were brought onto the deck of the Prince Henry to die for mutiny, "the halters about their necks, the death flag let fly, and the signal gun fir'd for their being drawn up, when on a sudden their caps were pulled from over their eyes, and they were informed that they were reprieved." As the distubances continued into the following year so the same device was used on five others. The calculating nature of this sort of decision is documented in the case of David Morgan who was due to be hanged in 1761, but whom the government decided to pardon on condition of transportation:

> But as His Majesty hopes so to terrify this unhappy Man on the present occasion, that he may not hereafter be guilty of the like offence, it is the King's intention that he should not be made acquainted with His Majesty's having extended his Royal Mercy towards him till he comes to the place of execution. [14]

On the other hand, the rather haphazard nature of some of the bureaucracy of eighteenth-century government meant that it was inevitable that some respites were simply late: John Smith had been hanging for 15 minutes when his reprieve arrived; the pain of being cut down is said to have caused him to wish "those hanged who had cut him down." [15] The reason for the lateness of Smith's reprieve is unrecorded, however, in two later cases administrative negligence was the cause. In 1777 John Whittaker was condemned for a burglary which he strenuously denied, but, not being believed, he was taken to Tyburn and had been tied up ready for the cart to be driven away when the reprieve arrived; not surprisingly he

was "so far stupified... that it was a considerable time before he came to himself, or could be made sensible that he was alive." It emerged that his alleged accomplice had told the Ordinary of Newgate that Whittaker was indeed innocent. The Ordinary conveyed this to the under-sheriff who tried to contact Lord Weymouth, the Secretary of State, but he was out of town, nor was he able to contact the King, so the Under-Secretary of State told the sheriff to use his discretion, which he did to stop the hanging. [16] In 1781 John Shepherd was on the gallows at Tyburn, the cap drawn over his face, when "a cry of RESPITE was heard from the turnpike at Oxford Street end"; indeed if the seating had not collapsed causing a delay in the hanging the respite would have been too late. It was found that he had not even been included in the original death warrant because the trial judge had referred the case to the judges for a decision on a question of law, and it was only by chance that the error was uncovered on the hanging day. [17] The commonplace nature of such late respites together with the efforts which had been made to save the life of Paul Wells induced the sheriff to delay the hanging at Oxford in 1749, but in vain. [18]

Sometimes respites were granted in expectation of the condemned providing information: Robert Davie, who had been condemned in 1750 for stealing nine elephant "teeth", was respited following the intercession of some London merchants

to whom he had supplied useful information. [19] If the information was not forthcoming - and sometimes even if it were - the hanging was carried out: in 1755 Barnaby Horan "pretended he could make great Discoveries of several Persons who had employed him as an Agent, which, it is presumed, was the Reason of his being respited; but being either unable or unwilling to make good his Assertions, was the Cause of his Sentence being put in Execution." [20]

The likelihood is that the condemned prisoners did hope for a pardon, even if the connection between this possibility and their behaviour cannot be established. It is absurd to argue that the vast majority would not have preferred to live: those in Newgate not included in the death warrant were once said to have been "rebounding with a tumult of joy". [21] Similarly it is wrong to give the impression that all, or even the majority, of condemned prisoners were defiant or unconcerned. The cry "Lord have mercy on us" was often said to have been shouted as the cart pulled away, and some doubtless fell into a religious passion, but whether born out of genuine belief or from fear is uncertain. Many were too ill through gaol fever, cold and hunger to make any gesture of defiance, indeed many never went to the gallows, but instead died in prison and those who survived the fever long enough were probably insensible when hanged. Whilst in Newgate in 1741 Mary Harris "turn'd so blind with the Damp of

the Cells, being almost naked, that she could not see to read one Word", and on hanging day she "was almost dead before she was turn'd off, trembling and shaking to a great Degree, very naked, and in a most miserable Condition"; although the Ordinary's chief disappointment seems to have been that "she had nothing to add to her former Confessions." [22] The year before William Motte had been "so weak, that they was oblig'd to carry him on their Backs to the Cart". [23] In 1775 Morley was so ill that "he could not stand, but was carried into the Cart, in which he laid at his Length". [24] Some held out hopes for the success of medical experiments aimed either to keep them alive or to revive them after hanging [25], others attempted to take their own precautions, getting friends to hire a room in a nearby inn and a surgeon; when William Dickson arrived at the gallows in 1725 an iron collar was said to have been found around his neck. [26] The terror of many was obvious, and, like Elizabeth Jefferies in Essex in 1752, they swooned and were "quite insensible" throughout the proceedings. [27] The Ordinary of Newgate, James Guthrie, described two of those about to be hanged in February 1743 as being "half dead with Horror and Confusion". [28] Indeed it seems likely that many of the delays caused by the condemned at the gallows were probably caused rather more by terror than by hopes of a respite: in 1740 at Bury St. Edmunds Charles Drew, "when he came to the Tree, he expressed tne utmost Reluctance at parting with Life driving off the fatal

Minute, and desiring the Officers and Executioners to defer it as long as possible". [29] Some undoubtedly went mad: John Dykes, a condemned prisoner in Newgate in 1721, "would at particular times in the night, start up, tear his hair, and cry out in a very odd manner; and at other times would sing psalms, and pray for several hours together" [30], whilst Faulkner slept in his coffin in Newgate in 1735 [31]; Thomas Colley apparently feared for his sanity in 1751 for he wrote to his wife asking her to visit soon "for my poor Senses are very wavering at this Time, and I have much ado to write to you." [32] Some seem to have regarded the prospect of the hanging day with shame: John Skinner, who was a prosperous member of the middling classes condemned in 1744 for murder, told a friend just before he tried to kill himself, "To be exposed to a gazing Mob of Rabble, and unthinking silly People, has a greater Effect on me than Death, and I could wish to die in the Goal where I am". [33] Indeed suicide and suicide attempts were not uncommon. James Mouser, condemned at Kingston assizes in April 1751 for robbing two men in a chaise, made a promise and kept it the following day by hanging himself from the bars of his cell: "He had several Times been heard to say, that he would disappoint Jack Ketch of a Jobb, for he was determin'd he should not have the hanging of him; and he was as good as his Word." [34]

There was, then, a mixture of behaviour at the gallows:

a good example of this is Rev. Wilson's description of the hanging of six people at Kennington Common in 1739:

> After spending about an hour in prayers, and exhortations they left this earthly stage, Noah Goobee was very penitent and never alter'd Countenance, being willing to die. Michael Lucas, seem'd frighten'd at the approach of death. Peter Usher, was seemingly penitent, and begg'd the prayers of the spectators. John Hannah was stubborn to the last. Johanna Rashford Sambo continued her ludicrous behaviour to the last moment, and after her handkerchief was over her eyes, she put it up again, and laugh'd in the face of the executioner and kiss'd him and desired him not to strip her. Eleanor Spencer, died a Roman: Each of them begged for mercy of the Lord Jesus Christ. [35]

The problem with passages such as these in the criminal literature is not simply one of trying to sort out fiction from reality, there are different realities involved in such events - Wilson's reality, the reality of the prisoners and the reality of the individuals in the crowd. For Wilson reality is interpreted through a particular set of values which indicate the sort of behaviour which is "penitent" and the sort of behaviour which is "stubborn" or even "ludicrous"; on the other hand, Hannah and Rashford might interpret their own actions quite differently, as might their friends and relatives in the crowd. The fact that biographers, especially prison chaplains like Wilson who were keen to find evidence of repentance, recorded certain forms of behaviour and, more importantly, used a great deal of ink in explaining that behaviour shows, first, that these actions probably did occur, and, second, that they were regarded as

inappropriate. For my purposes the problem of interpreting such behaviour is less significant than the fact that it was regarded as inappropriate. The condemned may have asserted their individuality in ways which are difficult for us to understand, but the point is that they did assert it and as such they - probably unconsciously - undermined the state's authority by not passively allowing the state to define their role. In other words, the gallows was not exclusively "the engine of state power" since the state did not have full control over it. Although they could not avoid being hanged those of the condemned who dressed in fine clothes and who bantered with the crowd made the gallows their stage not the state's, and a stage almost in the literal sense of the word. Just as significantly, that this was happening was readily recognised by contemporary writers. We are told that at Northampton in 1813 as Huffey White climbed up to the gallows he turned to Robert Kendall, with whom he was to be hanged, and called, "get up, Bob! they have us here as a Peep-Show." Similarly, Daniel M'Crory was said by one observer to have ascended the gallows "not only without the slightest degree of trepidation, but with alacrity, bowing around to the assembled multitude in a manner which seemed to impress the idea of a favourite stage player about to act his part." [36]

CHAPTER 13

THE CROWD, THE HANGMAN, THE SCIENTISTS, THE GAOLERS AND THE CONDEMNED

1. "a ribald, reckless, brutal mob

The crowd too had their part to play. In the previous section I made a passing reference to the existence of a relationship between the condemned prisoner and the friends, relatives and enemies amongst the crowd around the gallows, in this section I will look more closely at the crowd since, according to Defoe, it was they who were supposed to be kept "in awe".

According to Arthur Griffiths, writing in the nineteenth century, whom Radzinowicz quotes as an authority on the subject, the crowd around the gallows "was a ribald, reckless, brutal mob" which treated a hanging day as an occasion for a drunken celebration. [1] On the other hand, Peter Linebaugh has sought to present the crowd as rational and disciplined. It is certainly true to say that many contemporary writers would have agreed with Griffiths and indeed characterised the crowd in much the same terms as he later employed. Reference was made to the "Hooting, Bawling, Clamour and Noise" of the crowd [2], and the Ordinary of Newgate, James Guthrie, observed that during a procession to Tyburn in 1740 the condemned were "convey'd through a vast Multitude of People to Tyburn, some of whom, notwithstanding the Guard of Sodiers, were very rude and noisy, hallooing, throwing Brickbats, Mud, &c. at the unhappy Prisoners, as they passed." [3] Crowds were said to have shown great disapproval when a hanging was called off: in 1769 at Tyburn

there were "many Expressions of Discontent and Disappointment that the Brentford Robbers were not hanged." [4] So it was felt worthy of comment when at the hanging of Mary Blandy at Oxford in 1752, "Contrary to what is observed at other Executions, there was almost a profound Silence". [5] Some people undoubtedly gathered around the gallows merely out of curiosity, as spectators wishing to view, what one author referred to as, "novel scenes". [6] Others - the pedlars and pickpockets - were there for professional reasons. [7]

Observers noted different reactions from the crowd to those about to be hanged. According to Anthony Hilliar, writing in about 1710, "Those that die merrily, or that don't at least show any great Fear of Death, are greatly admired by the Vulgar, and are said to die like Cocks". [8] A few years later Bernard Mandeville wrote that, "the further a Man is removed from repentance, nay, the more void he seems to be of all Religion, and the less Concern he discovers for Futurity, the more he is admired by our sprightly People." [9] He added that the crowd mocked someone who showed signs of repentance as "a weak silly Creature, not worth looking at", and the author of A Trip through the Town (1735) agreed, writing that those who "snivel to the Ordinary, and die a Dunghill" - that is, died penitent - were jeered. [10] In 1721 Barbara Spencer, when she reached Tyburn, was reported to have "seemed willing to excercise herself in devotion, though

interrupted by the mob throwing stones and dirt at her." [11] On the other hand, there were also reports of the sympathetic reaction of the crowd: when Mary Saunders was burnt at Monmouth in 1764 for petty treason, "The crowd was very great; and many people went away with tears in their eyes, not being able to stay any longer to see so dismal a scene." [12]

Some capital offenders faced concerted attacks during the procession. An extraordinary incident apparently involving only one member of the crowd occurred in Surrey in 1739 where, while the condemned were in procession, "Roberts, the Prosecutor of Salmon and Mills, rode at the Tail of the Cart, jeering and insulting them all the Way"; no explanation for his behaviour appears in the report. [13] Others were confronted by a hostile crowd. This hatred was related to the nature and circumstances of their crimes or their reputation. In 1750 John Collington drew particular venom from the crowd at Maidstone. He was a farmer who had been condemned for hiring two men to set fire to a barn and some ricks owned by John Clarke, a churchwarden who had taken Collington's son because he had failed to maintain him. When on the hanging day Collington was not brought out of Maidstone gaol at the usual time a rumour spread that he had been reprieved. This, according to one report, led some amongst the crowd to cry, "Bring him out, and hang him, that he may set no more Houses on Fire". [14]

Those who were regarded as having acted against the interests of the people were also treated harshly by the crowd. Reading the newspapers for 1724 and early 1725 one is acutely aware of the presence of Jonathan Wild, the thieftaker, and if they were our only evidence it might have been assumed that he enjoyed a degree of respect, but a better indication of his popularity were the two attempts on his life in October and December 1724 by Joseph Blake and Benjamin Bunch. [15] In fact, Wild had few friends when he went to the gallows in 1725: he had alienated the City authorities through his machinations and the London labouring poor because he hanged so many of their number, including their beloved John Sheppard, and although he had assisted many victims of crime to recover their goods they too must have felt cheated by the realisation that he had controlled the thieves. So when Wild went in procession to Tyburn Captain Alexander Smith wrote that he travelled "amidst innumerable Spectators, who went to see the Last of him, who was abhor'd by the better Sort, loath'd by the middle people, and despised by the Mob, who so much insulted him as he rid, that they pelted him with Stones and Dirt all the Way, broke his Head in several Places, and revil'd him with the most opprobrious Language, for having Sold more human Blood at forty Pounds per Head, than would fill the Canal in St. James's Park." [16] According to another report the crowd

drowned the efforts to say prayers, and when Richard Arnet, the hangman and a friend of Wild, told him that "he might take any reasonable Time to prepare himself" the crowd became furious, perhaps aware of the possibility that Wild's efforts to secure a pardon might still bear fruit, and "called out incessantly to the Hangman to do his Office, and threatened to knock him on the Head if he did not immediately perform it." [17] Smith added, "Never did any Malefactor die so much unpitied as this Fellow... when his detestable Carcass was cut down, so outragious were the Rabble, that they had certainly De-Witted it or torn him to pieces, but that it was by a Stratagem of his Widow brought away by two Surgeons, who pretended they had an Order to fetch his Body to their hall, to Anatomize it; which upon this Account was deliver'd to them". [18]

The crowd also reacted angrily in those rare cases in which employers were hanged for murdering their servants. The poor were only too aware that the law favoured the master or mistress over the servant and the apprentice. Those who had "stolen" from employers [19] made up a significant proportion of the hanged; whereas, although assaults on servants and apprentices by employers were frequent, prosecutions were uncommon, indeed an uncertain degree of assault was actually legal, and that uncertainty, together with the likelihood that the sympathy of the justices would lie with the employer, worked to decrease the likelihood of any employer

being successfully prosecuted. The wording of the newspaper report in The Original Weekly Journal in June 1720 of one particularly brutal attack is significant: "A Carpenter in Maggot's Court against St. Jame's-Church, correcting his Apprentice with much Severity, broke his Skull in several Places; the Lad is dead". Parish apprentices were most vulnerable to abuse. They were carelessly farmed out by the poor law officials in order to reduce the burden on the ratepayers and were typically used as cheap labour without any pretence of being taught a trade. Beatings were routine, deaths probably common, and the female apprentices additionally suffered rapes. [20] It was the murder of two such apprentices that led to the cases of Elizabeth and Mary Branch, who were hanged at Ivelchester in 1740 for murdering Jane Buttersworth, and Mrs. Brownrigg, who was hanged at Tyburn in 1767 for the murder of Mary Clifford. Both women had died from beatings and starvation. Whilst the middling classes distanced themselves by expressions of shock and horror at the cases, to the labouring poor they would have provided no surprises since such assaults, even resulting in death, were routine. For them the only surprise would have been that the women were hanged when so many others had escaped: in 1733 the apprentice of John Bennett, a fisherman, died from beatings, starvation and the cold, but Bennett was only convicted of manslaughter; in 1736 James Durant, a

ribbon weaver, was acquitted of the murder of his apprentice whom he had beaten with a stick; and in 1748 Elizabeth Dickens who had sworn to kill her apprentice and eventually did so was also acquitted. [21]

In 1740 the author of The Cruel Mistress reported that, "The People in general cried vehemently against Mrs. Branch, and when she was brought to her Trial, the whole Country all around arose, so that the Sheriffs Officers were oblig'd to convey them back to Ivelchester, after they had receiv'd Sentence of Death, under a very strong Guard in the Dead of Night, for Fear lest the People should seize the Prisoners and tear them to Pieces." [22] Another author reported that when the two women passed from Ivelchester gaol to Taunton for trial, "As they pass'd thro' the Towns and Villages upon the Road, they were pelted with Dirt and Stones", and when the coach in which they were travelling broke down "and they were obliged to walk in an open Manner into the Town... the Populace usher'd them in, with Squibs, Crackers, and Vollies of Dirt and Stones". [23] Since it was feared that "in all Probability the Populace would have pull'd them to Pieces", the hanging was arranged for three or four in the morning, but on arriving at the place it was found that the gallows had been cut down, "as is suppos'd to prolong the Time, that the whole Country might come in." [24] Another gallows was quickly constructed and the hanging took place at six o'clock before a very small crowd and "to the great Disappointment of

the several Thousands of People, that came far and near on purpose to see" [25]; "instead of drawing Tears from the Spectators, (who were not above 200) there was rather a continual Scene of Joy." [26] The Gentleman's Magazine concluded that, "The whole Country seem'd to rejoice in the Condemnation and Suffering of these unhappy Persons on account of the extraordinary Cruelty used to the deceased..." [27]

After the crime had been discovered with which Elizabeth Brownrigg was eventually charged, "two constables were stationed at the doors of their house in Fetter-Lane, to preserve that and the furniture, from the fury of the exasperated populace." [28] She, her husband and her son were arrested, but the usual examination before the Lord Mayor had to be cancelled because it was feared that they might have been attacked by the people. [29] In the end only Elizabeth Brownrigg was condemned. [30] As he rode in his coach in the procession that took her to Tyburn the Ordinary of Newgate, John Moore, reported that, "my ears were dinned with the horrid imprecations of the people: One said to me, He hoped I should pray for her denunciation, and not for her salvation! Others exclaimed, That they hoped she would go to hell, and was sure the devil would fetch her soul." [31]

The crowd also showed sympathy for the condemned or anger at their death. Once again the nature and circumstances

of the offence for which they were hanged seem to have been important. During the coalheavers' strike of 1768 two Irish men, James Murphy and John Duggan, were hanged for murder following a pitched battle between the strikers and some soldiers. It was reported that after the bodies had been removed to Surgeons' Hall for dissection a group of Irish women gathered there and "set up the funeral howl of their country... nor would they disperse until they found no hopes of rescuing their `dear countrymen,' whose death they insisted was a `big burning shame'." [32] Doyle and Valline were condemned in 1769 for cutting a silk loom during a strike. Despite the opposition of the Sheriffs it was decided by the government that the two men be hanged near to their homes in Bethnal Green. During the construction of the gallows the local people hurled debris at the builders, and on the hanging day itself:

> the Mob grew extremely outrageous which obliged the proper Officers to order the Offenders to be turned off immediately. This so irritated the Multitude, that they threw Stones, Brickbats, &c. at the Sheriffs &c.... [33]

After the hanging the Sheriffs took the unusual step of assuring the crowd that every effort had been made to secure a pardon for the two men, however this was to no avail. The crowd uprooted the gallows, took it to the house of Lewis Chauvet, who had organised the employers' resistance to the demands of the workers, and they then proceeded to break his windows and to wreck his furniture until the soldiers arrived

and drove them off. During the hanging the outraged crowd "seized a decent young Man, whom they charged with being a Spy, and after beating him severely, cut the Hair off his Head, and would have cut off his Ears, had not some Gentlemen interposed." [34]

There were also occasions when the crowd reacted angrily to the hanging of a servant for theft from an employer, although as the evidence stands the circumstances when this happened are unclear. In January 1748 it was reported by the Penny London Post that after the hanging in Dublin of Oliver Deacon for robbing the house of his master, Mr. Laffeneau, the crowd took his body to Laffeneau's house and smashed his windows until they were dispersed by soldiers. [35] A similar incident occurred in London in August 1763 when Cornelius Saunders, a blind pauper, was hanged for stealing money from his landlady, a victualler named White. After he was dead Saunders' body was taken by some of White's neighbours to her house where they systematically destroyed her furniture and shop goods, while at the same time pelting with stones a group of soldiers who had been sent to restore order. [36] Both of these actions are now difficult to unravel with certainty. The attacks may have had something to do with the tradition of punishing petty criminals within the community rather than handing them over to the authorities, although it seems unlikely that on its own this is a sufficient

explanation. [37] Other cases in which people like Deacon and Saunders were hanged did not apparently provoke such a reaction, although in view of the rather uncertain state of journalism it is impossible to be positive that they did not. It may have been that the particular attributes of the condemned or the prosecutors provoked such violence.

In the cases of Deacon and Saunders, then, the crowd may have felt that larceny was a crime, but that the criminal justice system was not the appropriate means of punishment. In other cases discontent amongst the crowd and sympathy for the hanged resulted from the view that the behaviour punished was not a crime. Thomas Colley, as has been mentioned, could not accept that in being involved in the drowning of a woman he believed to have been a witch he had committed any crime, and his neighbours agreed "that the Man is to be hang'd wrongfully". So that at his hanging in Tring, in spite of the elaborate arrangements which had been made, there was reported to be "a very thin Audience; for so great was the Infatuation of the People in general, in that Part of the Country, that they would not be Spectators of his Execution, declaring and insisting that it was a very hard case, that a man should be hang'd for destroying an old wicked Woman, who had done so much Mischief by her abominable Charms and Witchcraft." [38] Other offences which were sometimes treated in the same way included turnpike levelling, poaching, smuggling, wrecking, coining and offences in connection with

labour disputes and the Minters. [39]

2. "protect my dead Body from Indecency

At the gallows the first way in which the condemned often sought the help of people in the crowd was in ensuring as swift a death as possible. This was achieved through pulling on the legs of the hanged person. Issac Darkin stood under the gallows at Oxford "several Times begging of the Populace to hang upon him". At Tyburn in 1773 Cox took the precaution of giving the hangman a half guinea "to do his business well; and his man a quarter of a guinea, to pull his legs while hanging because he thought his body would not be heavy enough to dispatch him, without more weight." Probably such actions were common, although they were usually only recorded when the rope broke. In 1701 the recently appointed Paul Lorrain regarded such an incident as offering an opportunity to preach a little more to Captain Kidd about repentance, whereas when it happened some years later to William Ray the more world-weary James Guthrie merely recorded that Ray was hanged again. [1] The condemned also looked to friends amongst the crowd for reassurances over the disposal of the corpse. Death was a phenomenon which could not always be easily recognised, indeed a book, The Uncertainty of the Signs of Death and Danger of Precipitate Interments, was published on the subject. [2] The revival of

people after they had been hanged was well known and several attempts to achieve this end are also recorded, but the main concerns, I will argue, were to protect the corpse from "those fleeing rascals, the surgeons" [3] and to ensure a "proper" burial, not to preserve life, to which I shall add later the desire to prevent the hangman from stripping the corpse of clothing and valuables. In the desires to maintain the integrity of the body after death and to ensure its burial in consecrated ground there is further evidence of the strength and content of popular religion. The interest which condemned prisoners in Newgate had in the fate of their corpses as recorded by the Ordinaries has been described by Linebaugh, and other biographical literature confirms his findings for that prison. So, for instance, in 1750 James Maclaine expressed the hope that Dr. Allen, his biographer, would see his corpse "decently interr'd, and take all the necessary Precautions to prevent my being a Prey to the Surgeons." [4]

The problem posed by surgeons was not, however, confined to Tyburn. Certainly it was of much concern to those hanged in Surrey, especially at Kennington Common which was close enough to the anatomy schools in London. James Cooke, a twenty-two year old ostler originally from Kingsland in Herefordshire, wrote from Southwark prison in 1739 to Molly Hill, the woman he was to have married, asking if "your

Father would take some Friends with him, to secure my Body from those inhuman Man-slayers the Surgeons, who, as I am inform'd, lay wait for my Carcase and have offer'd a considerable Sum for it". [5] At Oxford in 1749 Paul Wells, as he was leaving the prison, "begg'd that his Friends would not suffer him to be insulted". The same worry troubled Issac Darkin in Oxford prison in 1761, and he was said to have been made "a good Deal more easy, as he was assured his Body should not be anatomized". [6] Riots with the anatomists over corpses continued in Oxford even after they seem to have more or less faded away in London. When in 1754 Acton Brice and Richard Baylis were hanged there for highway robbery,

> The Professor of Physick, in pursuance of a Charter granted to the University of Oxford by King Charles the First, had signed a Warrant, directed to the High Sheriff, demanding one of the Bodies to be delivered to a Gentleman of the University, for the Purpose of a Course of Lectures in Anatomy, to be by him read there. The Warrant was regularly tendered and the Under Sheriff exerted all his Power and Authority, in order to deliver the Body according to it: But a Crowd of Bargemen, to the Amount of about Fifty, appeared at the Gallows, armed with Clubs, Hangers, Knives, &c. and, in Defiance of his Authority, and Menaces and even reading the Riot Act twice, carried away the Bodies in Triumph. [7]

The same problem with surgeons was reported by the Penny London Post in 1748 as occurring in Scotland, not surprisingly in view of the strength of medical education there: the friends of Alexander Cheyne beat off an attempt by surgeons to remove his corpse. [8]

The constant threat which the surgeons' assistants posed

might lead a crowd to riot on the slightest of grounds, especially when the hanged person was a popular figure as in 1724 with John Sheppard. The crowd, believing that his body had been taken by the surgeons' assistants, rioted, and so the foot guards were to be called out. They ended the riot and ensured that Sheppard was buried in consecrated ground. In the event it seems that the crowd may have been mistaken since the person from whom they had snatched the body was reported to have been an undertaker hired to bury it. [9] The activities of the surgeons' assistants in relation to corpses endeared them to very few sections of society, and this presumably lay behind the official reluctance to intervene in struggles over corpses. There were also constant rumours in the Press about legal measures being taken against activities which were associated with the surgeons, most notably body snatching [10], although nothing much was done in terms of legislation. However, occasional prosecutions were undertaken for grave robbing, including in 1748 that of John Walker who was sentenced to be transported at the Old Bailey for stealing a coffin and shroud in which was the body of Francis Hill, hanged at Tyburn; Walker had merely been supplying the body to a surgeon for a guinea, but had made the mistake of taking the coffin and shroud so that he had committed theft of these items (a body could not be stolen) - the surgeon who received the items was not, however, prosecuted. [11]

Linebaugh has argued that due "to both the changed methods of teaching anatomy and the creation of additional schools, the demand for corpses increased suddenly in the early eighteenth century", and that there was "an enormous increase in the demand for corpses." [12] Yet despite what in his essay appears to be a limitless appetite for corpses amongst the surgeons even in London not all of the hanged had friends who would see to their burial and yet these corpses were not always taken up by the surgeons. Moreover, the condemned evinced a concern not just that their bodies be protected from the surgeons, but also that they be buried in consecrated ground, and these turn out to be two quite separate issues. Four of those hanged in October 1749 at Tyburn "lay in the Fields for want of Friends to bury them", and three others had been buried near the gallows in unconsecrated ground; Morley, who was left hanging at Tyburn in February 1775 after the others had been cut down, was described as "so wretchedly poor, that he had no one Friend to take Care of his Body". [13] Many of the condemned expressed concern over their body specifically in terms of its burial. When the chaplain at Southwark prison went in 1751 to see Henry Bryant, a former sailor who had combined running a pub in Shoreditch with robbery and burglary, Bryant "mightily implored a Coffin, and to be buried in the Burying Ground of St. George, but having no Friends nor Money for that Purpose, he fell into great Agonies, and Floods of

Tears; upon my informing him, that his Desire should be complied with, he was very thankful, and almost transported with Joy." [14] Bryant was only too aware that being friendless meant that even if his corpse were not taken by the surgeons' assistants it would probably not be buried in a churchyard. John Smith, one of the Culworth gang hanged at Northampton in 1787, wrote to his wife, "My Dear, I desire my Son William will make my Coffin, and let me have it here before I die; and I desire you will have my Body taken Home to my own House, that you may see me buried." [15] In 1721 John Thomson sat in Newgate and "lamented grievously, that all his Friends had now forsaken him in his Distress, and that tho' he had lately had such a numerous Acquaintance, he knew not, that he had one left who would procure a Coffin for him or take any Care that he should be buried." [16] Two years later Thomas Athoe and his son, also called Thomas, were both condemned for murder by the Court of King's Bench, and as they sat in King's Bench prison far from their home near Tenby, where the father had been mayor in 1721, they asked Chapman the gaoler "to attend them to the Place of Execution and that he would take care their Bodies might not hang longer expos'd to Public view, than the Time the Law prescrib'd." [17] Sarah Wilmshurst, condemned in 1743 for infanticide, had her mind set at rest with the assurace that her brother and father would have her body "decently interr'd

in a Christian Manner". [18] This desire for burial was also expressed in a contemporary, psuedo-underworld poem:

> There stands Jack Ketch, that Son of a Bitch,
> that owes us all a Grudge:
> For when that he has nubb'd us,
> and our Friends tip him no Cole,
> He takes his Chive and cut us down,
> and tips us into a Hole. [19]

Having people willing to rescue the body from the surgeons did not mean that they would be also willing to pay for burial in consecrated ground: after the brickmakers had rescued John Harris in 1743 they buried him near the gallows and apparently without any ceremony. A source of funds was important at this stage. James Cooke, whose request that Molly Hill's father protect his body from the surgeons has been quoted, went on to add, "I desire likewise he would provide me a decent Funeral, for which I shall leave sufficient with him." [20] William Smith, a graduate of Trinity College, Dublin who was condemned in 1750 for forging Royal Naval seamen's wage tickets, raised a large sum of money whilst in Newgate through an advertisement in the London Gazetteer in which he had asked for contributions for his burial so as to "protect my dead Body from Indecency, and to give me Consolation of being assured that my poor Ashes shall be decently deposited within the Limits of a consecrated Ground." [21] Some of the condemned were able to afford fairly lavish arrangements. Philip Thomas, hanged for horse stealing in 1735 at Aylesbury, arranged to be "carried

to the Grave by six young Men, and his Pall supported by six young Women drest in white, chose out by him for that Purpose." At York in 1739 Richard Turpin gave three pounds and ten shillings to five men "who were to follow the Cart as Mourners, with Hatbands and Gloves, and gave Gloves and Hatbands to several Persons more." [22]

Of course, making these funeral arrangements implied an expectation that the surgeons designs on the corpse would be defeated: so Maclaine expressed the desire that "all the necessary Precautions" would be taken. [23] This meant that the corpse would be protected not only from the surgeons' assistants at the gallows, but also from the body snatchers in the churchyards. At Guildford in 1742 the bodies of the hanged were rescued from the surgeons and taken to the churchyard "where having watch'd them all the Night, they were decently buried the Day following." [24] Yet even standing guard over the bodies did not always defeat the surgeons. In 1738 following a hanging at Guildford Rev. Bannister wrote that although the bodies of Thomas Cosgrove and Oliver White were buried by their families and White's father, who had travelled from Carlisle, "watched his Grave almost all Night... the Surgeons, 'tis said, had them all." [25] Equally Turpin's lavish funeral did not prevent his body from being disinterred by body snatchers. [26] The solution was to use unslaked lime, although doubtless the effect which this had on the body tended to discourage relatives and

friends from taking this course. In 1751 William Parsons was placed in a coffin with unslaked line and water, "which was done to consume the Body, (which was imagined it would do in 24 Hours) to prevent it from being of any Service to a Surgeon." [27] More drastic was the action reportedly taken by the bargemen who took Issac Darkin's body from the gallows, "cut open his Belly and filled it with unslaked lime". [28]

So the assurances that someone would not only frustrate any designs which the surgeons might have, but also see to a burial in consecrated ground were important and not necessarily interdependent. Occasionally the intentions of friends were defeated: in May 1736 after George Ward was hanged at Tyburn the surgeons moved in to take the body, but "the Mob oppos'd it, and a terrible Battle ensu'd, when several Heads were broke on both Sides; but the Mob not only carry'd Ward's Body away, but would not suffer the Surgeons to carry off any of the other Bodies"; however, the surgeons did not give up so easily and later "the Body was retaken and carry'd to Surgeons Hall." [29] It seems probable that the presence of people interested in the rescuing of a particular corpse led the surgeons to seek the easier, undefended bodies: for instance, when six people were hanged at Kennington Common in September 1739, four of the bodies were taken by the friends and so the surgeons merely took away the

two friendless bodies. [30] Many were buried without the mention of any problems: for instance, in 1750 at Tyburn James Maclaine's body "was taken Care of by his Friends, and carried off in a Hearse and decently buried"; similarly the body of Matthias Keys, the son of a Billericay vintner, "was taken Care of by his Friends, in order that he might have a decent Funeral" after he was hanged at Kennington Common in 1751, possibly the same people who had been reported as lurking around the courtroom during his trial "threatening to shoot those Persons who were concerned in the Prosecution". [31]

The task of defending a corpse or securing its burial was not taken up by the whole of the crowd, nor even by all the labouring people present. The literature occasionally provides a glimpse of the friendship which led people to take the time and trouble to bury people after they had been hanged and even to join battle with the surgeons' assistants. James Timms received a letter from his friend, John Barry, while he was in Newgate in 1740 assuring him that "we shall take care of your Body". [32] Even more remarkable was the action of John Clark who went to Tyburn in order to assist in the rescue of the body of John Parker and was there arrested and later hanged. [33] Similarly friends and relatives appeared to take care of some of those hanged outside London. [34] In 1739 at Kennington Common the hangman became rescuer: one of the hanged was Johanna Rashford Sambo, alias Juggy,

who had lived with the executioner, John Thrift, for five years: after she had been hanged, "Juggy was carried away by her friend the executioner", and the surgeons had to be satisfied with the other corpses. [35] Linebaugh argues that in addition to friends, workers also gathered at Tyburn to rescue the corpse of someone who had been in the same trade as themselves, even though they might not have been workmates or friends. Sources other than the Ordinary of Newgate's Accounts seem to support his argument: for instance, one London newspaper reported in August 1749 that a group of sailors took away the body of John Gray, a sailor hanged for uxoricide, although no battle with the surgeons was reported. [36] Moreover, comparable instances can be found outside London. At Kingston in 1736 William Carlow was hanged for street robbery; he was "by Trade a Hatter", and after his body had been cut down it was taken to London in a boat "by a Gang of Hatters, who attended the Execution for that Purpose." [37] Similarly at Kennington Common in 1739, "The Surgeons fix'd on the Body of one of [the condemned], a Shoemaker, but it was rescued by a great Number of the Craft"; and at the same place in 1743 the body of John Harris, a brickmaker hanged for horse stealing, was taken away by a group of brickmakers. [38] After Thomas Scott and James Read were hanged at Gosport in July 1748 for a naval mutiny they received elaborate burials:

> the Pall for Scott was held up by six young Women of Credit, dressed in White, supported by six young Men; the Women had handsome Breast-knots and Gloves, and the Men Gloves and Favours; before his Corpse walked three of the young Men that received his Majesty's most Gracious Pardon, in the same Dress they were to have been executed in; their modest Deportment and Concern, greatly affected the Spectators, who were more numerous than I ever saw at a Funeral in this Town; close behind his Corpse followed that of James Read's, which was supported by Tradesmen, and other Persons of Credit, followed by all their Shipmates that remained in Town [39]

However, solidarity of work, family or friendship does not always explain the interest of the rescuers. A dislike of the surgeons seems to have motivated some of the rescues. At Guildford in 1742 some people came forward as the result of an appeal direct from the gallows by the condemned who "desir'd the Bargemen, and other People, who were very numerous at the Gallows, not to let their Bodies be taken by the Surgeons." The crowd responded to this appeal even though there seems to have been no link between the bargemen and the condemned. [40] A similar appeal was made by Daniel Moylon in Guildford a few years before in 1738. Rev. Bannister, the prison chaplain, recorded that as Moylon stood at the gallows making his dying declaration,

> he saw one Osmar, a Surgeon of Guildford, and remembering he had insulted him in Jail, by asking him what he would have for his Body, thought he was coming to steal it, pointed him out, says to the Multitude, "Good People of Guildford... There's Dr. Osmar, who came to me in Jail, and asked me to sell my Body." Then turning to Osmar, told him, he was an inhuman Man to put such a Question to him; pray'd the People to see him buried, that they were made publick for their Crimes in Life, and ought not to be exposed after Death: "But," adds he, "if my ugly Carcase must be

> anatomized, don't let him have it, but sell it to somebody else, and let the Money be given to poor Prisoners." [41]

A Mr. Wilson of Henly Park assured Moylon that he would bury his body. [42] The other prisoners then made similar pleas and several people in the crowd promised to see to their burials too. However, according to Bannister, "the very Persons that made them the Promise took several of them to the Surgeons". [43] In 1736 at Bristol when John Vernham revived after being cut down he was looked after by lightermen, who had promised to defeat the surgeons, and, when he later died, they took his body by river to bury it "in the Sands in Kingroad, secure from the Surgeons." [44] At Kennington Common in 1743 the brickmakers who had gone for Harris's body also later took away that of Thomas Collins - with whom they seem to have had no connection - which, friendless, had been abandoned at the gallows and then taken up by the surgeons' assistants, but was soon returned to the gallows because it was diseased. [45] The friendless Morley, who had been hanged at Tyburn in 1775 for a robbery involving sixpence, was left hanging after the rest had been cut down and removed, eventually after he had been "hanging twenty Minutes longer than the rest, the Mob took down the Body, and burned it in the Fields." [46] In 1754 William Smith, who was hanged at Kennington Common for robbery, was reported to have been buried at the expense of the person who apprehended him. [47]

There are also grounds for suggesting that people gathered to protect a corpse not out of comradeship, but for money, having been hired by the condemned or a friend or relative. The author of A Trip through the Town (1735) relates that two condemned street robbers had been greatly comforted because their women friends had engaged men "from the third Regiment" to fight off the surgeons. [48] Certainly this practice occurred in the case of the pillory: in 1732 it was reported that colliers with clubs were hired by Richard Baggs to protect him whilst he stood in the pillory in Bristol. [49] Moreover, as has been seen, the condemned often raised money for the funeral, and burial often necessitated defeating the intentions of the surgeons. Furthermore, this practice of hiring people would explain why relatives who were strangers to London were able to raise people to rescue corpses, why groups which seem to have had no connection with the condemned involved themselves in the battles, and why certain groups, such as the bargemen at Guildford, the sailors at Tyburn and the lightermen at Bristol, continually appear in the role of rescuers even when they appear to have no relationship to the hanged person. Linebaugh ignores these problems and as a result sometimes struggles to fit the hanged into rather tenuous relationships. [50] In 1761 Issac Darkin's body was secured at the gallows by "a large body of bargemen" who then buried it, yet Darkin was the son of a

cork cutter in Eastcheap and seems to have had no links with these men, [51] and, as has been seen, bargemen figured in other rescues, such as of Moylon and the others at Guildford in 1742 and of Brice and Bayliss at Oxford in 1754. Of course, equally possible is that some of the people who acted as rescuers were attracted by the prospect of a fight with the surgeons' assistants.

3. Why didn't the Crowd Rescue the Living?

Although the rescue and the defence of corpses was quite common, as was also the escape of convicts from prison [1], the rescue of a living person (or their escape) from the gallows was virtually unknown, much to the surprise of contemporary observers. Following one battle at Tyburn between the surgeons and the friends of George Ward a newspaper, referring to the legal right of the surgeons to take corspes, commented that, "If such Things as these are not prevented, the Mob will, in Time, it's suppos'd, rescue the very Prisoners as they go to the Gallows". One writer remarking on the chaos at Tyburn in 1751 wrote that, "it must appear wonderful, that no attempt was ever made to rescue any of the prisoners, than which, in such circumstances, nothing certainly could have been more easy." Two men, Bryan Smith in 1725 and John Davis in 1733, had in fact managed to run off from the cart at Tyburn, but both were quickly recaptured and

hanged. [2] Anthony Hilliar alleged in his A Brief and Merry History of Great Britain (c.1710) that one person had been rescued from Tyburn by his friends after he had dispersed the crowd by telling them where he had hidden the loot from his crimes, but this is probably an apochryphal story. [3] In 1736 Thomas Reynolds, a turnpike rioter from Ledbury, revived at Tyburn after he was cut down and the crowd prevented the hangman from hanging him again; unfortunately following bleeding and liberal doses of wine he died. [4] The only documented rescue from the gallows itself, in London at least, is of James Buchanan from Execution Dock at Wapping in 1738. He had been condemned for the murder of a fellow sailor in Canton of which he declared himself innocent, and had been hanging for about five minutes when, according to Rev. James Guthrie, "some Sailors got on the Scaffold, and endeavour'd to cut him down; on which a Scuffle ensu'd between them and the Officers; but many other Sailors coming to the Assistance of those who first made the Attempt, he was cut down (as I was inform'd) in less than 6 Minutes after I parted from him, and his Body carry'd off in a Boat, with loud Acclamations of Joy, accompanied by a great many Sailors." [5] What motivated the rescue is unclear: it may have been to do with the circumstances of the murder, Buchanan's claims of innocence, or even the character of the victim, a fourth mate who objected to Buchanan, a Scot, "carousing with two of his Country-folks". [6]

This disparity between the large number of rescues and defences which were mounted at the gallows after the person was dead and their virtual absence before the hanging is something which Linebaugh fails to explain. The reason might be expected to lie in the presence of the military and civil guard. Certainly it was reported that in March 1735 a large and well-armed escort was present at Tyburn because of the fear of a rescue. [7] Yet in some highly volatile situations, such as the hanging of Penlez in 1749 and of Doyle and Valline in 1768, no military guard was present. The answer lies in the crowd's attitude: no matter how much they sympathised with the condemned they did not wish to intervene in the carrying out of the punishment. Describing a hanging at Tyburn in May 1742 Guthrie relates that there was a great deal of concern over the possibility of a rescue and as a result a strong guard was provided. Sure enough at the gallows there were "a great Number of stout young Fellows pressing pretty near the Cart". However, the reason for their presence soon became clear: "But they declaring they had no other Intention than to take Care of the Body for Christian Burial, which being promised them, they Attended to the Gallows with much Decency and Quietness." [8] Similarly at the hanging of Bosvaren Penlez in 1749 for his involvement in a sailors' riot against the brothels in the Strand:

> There was not the least disturbance, except during a moment at the gallows, where a vast body of sailors,

> some of whom were armed with cutlasses and all with bludgeons, began to be very clamourous as the unhappy sufferers were going to be turned off, which Mr. Sheriff perceiving, he rode up to them and enquired in the mildest terms the reason for their tumult. Being answered that they only wanted to save the bodies of their brethren from the surgeons, and the sheriff promising that the latter should not have them, the sailors thanked the above magistrate, wishing every blessing to attend him, and assured him that they had no design to interrupt him in the execution of his office. [9]

Two points arise from this account. First, Linebaugh fails to refer to the whole of this crucial passage, and so misses important aspects of the account of the hanging. His rendering of the event is that "The `vast Body of Sailors... assembled there to save the Bodies... from the Surgeons'". [10] But the London Magazine refers to the sailors' desire to save "the bodies of their brethren", and this would seem to indicate that their target was not, as Linebaugh argues, Bosvaren Penlez, but the other fourteen men who hanged with him, all of whom were sailors. [11] Probably driven on by a general dissatisfaction over their treatment following the end of the Austrian War of Succession, sailors had been determined in the rescuing of the corpses of their brethren from Tyburn in 1748 and 1749. [12] The second point is that Linebaugh fails to refer to the last part of this quotation. It shows that, as with food riots, the friends, relatives and workmates assembled without any intention of intervening in the right of the state to govern [13]; all they sought was that the proceedings be carried out according to popular

notions of religion, morality, custom and Justice. This is supported by the evidence of other riots at the gallows, and it explains why, in spite of the occasional expectations of the authorities to the contrary, the crowd did not make any apparently serious attempt to rescue living people from the gallows. This not only provides an important key to understanding the riots around the gallows, it also enables us to connect up these riots with other forms of community action, such as food riots, in the eighteenth century.

4. The Hangman's Perquisites

Although the corpse was an important focus of conflict, condemned prisoners and their supporters in the crowd were also concerned over the question of the behaviour of the hangman and his assistants. There was a general contempt for the hangman: the Public Advertiser observed, following a hanging in August 1780,

> however great an Ignominy the Force of Prejudice may have stamped on the Office of Public Executioner, the present Jack Ketch is a Disgrace even to that Ignominy; for he handles the unhappy Convicts with as little Concern as a Butcher would a Sheep or Bullock: And tho' it were impossible to humanize this Savage, or tincture, by the strongest Exhortation, his debased Soul with Benevolence, yet he might at least learn to be decent. On Wednesday last he threw off the Hat of one of the unfortunate Sufferes, in a Manner that merited the severest Censure; and for other brutal Acts, he was much booed by the Populace. [1]

That brutality was the expected norm is indicated by the

surprise expressed by one writer when the hangman Edward Dennis was observed to have "behaved with great tenderness" at the hanging of Rev. James Hackman in 1779. [2] Assaults on hangmen were not uncommon. In 1717 William Marvell was so badly beaten by the crowd at Tyburn that the hangings which he was on his way to perform had to be postponed [3], and in March 1769 as Thomas Turlis, another London hangman, performed one of his duties at the pillory in Southwark he was attacked by the crowd "with Stones and Brick Bats, which cut him in the Head and Face in a terrible Manner." [4]

Hangmen were expected not to abuse the condemned unnecessarily. According to Evelyn, the way in which the headsman bungled the beheading of the Duke of Monmouth in 1685 "so incensed the people, that had he not been guarded and got away, they would have torn him to pieces." [5] When the hangman at Yarmouth failed to adjust the halter correctly around the neck of Elizabeth Thompson in May 1736 she complained bitterly, "Am I to be butcher'd to Death!" [6] A few months later at Tyburn when "to the great Astonishment of the Spectators" Thomas Reynolds, who had just been cut down and put into a coffin, "thrust back the Lid, and... clapt his Hands on the Sides of the Coffin in order to raise himself up", the hangman, probably John Thrift, unwisely tried to hang him again; this incensed the crowd who "fell upon the poor Executioner... and beat him in a most miserable Manner". [7] Similarly, the crowd were outraged when the Sheriffs

ordered Doyle and Valline to be hanged without giving them time to pray or to make a dying speech. [8]

The issue which caused the most friction was the customary right claimed by the hangman to the clothing of all those who had been hanged, a right which dated back to at least the sixteenth century and which the authorities tacitly accepted, partly no doubt because it meant lower fees. The practice was to strip the corpse of clothes and other valuables, including money. The biographer of Palliotti, hanged at Tyburn in 1718, noted that after death he was "Stript to his Waistcoat and Cap". [9] This custom was also observed outside London: so, for instance, it was reported that at Kennington Common in 1739 Noah Goobee "was stript at the gallows, of all, except his breeches". [10]

The existence of this right explains some of the actions of the condemned at the gallows. It was possible to compound with the hangman to prevent this indignity [11], indeed the tradition by which some (almost certainly a small minority) gave money to the hangman in the hope that he would "do his business well" [12] may also have had an element of composition in it, although it seems that in spite of de la Motte handing over five guineas at Tyburn in 1781 the hangman still sold off some of his property. [13] Compounding occurred only when the prisoner or his or her friends were wealthy, or when the civil officers wished to protect the

corpse from being stripped. After Rev. Hackman was hanged the two Sheriffs, the Under-Sheriff, the City Marshall, the Ordinary of Newgate and Rev. Porter, "all alighted out of their carriages before the gallows... to settle with the executioner about his cloaths", and finally agreed on two guineas. Although some years before Earl Ferrers had asked not to be stripped and was told by the sheriff that, "though his clothes must be taken off, that his shirt should not." It may be that by 1779 the authorities were beginning to draw back from such customs, at least when the gentry were being hanged. [14] However, Ferrers did take the opportunity of divesting himself of some of his valuables before getting out of the coach which had taken him to Tyburn: giving his watch to Sheriff Vailliant and five guineas to the chaplain, and also gave a wallet to the Sheriff to be passed to Ferrers' mistress. [15] This practice had a history as long as the custom itself: before Sir Thomas More went out to be beheaded he changed from a gown of silk camlet into one made of frieze on the advice of the Lieutenant of the Tower of London who said that the latter was quite good enough for the executioner. [16] However, for some this consideration conflicted with the desire to appear in their best clothes, so the alternative was to dispose of some of these clothes at the gallows. At Kennington Common in 1770 as George Allen "arose up in the cart, for the executioner to perform his duty, he pulled off his hat and threw it among the

spectators." [17] At Tyburn Charles Lee threw his money to the watching crowd, and in 1740 Margey Stanton, "Ruggerty Madge", "cut off her Petticoat, being a good one, and gave it to a Man of her Acquaintance" [18]; whilst in 1763 Hannah Dagoe, "took off her hat, cloak, and other parts of her dress, and disposed of them among the crowd" [19], and in 1774 William Hawke gave the silver buckles from his shoes to a friend. [20]

The taking of this perquisite by the hangman was also a point of conflict with the comrades of the condemned amongst the crowd, and it seems likely that pleas, such as William Smith's in 1750 that his body be protected "from Indecency", were meant not just as requests to ensure a proper burial. The same solidarities as have been seen in the discussion of the rescuing of corpses also lay behind the defence of the body from the indignity of being stripped. After Nicolas Mooney was hanged in Bristol in 1752, "the Hangman very deservedly had his Head broke, for endeavouring to pull off Mooney's shoes". [21] In 1762 Joseph Kello, James Collins and James Whem were hanged at Tyburn. Collins and Whem were both soldiers, and many of their fellow soldiers turned up to prevent the hangman from stripping the bodies:

> The greatest number of soldiers were present at this execution that has been known for many years in order to put a stop to that shocking custom of the executioner's stripping those unhappy wretches before they are cold, which they entirely prevented, and would not suffer him to take so much as the few things which

were in their pockets. [22]

The authorities were well aware of the problems that might arise especially in otherwise tense situations. In 1769 after the hanging of Doyle and Valline, the Sheriffs, who were rightly nervous about the reaction of the crowd, "gave strict Orders to the Executioner neither to strip the unhappy Sufferers, nor to compound for their Cloaths, but to deliver them to their Friends, and they [that is, the Sheriffs] would pay for them." [23]

5. Restitution of Stolen Property and the Condemned

Often amongst the crowd which gathered in the condemned cell and around the gallows were people who went primarily not as spectators, but in the hope of extracting information about stolen property. According to the Evening Post, John Sheppard was visited by "several Noblemen" partly, no doubt, out of curiosity, but also with the recovery of property very much in mind since the report notes that Sheppard admitted some robberies, "and in particular, the Robbing of a Gentleman in Leicester Fields of a Gold Watch". [1] When James Maclaine was first arrested and put into the Gatehouse in 1750, he had many visitors and "he was at first, much dejected to be made so publick a Spectacle, especially as he was frequently charged with Robberies he had no Concern in". [2]

Prison chaplains regarded it as one of their functions to induce prisoners to restore stolen property. They did so by trying to convince them that restitution was one of the requirements for a true repentance, and this included restitution for offences for which the individual had not been charged or convicted. Rossell wrote that "all Sins which require particular Acts of Restitution, ought to be confess'd to the injured Party, and Satisfaction made." [3] In 1690 Samuel Smith explained to John Bennet the notion of restitution:

> He did acknowledge his Crime, whereupon I exhorted him to make Restitution to the utmost of what remained in his Hands, otherwise his Repentance could not be sincere: He though this to be a strange Doctrine, when as, he said, he dyed for robbing. I told him, that he paid his Life to the justice of the Law, but made no Satisfaction nor Recompence to those he had despoil'd of their Estates." [4]

So Lorrain was doubtless pleased to report that George Hollingsby, condemned in 1713 for housebreaking, had sent for such of his victims "as he knew, to ask their Pardon, and give them what Information he was able, that he might be of use to them". [5]

Many prisoners refused to cooperate: in 1735 the convicted pirate Thomas Williams told James Guthrie, "he was to die, and that was all could be done to him, so thought himself under no Obligation to make any Discovery for the Benefit of the injured Owners, tho' he spoke as if it was in his Power to tell where the great Part of the Money was".

[6] After Issac Darkin had been capitally convicted in 1761 Lord Perceval, the Earl of Egmont, sent one of his servants to ask about money which Darkin had supposedly stolen from him, however, Darkin refused to provide any information. [7] Similarly when Sir Gregory Page sent his coachman to Newgate in 1735 to question Humphrey Walker, who was fatally ill at the time, "Walker flew into a violent Passion, was very angry with him, for asking him such a Question." [8] Others claimed they were unable to help: Peter Bennet, "French Peter", a housebreaker, "declared, that (to his Grief) he was not able to make any Restitution or other Reparation to the Persons he had thus wrong'd". [9]

For the condemned prisoner, assisting someone to their property offered a possible means of obtaining a pardon, or at least a respite. In 1774, according to one biography, whilst in Newgate William Hawke was visited by someone whose watch he had stolen. Hawke became assiduous in its recovery. He wrote to Dunkirk, where he had sold the watch, requesting its return, "As the Watch was the Property of a Gentleman, who may, on his receiving his Watch again, be the Means of saving my Life". But Hawke's hopes for a pardon failed and with them his enthusiasm for giving any further information to those who came to see him. On the night before he was to be hanged the Ordinary, John Villette, showed him a note from someone asking if he had committed a particular robbery near Uxbridge, "He replied with a Smile, Why do they ask such

foolish Things." [10] In 1762 Edward Jewin sought some kind of a deal with Edward Curry whose property he claimed to have stolen, "but not keeping his word, he was cast at the Old Bailey." [11]

Another motive for helping victims to their property was the need for money in prison. It was alleged by the Gentleman's Magazine that whilst under sentence of death in Essex in 1731 William Smith had received large amounts of money in exchange for telling people the whereabouts of their goods. [12] William Walters was asked by a visitor to him in Guildford gaol in 1742 about a watch, whereupon Williams "refused to tell him, unless he gave him a Guinea; which the Gentleman thinking too much, would not comply with." [13]

The inquries continued even at the gallows. The man who had refused to give Williams a guinea in Guildford prison for information about his watch, repeated his question at the gallows at which time Williams told him where it had been pawned. [14] As William Delacourt stood under the gallows at Tyburn in 1689 he was said by the Ordinary, Samuel Smith, to have "Answered some Questions Asked him by the Party he had Robbed". [15] Burton Brace was asked at Tyburn in 1736 if he had been concerned in a robbery at Windsor, to which Brace replied that he had not. [16] Similarly in 1740 John Moore was asked by a Rev. Millar about the location of his watch, but Moore told him it was "irrecoverable". [17] Even at this

final stage there was, as has been seen, still the slim hope of a respite, or perhaps the pressure was simply too much for some to resist.

6. Gaolers, Scientists and the Practice of Vivisection

Before, during and after the hanging other interested parties intervened to dilute the value of the gallows as the engine of state power.

In a prison system where the gaoler's income was based on the fees he was able to extract from prisoners and their visitors it is hardly surprising to find that almost anything was possible for a price and equally that almost everything had its price. Indeed there were complaints that at some gaols even friends and relatives were turned away if they failed to pay a fee: so, for instance, whilst a group of gentlemen who were willing to pay were allowed to see Thomas Jones in Southwark gaol in 1751, his wife was not given access. [1] The gaolers at Newgate, as has been seen, obtained huge sums through their inability to hold John Sheppard, and in 1773 William Cox, who was visited by "great numbers of people" when he was in the same prison, "On looking thro' the gate of the Press-yard, and observing that the man who turns the key took money of the people to let them in... exclaimed with an oath, `That fellow gets more money by making a shew of me, than ever I did by thieving.'"

[2]

It is fair to say that it was not just the gaolers who benefited from such visitors. Even if by a lucky chance a prisoner did not contract gaol fever, he or she faced a very hard time: after the sentence of death had been passed on "Cocky" Wager in 1736 he did not beg for mercy, but instead complained to the Lord Mayor that the felons only received bread and water, and asked if they could have two pints of beer a day. [3] To those without money visitors meant the possibility of a slightly more comfortable existence, or the prospect of a decent burial, or perhaps a good set of clothes for the hanging day. Joshua Harding, who had so miraculously survived hanging at Bristol in 1736, became a great curiosity: "Abundance of People visit him and give him Money". [4] Thomas Wood and Thomas Billing, whose evidence for the Crown in a notorious murder case convicted Catherine Hayes in 1726, received many visitors who "generously relieved their Necessities by giving them Money, and pious Books suitable to their Circumstances." [5] Similarly in 1739 the chaplain of Southwark prison remarked on the way in which "the spectators" (a revealing choice of word) who went to see the condemned were "almost all, giving them money, on which they lived". [6] When Parson Woodforde visited the prisoners in Oxford Castle in 1761 he carefully noted that he had given "a girl... in for stealing a Shift... 0.0.2d." At Tyburn in

1722 James Carrick thanked, "such Gentleman of the same Kingdom wherein I was born [Ireland], as have contributed towards my Support during my Imprisonment". [7]

For some writers the defiance and lack of concern which offenders showed in court and at the gallows could be directly traced back to their "lavish" treatment in prison and so, by implication, to the money they obtained. The biographer of John Barry, hanged in 1746 for forging a sailor's will, wrote:

> Indulgence to him not to be well iron'd - to live as he list - faring sumptuously every Day - I say, to treat a condemn'd Malefactor, so proud and stubborn in his Nature with Indulgence of this Kind, is, seemingly, of all Things, the most unadvisable, if not dangerous to such an unhappy Person's Soul - So that when the general Interest of the Keepers of Prisons in this Kingdom, in these Cases, becomes to be laid aside, and the Importance of Men's Salvation conscientiously preferr'd thereto, in all Probability, great Honour would redound to our Country, if not to the Christian Religion. [8]

There was also the interest which surgeons took in felons, not as objects for dissection, but as living tissue upon which dangerous medical techniques might be tested. For the felons there was the offer of a conditional pardon. In 1721 six felons in Newgate agreed to be used in the testing of a smallpox vaccination by Lilly, the apothecary to the royal family [9]; it was announced in 1730 that a machine had been designed "in which the Head of Charles Reay, the Malefactor, is... to be fix'd, in order to make the Experiment on the Drum of his Ear" [10]; and in July 1763

Thomas Pierce obtained a respite for George Clippingdale, a condemned prisoner in Newgate, so that he might test a styptic, but H.M. serjeant surgeons, to whom the request had been referred, recommended that permission to go ahead with the experiment be refused until further testing had been carried out on animals. [11]

Other surgeons were fascinated by the stories of people reviving at the gallows, and either sought to assist such revivals or to prevent the effect of hanging. No surgeon seems to have been called to Thomas Reynolds as he lay in a Bayswater public house following his dramatic revival at Tyburn: he vomited three pints of blood, having done which he was reported, somewhat improbably, to have been recovering when he was given a glass of wine and died. [12] At Bristol in 1736 after John Vernham had revived a surgeon was called who bled him and he temporarily revived only to die later in suspicious circumstances. [13] More successfully a surgeon probably helped to revive John "Half-hanged" Smith in 1709. [14] Similarly, a surgeon revived William Duell in 1740 after an assistant preparing the "corpse" for dissection at Surgeons' Hall had noticed signs of life. [15]

The London Evening-Post reported the fascination in Bristol with the revival of Joshua Harding in 1736 especially amongst the surgeons who were "curious of Observation". [16] Doubtless surgeons felt that if such revivals took place then

the chances of success would be so much better with their involvement, particularly if they took precautions before the hanging. So it was that in 1733 William Gordon was alleged to have made a secret agreement with a surgeon called Chovet to be the subject for an experiment. Just before Gordon was hanged Chovet made an incision in his neck, presumably in the hope that somehow he would be able to keep breathing. The experiment failed. [17] Doubtless many such efforts were organised by friends or relatives. In the case of William Parsons, hanged in 1751, arrangements had been made beforehand for the body to be swiftly removed to a house where a surgeon was to attempt a revival by cutting a vein in the left side of the neck. Once more, the technique failed to achieve its purpose. [18]

Finally, a web of popular belief developed around the gallows. A newly-hanged body was believed to possess certain curative powers, and occasionally incidents such as that at Southsea Common in 1755 are reported: Mary Russell was hanged there for murder, "As soon as she was turned off, a Man afflicted with the Evil (who came from Winchester) stripped off his Coat, and apply'd bothe her Hands to his Breast, to cure him of his Distemper." Twelve people with wens mounted the gallows outside Newgate in June 1786 in order to have wens on their faces and necks stroked by the hands of the dead. It seems that this procedure was performed soon after

the hanging at a time when the condemned were, in the words of the Public Advertiser in 1785, "in the agonies of death". [19] The hangman, as might be expected, received a fee for allowing this procedure, which was half-a-crown in the early nineteenth century. [20] Pieces of rope from the halter and wood from the gibbet on which people were hanged in chains were believed to be able to cure rheumatism, toothache, heartburn and various other ailments. [21] Indeed it seems that the gibbet rather than terrifying people drew large crowds. [22]

. Conclusion

In the eighteenth century death, and death in public, were still commonplace. The public hanging was differentiated from those other deaths by its use of procedures and rituals which displayed the unity and power of the state, both civil and military, and the church. But this power depended for its legitimacy on notions of Justice and on the confession of the condemned. The excessive nature of capital punishment, especially when applied to minor thefts, threatened to undermine those notions of Justice, and, therefore, selection was needed; yet the acknowledgement of this need to select those who should die did itself undermine, to some extent, the power of the state to kill. The importance of the confession drew the clergy into an active role, both in the prison and on the gallows. They became a means not only by which a confession might be extracted, but also by which a refusal to confess might be reinterpreted as a proof of obstinacy and, therefore, a tacit confession. Inevitably, however, both selection and confession drew the focus away from the symbolism of the gallows and on to the condemned who became not simply a pedagogical device, but an individual with the power to resist - most obviously the power to resist confessing. The attempt to equate obstinacy and confession and thereby to insert even the rebellious convict within the Truth as defined by the state and church was unconvincing, and on some occasions merely emphasised the nature of the

defiance.

The condemned became, therefore, a figure of power, even though he or she often indulged in "obstinacy" for reasons totally unconnected with claims of innocence: for instance, in refusing to reveal the names of accomplices who were still at large, they showed their power to frustrate the might of the state. On the other side, public displays of contrition were often thinly disguised efforts aimed at delaying the hanging. For the crowd around the gallows the death was undoubtedly different from an ordinary death, otherwise they would not have bothered to go. It is easy to give the impression that the crowd showed total solidarity either for or against the condemned, but there is also the evidence pointing the other way: the members of the crowd who "rescued" corpses and then sold them to the surgeons, and the evidence of the condemned hiring people to protect their bodies; also the people who waited for the condemned to die so they might be rubbed by the dead hands; moreover, there was almost certainly a large number of people who were simply curious or who saw the hanging day as a holiday, or who recognised the opportunities for trade which such large gatherings presented. Nevertheless the way the condemned died was viewed as important by the crowd, and they were regarded in death as having the key to various mysteries of life: their Truth was eagerly listened to, their corpses were used

in popular medicine and were often protected from abuse. The crowd - or at least sections of it - also demanded moral justice, particularly in the procedures followed in the execution. Finally, there were those who used the public nature of the criminal justice process and the hanging to realise their own objectives, such as victims of robbery who cajoled people as they waited to die. All, no matter what their reasons, had come to see the condemned. Once again, then, the condemned were the focus of attention.

So both the state and the crowd focussed on the condemned as an individual: for the state he or she was a source of legitimacy, but also a means by which legitimacy was undermined; for at least some of the crowd the condemned was a source of enlightenment.

CHAPTER 14

SOLDIER, SAILOR,

RICH MAN, POOR MAN,

BEGGAR MAN, THIEF

Commerce and manufacture flourished again to such a degree of increase as had never been known in the island; but this advantage was attended with an irresistable tide of luxury and excess, which flowed through all degrees of the people, breaking down all the mounds of civil policy, opening a way for license and immorality.

(T.Smollett, History of England (1806))

It is shocking to think what shambles this country is grown! Seventeen were executed this morning, after having murdered the turnkey on Friday night and almost forced open Newgate. One is forced to travel even at noon as if one was going to battle.

(H.Walople to Sir Horace Mann, 23 March 1752, in W.S.Lewis (ed.), The Yale Edition of Horace Wapole's Correspondence, London, 1960, vol.20, p.312.)

Tinker, Tailor,
Soldier, Sailor,
Rich man, Poor man,
Beggar man, Thief.

1. The Mid-Century Crime Panic

Although police historians still have a tendency to rush over the period before 1829, confining their consideration of it to a spurious search for antecedents of the Metropolitan Police [1], there are few who would deny the importance in that early history of Henry and John Fielding, the Bow Street magistrates. Yet although Leslie-Melville, Radzinowicz and Styles have all provided useful discussions of the policing arrangements set up principally by John (later Sir John) Fielding, none has considered the question of why the Fieldings were able to get their schemes off the ground and to obtain government support. Typically the origins of their schemes are repeated straight from the accounts provided by the two men themselves in, for instance, Henry's The Journal of a Voyage to Lisbon (1754), or John's A Plan for preventing Robberies within Twenty Miles of London (1755) and An Account of the Origin and Effects of a Police Set on Foot by His Grace the Duke of Newcastle (1758). For instance, Leslie-Melville quotes John Fielding's account of how, in 1753,

> a most notorious gang of street robbers, in number about fourteen, who divided themselves into parties, committed such daring robberies, and at the same time such barabarities by cutting and wounding those they robbed in every part of this metropolis, as spread a general alarm through the town, and deterred his Majesty's subjects from passing and repassing on their occasions after night... [H]is Grace the Duke of Newcastle sent to the late Henry Fielding to desire him to form some plan to bring these desparate villains to justice. A plan was immediately formed, approved of, and encouraged by his Grace, which being put in vigorous execution, very soon brought this gang to

condign punishment.

Leslie-Melville then adds John Fielding's claim that there had in fact been "a small but experienced force attached to Bow Street" from as early as 1749-50, but fails to explain its appearance. [2] In this chapter I will argue that inorder to understand the Fieldings' successes it is necessary to examine the nature of the crime panic which overtook, in particular, London in the years after 1748.

Reading contemporary newspapers shows that there clearly was a substantial panic over what were perceived as alarmingly high levels of violent crime, and this can be traced back to as early as October 1747 when the Gentleman's Magazine reported a great increase in robberies in the London area, "committed... mostly as it's thought by smugglers". This story linked in with the existing campaign against smugglers in the South of England. [3] Soon, however, the suggested involvement of smugglers dropped away. In January 1748 the Penny London Post reported that, "Robberies are so frequent on the Roads near London that it requires the utmost Resolution and Diligence in the Magistrates to curb the Insolence of the Villains who commit them; who are grown so audacious, that they rob even within sight of the Turnpikes." [4] In June the Whitehall Evening Post warned, "The Passage over St. George's Fields is of late become so dangerous in the Evening, particularly near the Halfway House that scarce

a Night passes without Robberies being committed, and the Persons ill used, by a Gang of Fellows who harbour in the Mint." [5] The situation worsened as 1748 wore on, so that a rough comparison of the number of robbery reports carried by the Whitehall Evening Post during January to April with those in September to December 1748 indicates a three-fold increase.

In January 1749 the Whitehall Evening Post took the unusual step of printing a leading article on the subject:

> The Frequency of audacious Street Robberies repeated every Night in this great Metropolis, call aloud on our Magistrates to think of some Redress; for, as the Case is now, there is no Possibility of stirring from out habitations after dark, without the Hazard of a fractured Skull, or the Danger of losing that Propoerty People are sometimes obliged to carry about them [6]

However, the problems continued into 1750 and beyond. The newspapers began to carry robbery reports as a separate feature. In September 1750 the British Magazine reported that on one night all the Western stages as well as many travellers had been robbed [7], and in October Horace Walpole wrote to his old friend Sir Horace Mann bemoaning the lack of political intrigue and remarking that, "Robbery is the only thing that goes on with any vivacity." [8] In 1751 there were a similar reports: for instance, in September the Gentleman's Magazine reported that, "So many robberies were committed this morning and the night before, on passengers from London to Wandsworth, Putney, and Richmond, that this evening most

of the people returning thence to London, assembled at Wandsworth, and came home in companies." [9] It was not simply that there was believed to be more crime, but also that the crime was of a particularly frightening variety - violent and committed by gangs: for instance, one issue of the Whitehall Evening Post for 3 January, 1749 describes one robbery as committed by "a gang of desperate Ruffians", another by "three Footpads" and a third by "a Gang of Fellows". [10] Stories of gangs with twenty or even fifty members circulated. [11] Moreover, the concern about robberies was not confined to London. In February 1748 Carlisle was said to be "pester'd with a Gang of Highwaymen and Thieves, that we cannot stir abroad without Danger to our Persons or Effects." [12] In September of that same year it was reported that, "The County of Surrey is greatly infested by several Highwaymen near Kingston; within this Week several People have been robbed by three Persons meanly mounted on black Horses." [13] In December at Maidenhead travellers were said to "go in Parties armed". [14]

A similar chronology for this panic can be charted through the reports of what occurred at the assizes. In January 1748 the Whitehall Evening Post commented that the Old Bailey Session "will be one of the smallest known for some Time past". [15] However, in August 1749 the same newspaper reported from the Old Bailey that, "There is the greatest Number for capital Offences that has been known for

Years past." [16] The numbers hanged at Tyburn were high: in October 1749 fifteen were hanged at Tyburn, and the following year witnessed a similarly grim toll: eleven were hanged at Tyburn in March 1750, thirteen more in May and twelve in October. [17] From outside London came reports of filled assize calendars: at Winchester in February 1749 "the County Gaol there was scarce ever known to be so full of notorious Criminals as it is at present" [18]; the Rochester assizes in March "will be the largest known in the Memory of Man" with forty seven people charged with capital offences [19]; and in the same month the Whitehall Evening Post remarked, "it is observable that throughout the Home Circuit the Goals have hardly ever been fuller; for in Hertford no less than fifteen Criminals, in Essex about twenty-four, in Kent forty-nine, East-Ginstead thirty, and Kingston forty-seven". [20]

Yet serious as this crime panic appears to have been it was not unique in the eighteenth century. There was sufficient concern over levels of crime in 1719 to induce the government to issue a proclamation offering a reward of £100 for anyone assisting in the conviction of a street robber in London [21], and although Jonathan Wild is credited with having rid London of street robbers for most of the 1720s [22], there seems to have been a resurgence at the end of that decade, so that the proclamation reward was again offered and by the middle of the 1730s one author was

declaring that murders were of late "more frequent than has been known in the Memory of Man", and the satirical claims made just after Wild's death that "you'll repent, too late then in vain/ Will you wish to have your Jonathan again" must have seemed to have turned ironical. [23] There was another resurgence in the 1740s: Rev. Allen told the condemned prisoners in Newgate in December 1744 that, "This Metropolis was lately so infested, that no one could travel in it with Safety", although as recently as the preceding October Rev. Guthrie, the Ordinary, had felt that this situation could not be spoken of in the past tense, writing that, "the insolence of our Thieves is come to such a Height, that small Bye-Streets are not safe in the Day, and the most public ones are the most expos'd when once it becomes Night." [24]

What made the period from 1748 different was a concatenation of different circumstances. There are two interrelated levels of explanation: one involves placing this crime panic within its setting, the other is to explain the events which were most immediately responsible for triggering off the panic.

2. The Projecting Age

The view that economic growth began somewhere around 1760 with something called the Industrial Revolution and that it was characterised by machinery, large factories and cotton manufacture misrepresents the economic history of the period. Economic growth had taken off by at least the late seventeenth century, with the most rapid growth being in manufacturing, especially textiles, building and mining. In some ways Defoe epitomised this period: he was enthusiastic about what he called "a projecting age" and significantly his first acknowledged publication was An Essay on Projects (1697). [1] His most popular contemporary work, A Tour through the Whole Island of Great Britain (1724-6) [2], is a celebration of new projects and economic advance, and as such it is part of an overwhelming feeling of self-satisfaction that pervades the economic, political and sociological literature of the time. Defoe enthused: "New discoveries in metals, mines and minerals, new undertakings in trade, engines, manufactures in a nation pushing and improving as we are; these things open new things every day, and make England especially shew a new different face in many places, on every occasion of surveying it." [3]

Yet in this period of economic expansion there were points of conflict. New machinery was certainly a cause for concern and there was resistance to its introduction, although it does not really become a major factor in labour

disputes until the second-half of the eighteenth century. [4] This was still a pre-technological period in which manufacture and agriculture relied predominantly on labour, and the major disputes centred on the organisation of that labour. Although writing in 1776 and typically linked in some vague way with the factory movement, Adam Smith began An Inquiry into the Nature and Causes of the Wealth of Nations with a discussion of the division of labour in which his concern was not with large factories and technology, but rather with the organisation of labour in the production of pins in a small workshop. His interest was in the way in which by dividing up the process of manufacture, speed and cheapness could be achieved, indeed when he talked of machinery he regarded it as a product of this reoganisation of labour, not - as later writers, such as Andrew Ure were to do - the other way round. [5] Smith's concentration on labour organisation fairly represented the way in which for most of the century the central concerns of employers and workers were to do with hours of work, wages and apprenticeships.

The reorganisation of labour enabled tasks to be simplified so that they might be performed by the unskilled and this put pressure on apprenticeships. Although, as has been seen, one line of thought exemplified by the criminal literature saw advantages of social discipline in apprenticeship, Adam Smith represented the other view which

believed that discipline was obtainable not through frustrating young people by not paying them, but through giving them wages and allowing them to work in the trades that required their labour without demanding that they first go through a lengthy period of apprenticeship. [6] He called for the repeal of the Elizabethan apprenticeship legislation. Undoubtedly the institution of apprenticeship had been breaking down. It was impossible for the London guilds to enforce apprenticeship requirements on people working outside London, and some of the employers were shifting from having live-in apprentices to employing outworkers, a practice which William Cobbett was to disparage so much in Rural Rides. Moreover, the breakup of the apprenticeship was greatly facilitated by lawyers. Holt, C.J., decided, in Rex v. Paris Slaughter [7], that those working in trades not mentioned in the Elizabethan statute were not required to serve an apprenticeship. Mansfield, C.J., agreed in Raynard v. Chase [8], arguing that it was a penal law since it restrained natural and common law rights and the courts would, therefore, restrict its operation. [9] These views were of particular relevance in those areas where new manufacturing sprang up, such as the Midlands of England. The undermining of the apprenticeship did not, of course, happen all at once, and it is true to say that in certain areas apprenticeships were enforced through prosecution even as late as the middle of the century. Yet a definite decline did occur during the

eighteenth century. [10]

There was also a turning-out of certain old industries. In spite of an overall expansion, throughout the early eighteenth century there was a degree of decline in the older manufacturing areas, for instance, in the cloth industry of the West and South-West of England, while other cloth areas such as Norwich and Yorkshire prospered, not least because of their proximity to the markets of Holland. [11] More generally, it seems clear that, although overall the period from the later seventeenth century saw economic expansion, the 1730s to the 1750s witnessed, if not a decline, then a significant deceleration in growth. [12] This was particularly evident during the War of Austrian Succession. The war hit the export trades, although it did provide work for people in munitions, in shipbuilding, shiprepairing and in the dockyards. Generally, wages fell during the 1740s, and the depression set the seal on many of the old manufacturing areas, such as the South and the South-West of England. These typically rural areas also suffered from a decline in food prices which hit agriculture, and which was made worse by the fact that it followed on from a period of expansion. In the North of England, on the other hand, even during this period of war wages were still tending to rise.

On top of this deceleration in the economy and the decline of certain areas, there had also been the Jacobite

Rebellion of 1745 which had given many people in government a real fright, indeed the recriminations were still going on into the 1750s and beyond. [13] There was also Dr. Short's demonstration in New Observations on the Bills of Mortality (1750) that the population on which wealth was believed directly to depend was declining, particularly in London. [14]

Furthermore, many viewed the economic expansion as morally corrupting: the labouring people were said to have more luxuries to indulge in, and their corruption was exemplified by gin drinking; and the rich had become idle and parasitic. A not uncommon feature of the criminal literature of the eighteenth century was the expression of the view that, in the words of the author of Memoirs Of the Right Villainous John Hall (1714),

> If every Rogue throughout the Nation
> Should die, like HALL, by Suffocation,
> Some, now in Coaches, would in Carts
> At Triple tree receive Deserts: [15]

The gentry were criticised for having no valour, in particular, they were accused of having crumpled before the advance of the Jacobites in 1745 and left the labouring people leaderless. [16] The most sustained attack came from the forceful whig clergyman John Brown in his popular book, An Estimate of the Manners and Principles of the Times (1757), in which elaborated on the themes he had explored in a sermon preached at Bath in 1750. On the Pursuit of False

Pleasure. In that sermon he criticised the practice amongst labouring people of gaming, but he reserved his most swingeing attack for "the Great" who themselves indulged in "such Excesses... at a Time when there are Laws in force against them." He added,

> And do these act the Part of Magistrates, or Legislators, of Patriots, or of Men, who either by Toleration, by Encouragement, or Example, thus wantonly set at Defiance the very Laws which themselves have made or recommended?... [C]an the leading Part of Mankind ever hope, that their Inferiors will reverence the Laws, while they see their Superiors publickly despise them? [17]

The book which followed continued this attack over the best part of two volumes. He claimed that the country was "rolling to the Brink of a Precipice that must destroy us." [18] Yet, although he argued that this destruction was because of the "Degeneracy or Corruption of the Manners and Principles of the People" [19], as with his earlier sermon, he also believed that the root cause lay in the gentry who had drifted into "vain, luxurious, and selfish Effeminacy". [20] He wrote that, "There are three leading Circumstances, on which the internal Strength of every Nation most essentially depends: These are, the Capacity, Valour, and Union, of those who lead the People." [21] So that when those leaders were immoral the people too became immoral: "in every Period of every State, the Influence of the leading People, soon or late, will form it's leading Character." [22] Indeed even a moral labouring class could not, in his view, preserve the

state if the morals of "those of the leading ranks be depraved." [23] This situation had been worsened by the success of commerce, which had brought many advantages, but had also the disadvantage in Brown's view of bringing further wealth and luxury to the gentry, whose corruption inevitably seeped down to the labouring people. [24]

The role of the ruling classes and their failure to fulfill that role are important threads running throughout the literature of this period, and so it is surprising that these aspects have been neglected by historians. They seem to have taken at face value statements by writers, such as Fielding in An Enquiry into the causes of The Late Increase of Robbers (1751), that they did not seek to criticise the gentry. Yet the fact that Fielding repeats this denial at several points in the pamphlet indicates that he was, to some extent, being ironical:

> And here I must again remind the reader that I have only the inferior part of mankind under my consideration. I am not so ill-bred as to disturb the company at a polite assembly; nor so ignorant of out constitution as to imagine that there is a sufficient energy in the executive part ot control the economy of the great, who are beyond the reach of any, unless capital laws. [25]

Fielding, in common with Brown and other authors of the period, argued that the rich provided the example which those of lesser means followed, and this acted to qualify his claim not to criticise the gentry:

> I am not here to satirise the great, among whom luxury is probably rather a moral than a political evil. But

> vices no more than diseases will stop with them; for bad habits are as infectious by example as the plague itself by example as the plague itself by contact. [26]

For many writers London symbolised some of the tensions and contradictions within eighteenth-century society. As the wealthy capital of an increasingly wealthy nation it was a natural draw for people from the rest of Britain and from Europe. It was depicted as both a wealthy and a morally corrupt city, and contrasted with an idealised picture of the country. This comparison between the city and the country was generally not out of a desire to live in the country, but as a means of making an attack on the corruption in aspects of London life. This attack was at its height in the middle of the eighteenth century. In 1738 Samuel Johnson wrote his youthful poem London in which he used the model of Juvenal's criticism of the corruption of public life in Rome for his own stab at the evils of "Origlio" (Robert Walpole) and his crew to whom "a groaning nation's spoils are giv'n". [27] Even Bernard Mandeville's controversial defence of luxury in The Fable of the Bees: or, Private Vices, Public Benefits (1724), includes an explicit rejection of the link between the useful expenditure on luxury and political corruption, the latter being due not to luxury, but to "Male Administration, and is the Fault of bad Politicks." [28] London is portrayed by such writers as two societies, the commercial and the Court. There other oppositions in the

literature: between the rural and the London poor, and between the London poor and the London middling classes. One commentator wrote in 1755 that, "in London amongst the lower classes all is anarchy, drunkenness, and thievery; in the country good order, sobriety and honesty; unless in manufacturing towns, where the resemblance of London is more conspicuous." [29] It was not that the country people were innately more moral than the urban people, it was just that they had fewer temptations. John Fielding wrote in 1758 that in his view the urban environment encouraged and facilitated crime. He believed that in the country there were few holidays and during those the recreations were directly linked to what he saw as the central obligations of the labouring people, namely hard work and military training; the urban poor, on the other hand, had too many diversions, none of which had a "good" purpose. [30] Dr. Short's assertion that the population of London was declining was contrasted with his view that, "Country Breeders are more fruitful in proportion to their Numbers", arguing that this was because they worked hard and led lives free from the immorality and idleness which typified the London poor. [31] The country-city opposition appears as a strong theme in the literature of crime. Here the corrupting influence of the "bad company" which the young immigrant to London falls in with is contrasted with the moral discipline provided by the middling

class employer. The country people are depicted as possessing "that native Simplicity of Mind, Humility, and Obedience" [32], which makes them vulnerable to the evils of London. Set adrift in London they become like Mary Hackabout in Hogarth's The Harlot's Progress or the eponymous heroine of Cleland's Fanny Hill. William Hawke left his native Uxbridge and went to London, but he had no money and quickly fell prey to bad company which eventually led him to crime and the gallows. [33] John Adamson lived in Lynn, Norfolk, but, "Being weary of a Country Life, and desirous of seeing London, he some Years ago came to Town, and having neither Friends nor Acquaintance here he was put to great straits how to live, and did what he could for subsistence, and to keep him from starving". He never did acquire any friends. Eventually he fell into crime, was caught, convicted and left "miserably poor and nak'd" in prison, visited only by the Ordinary who thought him "a little craz'd". [34] The young were debauched by mere contact with London: Mary Edmondson "was bred in a Country Place where were few or no Temptations to Debauchery or Extravagance, these Rocks upon which so many of the Female Sex split, especially in and about London and Westminster". [35] John Shepherd went from his home in Winchester to be an apprentice to an attorney in London, and his biography outlines the change which came about him:

> His conduct... was such as gained him a general esteem amongst all his acquaintances: he was mild, affable, and good tempered: he was neither addicted to

> swearing nor drunkenness; but maintained a mode of behaviour which made him at once esteemed and respected.
>
> He had not, however, been long in London, before the prevalence of unthinking associates induced him to enter into all the debaucheries of Covent Garden, which, like the eyes of basilisks, kill as you admire them.
>
> He got connected with women, and neglected his master's business, till he was discharged from it. These were the first steps he took to complete that ruin, which afterwards so heavily fell on him [36]

London, it was said, held out the temptations of luxury to the labouring classes without providing the compensation of discipline. As a result the distinctions between the social classes was breaking down, and the symbol of this was the way in which servants were said to be indistinguishable from their employers in their dress. [37] John Fielding wrote in 1758 that:

> The Preservation of the common People, in all States, is highly deserving Attention; for, from this Fountain, your Manufactures, Fleets, Armies, and domestic Servants, are supplied: And in Country Villages this Talk is easy, as Temptations to Vice are more rare, and most Parishes employ their Inhabitants. But in such a populous City as is the Metropolis of this Kingdom, numbers of Persons may be idle, numbers of Children may be deserted who are capable of Employment, without every being perceived by the Public, till their Crimes have made them the unhappy Objects of public Justice. [38]

3. Soldier, Sailor, Robber

It was against this background that the crime panic was triggered off by the ending of the war in 1748. Although the Treaty of Aix-la-Chapelle was not signed until October 1748, the conflict had been winding down since the signing of a preliminary treaty in April. In the Navy the demobilisation went ahead at a spectacular rate. In February 1738, before the war began, the Navy had mustered 7,854 men, by March 1748 that number had reached its peak of 56,820; it then fell rapidly to 26,556 by December 1748 and 17,484 by December 1749. The Army saw a similar rate of demobilisation: before the war the estimate of numbers for 1738 was 26,891 soldiers at home and abroad; this rose to an estimate of 64,966 at the end of 1747 for the year 1748, and then dropped at the end of 1748 to an estimate of 28,399 for the year 1749. [1] On these figures the total of active land and sea forces reached a peak of 121,786 in early 1748 and by end of that year the figure was down to 54,955 - a dembolisation of 66,831 men. The newspapers were filled with reports of actual and expected demobilisations of both ships and regiments, with the main concentration being from July 1748 onwards. [2] The rapidity with which this demobilisation was undertaken was undoubtedly dictated by the opposition to having a large army during peace time and also by the enormous size of the Navy debt which stood at £5.3 million by the end of 1748, a rise of £4.4 million between 1739 and 1746. [3]

The Navy debt worked to slow even further the notoriously sluggish Admiralty system of payments to sailors, and this provoked them to take matters into their own hands. As early as January 1748 "upwards of nine hundred Sailors, belonging to the Bedford, Sterling-Castle, and Chatham Men of War, went to St. James's, and delivered several Petitions to his Majesty, in Behalf of themselves and their Brother Seamen, on account of Prize Money; who were received by him Majesty graciously; on which the Sailors gave three Cheers and were ordered to come again on Monday." [4] Despite promises made after that incident about speeding up the process of paying prize money, things had not changed by December 1748 when "upwards of Two Hundred Sailors" beseiged George II in St. James's Palace to demand payment of prize money and wages, and around the same time "between three and four hundred Sailors and Marines, who were at the Siege of Carthagena, waited on his Majesty at St. James's, with French Horns, and other musical Instruments, in order to present a Petition for some Money, said to be due to them on Account of that Enterprize." [5] Meanwhile from the docks, where the wages were meant to be paid, besieged commissioners were writing to the Navy Board. In December 1748 Commissioner Philip Vanburgh wrote from Plymouth to say that sailors from H.M. Salisbury were "declaring they would pull down the Commissioner's House". In January and February 1749

Commissioner Charles Brown, who had long since run out of money, wrote from Chatham that the sailors were rioting and that having beaten up a captain whom they wrongly believed to have been paid off, "it was a mute [sic.] point in them, whether they would beat me or not." [6] As late as May 1749 the Chester Courant was demanding that action be taken against "those concerned in keeping the poor SAILORS, who has been in private or publick Service, from their Wages or Prize Money". [7] In June 1748 riots were reported amongst men just arrived in Bristol, "who carry with them short Bludgeons, and render the Streets dangerous to pass, especially at Night." [8] It may be that these sailors were engaged in the practice of taxation populaire, certainly a couple of months before a carpenter called Wilson had been robbed by two sailors who were reported to have asurred him, "he should be repaid when their Ship was paid off." [9] Similarly, in December 1748 at Chatham:

> nine Men lately discharged from the Prince Frederick Privateer have gone about the Town, and taken up great Quantities of Goods, &c. and upon Payment being demanded, always used Violence to the Persons of their Creditors; upon which Warrants were issued by a Magistrate for apprehending them, and a considerable Number of Officers and Assistants attended to execute the same, when the Sailors in a very daring Manner made a Tour thro' the Town, armed with Snigger-snee Knives driving the Peace Officers before them, wounding them and all other People that fell in their Way. [10]

The People on the Frederick had a reputation for solidarity and for asserting their rights: on board ship in 1746 they had demanded that their officers provide them with better

food and drink. [11] Possibly the request for payment by Chatham shopkeepers caused resentment as shopkeepers elsewhere seem to have been willing to give the sailors credit: at Gosport in December 1748 the Worcester was paid off and "the Men paid the debts they had contracted in this Town with the strictest Honour." [12] The sailors engaged in other expressions of solidarity in 1748 and 1749: rescuing a sailor who was being taken to Newgate in London, attacking tax collectors on Portsmouth Common, rioting against the bawdy houses in the Strand and in Goodman's Fields following a robbery committed on a salior, and assembling at Tyburn to claim the bodies of their comrades. [13]

Social unrest following the peace also occurred amongst land workers. To the dockyard labourers peace meant the loss of wages and unemployment. Dockworkers at Gosport lost their overtime working in May 1748. [14] But worse was to come as the sackings started. In July 200 men were laid off at Gosport, and 50 ropemakers, several smiths and a large number of labourers were sacked at Chatham. [15] Many other dismissals must have gone unreported, although the newspapers did report that discharged carpenters from the docks were allegedly being hired by the French, and that the Admiralty were only discharging those shipwrights and smiths over the age of 50 or those dockworkers who had public houses or other work. [16] Similarly, merchant seamen who had seen their

wages rise during the war because of their scarcity value, were reported to have suffered a 50% cut in wages as the Navy's ships were taken out of service. [17]

The peace not only caused problems connected to demobilisation and the laying off of workers. The opening up of the export trade after the signing of the preliminary treaty in April 1748 and the failure of the harvest in Bordeaux led to massive shipments of grain to France. [18] Grain was being exported during the war, a consignment had been shipped under Naval escort to Holland in January 1748, and indeed complaints had been made that grain was actually being exported to France. [19] The Privy Council forbad these in March [20], but this order lapsed once the April treaty was signed. [21] Large quantities of grain were openly being stockpiled for export, and in May 1748 80,000 quarters of corn were said to have been exported from the South-East of England resulting in a rise in the home price. [22] There was some popular resistance to this exportation. In October 1748 a thousand Cornish tinners - men, women and children - suspecting that wheat was being hoarded marched into the cellar of a Mr. Heam in Penryn and took from it 600 bushels. When the tinners returned the next day to repeat the process, they were met by a volley from soldiers brought in from Falmouth and two were killed. The riot evidently had little affect on grain exportation since reports of hoarding for exportation continued into the autumn of 1748, and twenty

ships were said to have sailed for Marseilles in November. [23]

The fears of disruption caused by the peace sensitised the people, particularly the newspaper-reading classes, to social disorder: they expected problems and they were not disappointed by their newspapers. The most noticeable expression of this was the way in which not only was a rise in violent gang crime alleged, but it was connected directly to the dembolisation through the identification of the suspected assailants as sailors or soldiers. In 1750 one satirical author wrote that "this - P---e [peace] has stocked the Town so full of gay young Fellows", [24] and a few years later Sir Stephen Janssen produced statistics to show how capital convictions and hangings were much higher in the years of peace between 1749 and 1756 than in the years of war which followed. [25] This would hardly have come as a fresh idea to those who lived through 1748 and 1749; it would merely have provided statistical confirmation of what their newspapers told them. To those same readers there was also another "fact" which Janssen's statistics omitted, namely that soldiers and particularly sailors appeared to be at the bottom of this increase in crime.

As early as February 1748 soldiers were suspected of being responsible for the murder of Mr. Bainbridge, a master coachman, in London, and in March soldiers were blamed for

the robbery of a woman in Newcastle and a farmer near Beckley; three dragoons were put into Gloucester Castle in April for an attempted robbery and a soldier was taken for a highway robbery on Bagshot Heath in Surrey; in July four soldiers were committed to Newgate in London for various robberies; four soldiers were accused of robbery and attempted rape in Westminster in August; in September James Lloyd, a soldier, was condemned for robbery at Kingston assizes. The stories continued into the winter: so, for instance, two gentlemen were robbed in Tottenham Court Road, London, by "three Fellows in Sodiers Cloaths" in November; the following month two soldiers, Roger and Abraham Hales, were committed by Henry Fielding for stealing a silver tankard; and a soldier was also arrested in January in the act of committing a robbery. [26]

By May 1748, however, the robbers were more often alleged to have been sailors: a gentleman was reported to have been robbed "by three Fellows, dressed like Sailors" in London in that month; in June five sailors beat and robbed a scotsman in London "in a very barbarous Manner"; sailors were thought to have been responsible for a robbery in Suffolk in July. In August as the demobilisation of sailors started to speed up so the reports of robberies allegedly committed by sailors also began to increase. A few examples will suffice to give an impression of the reporting during this time. John

Bew was arrested for a burglary in London and was reported to have said, that he was "a Sailor just discharged from a Privateer"; two men "dress'd in Sailors Habits, with Bludgeons" committed a robbery near Ilford; a group of people "who appeared like Sailors" committed a robbery on the Ratcliffe highway in London. In one issue in August the Penny London Post reported that a woman had been robbed by four sailors, a man by "several Sailors" and another man "by two Fellows dressed like Seamen"; the next issue reported two more robberies in London allegedly committed by groups of sailors; a few days later a woman was robbed in Bethnal Green by three men "dress'd like Sailors"; and towards the end of August Mr. Hyde, a watchmaker, was robbed by "five Sailors" in Kennington Lane, London. In September a robbery involving firearms was said to have been committed by two sailors in London; a woman was robbed by two men dressed as sailors; and a Mr. Fletcher was beaten and robbed in Whitechapel by three men dressed as sailors; three sailors were also in Hertford gaol in that month suspected of stealing a silver tankard and of committing various other felonies in Surrey. Similar reports appear throughout the autumn and the winter: for instance, in December Robert Snowden, a former marine, was apprehended for street robbery; in January two sailors were arrested for picking pockets. The reports continued right through 1749, and the stereotype was so firmly established that in July 1750 when John Keef decided to try and claim the

large rewards offered for apprehending robbers he chose to accuse falsely a couple of sailors, John Robinson and John Macdonald. [27] This preponderance of sailors in the newspaper reports on crime was repeated in the lists of the hanged at Tyburn with more than half of the forty-four hanged during 1749 being sailors, including fourteen of the sixteen hanged in October 1749. [28]

The fears of social disorder caused by the demobilisation of 1748 and 1749 found their expression in these reports of robberies and the identification of soldiers and sailors as the culprits. Whether such reports were accurate is difficult to judge, and to some extent it is irrelevant since in the history of such a panic it is perceptions which become important not facts. Society was sensitive to problems and reports of the involvement of soldiers and sailors in crime and disorder both confirmed and heightened these fears.

4. Instant Reactions: Constructing the Moral Barricades

There were various instant responses to the crime panic. Early in 1748 the press gangs were still active, and there were several reports of them operating in a quasi-policing role: in February a gang took off "Vagrants" throwing at cocks in Upper Moorfields and another pressed "several idle Fellows" on Tower Hill in March. [1] Even after the war had largely finished ships were raised against smugglers, and during the winter of 1748-49 five regiments of dragoons and four of foot were sent to Kent, Sussex and Suffolk for the same purpose. [2] But after the middle of 1748 this option of using the press was no longer really open, and other plans were being mooted to deal with demobilised soldiers and sailors. The firmest of these was to give them grants of land in Nova Scotia, a plan which led to the building of Halifax. Although in the history of Canada and British foreign affairs this was an episode in the subjugation of the region, in the history of domestic affairs in Britain it represented an attempt to tackle the demobilisation problem through the familiar method of exporting labour which was regarded as surplus to national requirements. [3] However, plans such as these failed to stem the crime panic.

As early as January 1749 the Whitehall Evening Post had taken the unusual step of requesting that readers write in with their suggestions as to the best method of dealing with street robberies. [4] The series of letters which followed

this appeal indicate the way in which, at that time, instant solutions were looked to, typically involving some measure of reorganising policing activities. "A.B.", in an effort to encourage a more vigilant and less easily corrupted watch, suggested that all petty thieves be prosecuted at the expense of the parish in which they were taken, while those who apprehended capital felons should receive part of the reward immediately following the capture and the rest after the conviction. [5] "Publicus" desired some sort of application of the principles of the Black Act to those carrying unlawful weapons, and that suspicious persons be arrested. He too regarded the watch as highly defective and suggested that rewards be given to "proper Persons, to patrole and take up suspicious People". [6] "T.G." felt that a large part of the blame lay with the beadles who failed to clear the streets of beggars. In that issue another correspondent suggested that an inquiry be made into the causes of street robberies. This writer believed the greatest evil to be those "who, under the most extreme Wants, have no Means or Ability to live by any honest Labour". The writer suggested that a paid officer be employed to prevent them from wandering and to commit vagrants to a house of correction where they would be put to a trade. [7]

One of the most consistent complaints was about the watch: one robbery was reported to have been committed "in

the Sight of several Watchmen" in Moorfields, and a London newspaper remarking on a report of a burglary that, "By the many Robberies we have lately had of this Kind in the Neighbourhood, plainly shew the Watchmen are of little or no use". [8] Another writer commented, "The Watchmen... are either infirm, old, or indigent People, who serve their Offices for Hire, are often in Fee with the Public-Houses". [9] The London magistrates were also under attack, urged, as has been seen, by the Whitehall Evening Post "to think of some Redress", while another newspaper, as early as January 1748, had remarked that, "Robberies are so frequent on the Roads near London that it requires the utmost Resolution and Diligence in the Magistrates to curb the Insolence of the Villains who commit them; who are grown so audacious, that they rob even within sight of the Turnpikes." [10]

The government tried in time honoured fashion to encourage private policing efforts through offering large rewards. In February 1749 the government issued the first of three proclamations promising rewards of £100, in addition to the statutory reward of £40, for the conviction of persons for any robberies on the streets and highways within five miles of London, with an offer of a pardon for an accomplice prepared to inform. [11] This apparently met with some success: the Whitehall Evening Post reported a few days after it had been offered that, "In Consequence of the Proclamation... a large party of Soldiers were on Saturday

making strict search in Old street, and the Lanes and Alleys adjacent, on an Information that a numerous Gang of Villains harbour in and about those Quarters." The same issue also reported the arrest of two "notorious Street Robbers" near Clerkenwell Green, "and we hear, that Informations are given against several others." [12] By the middle of February nearly twenty people had been arrested on suspicion of robbery. [13] The proclamation expired and was reissued in the following January, 1750, following the robbery of "Several persons of distinction", including Horace Walpole who had his watch stolen and was shot at by James Maclaine while travelling in a coach through Hyde Park. [14] During the year both Alderman Gascoigne in the City of London and Henry Fielding (who had been apointed in October 1748) at Bow Street were credited with being very active in pursuit of street robbers. It was soon reported that, "So many highway-men and street-robbers are in custody on the impeachment of their accomplices that the prisons are quite full". [15] The proclamation was reissued again in December 1750 and shortly afterwards it was reported that Henry Fielding had committed more than fifty suspected criminals including seven who had been arrested for street robberies. [16]

Reports of extra policing and hints of reforms of the police in the metropolis peppered the newspapers from 1748. Parishes were urged to respond to robberies by employing

watchmen, and Parliamentary interest in the reform of policing in London was hinted at as early as December 1748. [17] In the longer nights of the winter of 1748-49 various parishes instituted offers of rewards: the wealthy area of St. George, Hanover Square offered £20 for the conviction of burglars and robbers; and the following winter Tottenham and Edmonton also offered rewards. [18] Islington raised a subscription in March 1749 for employing soldiers quartered in the area to patrole the road to London in the evening, [19] and the following winter saw the use of soldiers to patrole roads around London in the evening. [20]

Amongst these new geographically limited and often privately funded policing schemes one in particular stood out, and that was set up by a group of merchants who traded on the River Thames. In 1750 they subscribed £1,100 to fund rewards and prosecutions of those who robbed on the river, although it is probable that this particular scheme had begun in operation in 1749. [21] In 1751, after an initially abortive attempt, they obtained an Act making it a capital offence to rob on the rivers goods worth 40/-. The composition of the committee of the House of Commons which brought in this bill has already been discussed, and it is certain that one member, Bethell, was a member of the association of merchants, whilst two others were probably members, since both had extensive interests in trading from the Thames. [22] Initially the funding of prosecutions was

thought to have been very successful [23], and an examination of the London newspapers, the Old Bailey Sessions Papers and the Ordinary of Newgate's Accounts shows how active this association was. It is not clear exactly how they operated, but it seems that the association only financed prosecutions, rather than patroles. In October 1750 the London Evening-Post reported that "the Committee of Merchants" met to inquire into felonies on the Thames, and they seem to have met regularly to make decisions on which prosecutions to pursue. They did not confine themselves to prosecutions at the Old Bailey, since the Thames ran through Kent and Surrey they also authorised prosecutions at assizes in those counties: for instance at the October 1750 meeting they ordered the prosecution at the Kent assizes of five people, three for stealing iron and two for receiving, with the main evidence coming from an accomplice. [24] Prosecutions continued to be ordered by this anonymous group of merchants in 1751. In January John Cox, a bumboatman, was transported for seven years at the Old Bailey for stealing wheat from a Thames barge owned by Staples and Co.; and at the same time John Pursey, a wealthy Shadwell baker, was transported for fourteen years for receiving the wheat, reportedly "the sixth Person of Substance" prosecuted to conviction by the merchants. [25] The same session saw thirteen transported at the prosecution of the merchants. The judges at that session

were reported to have fully supported the merchants' efforts: Pursey had a previously good character, but still received the maximum sentence, and although some of the bumboatmen, who had been convicted of theft, asked to be whipped rather than be transported, "the Court justly incens'd at the Heinousness of their Crimes, and the enormous Height they are arriv'd at, declar'd the Necessity of sending those Gentry abroad". [26] At Maidstone assizes two months later eight more were prosecuted by the merchants, including John Pearson, "a substantial Shopkeeper at Deptford" for receiving stolen sails. The evidence, a man called Garret, alleged that Pearson's "Houses were open at all Hours of the Night to receive [stolen goods]". Along with Pearson eight other receivers had been convicted at the prosecution of the merchants, each receiving fourteen years transportation. [27] More were tried at Kingston in April, when two were convicted of larceny, including one for stealing logwood belonging to Alderman Bethell. At the same time John Rowss was convicted of receiving 700lbs. of West India cotton which had been stolen more than a year before from a lighter on the Thames. One newspaper reported that, "There were Counsel on both Sides", and that, "The Trial was of great Consequence to the Merchants", since Rowss was reckoned to have acquired £2,500 by receiving property stolen from the Thames. [28] The arrests continued with three more being committed to Maidstone gaol in April for stealing canvas from an East

India ship anchored at Deptford, [29] and a report that a gang had been arrested on the evidence of an informer. [30] In August a lighterman and a waterman were convicted at Kingston assizes of stealing rice from a lighter, and another person was convicted on a similar charge two days later. [31] Over the period between 1749 and 1751 at Tyburn alone approximately 24 people were hanged for crimes connected with the River Thames. [32]

During the spring and summer of 1748 as the demobilisation picked up and the reports of robberies rose so contemporary writers began to link up the crisis with familiar moral issues and questions about social discipline, arguing that here was where the roots of crime lay. At the forefront of this phase were attacks on gin, gaming houses, brothels and prostitutes, all of which were believed to entrap youth and lead them into idleness, poverty and crime. In June 1749 Henry Fielding, newly elected as chair of the Westminster magistrates, told the Grand Jury, that "to prevent gaming among the lower sort of people, is principally the business of society; and for this plain reason, because they are the most useful members of the society; which by such means, will lose the benefit of their labour." [33] Others urged magistrates like Fielding to do something, and speculated on their alleged inactivity. "Brittanicus", in A

Letter To the Honourable House of Commons, considered the fate of James Maclaine, hanged in 1750, whose involvement in gaming and the link which this had with his ultimate fate, was generally accepted by his biographers:

> How many Academies of Destruction [that is, gaming houses] have we even in this Metropolis, where Youth are early instructed in those Things which naturally lead them on to impious Courses and unlawful Pursuits, and generally bring them to a miserable Exit and untimely Fate. [34]

The writer added, "The Ax must... be laid to the Root of the Tree", and argued that the non-enforcement of the laws against gaming indicated that the London magistrates were corrupt. [35] In February 1751 the Grand Jury of Middlesex referred to "The present ill State of this Country in regard to Luxury, Idleness, Robberies, and other shameful destructive Practices" and, in a presentment to the King's Bench court, expressed their concern that nothing had been done about gaming houses in spite of the presentments which had been made in the past by constables for the county. [36] In fact, magistrates in London did lead raids on gaming houses throughout this period. So, for example, as early as February 1748 there was a raid by constables and soldiers on one house in the Strand; following a raid in October on a gaming house just round the corner from Bow Street in Covent Garden, the magistrates "resolved to meet often together, in order to put an End to so pernicious an Assembly"; and a raid in January 1749 by Surrey magistrates was said to have led to

the arrest of several suspected robbers. Henry Fielding was fairly active in this respect leading a body of constables and soldiers in raids on gaming houses in the Strand in April 1750 and March 1751, while Justice Lediard led raids in April and July 1751. [37]

Searches were also carried out for "idle disorderly Persons, and reputed Thieves and Pick Pockets" [38]; and newspapers carried reports of vagrants being severely whipped as a deterrent. The connection between prostitutes and crime was also reaffirmed at this time. After three people had been robbed and murdered in Long Lane, Southwark in 1748 it was reported that this was "a constant Rendezvous for the most notorious Strumpets" who picked up "unthinking Travellers, and decoy them into some unfrequented Place, where Thieves and Bullies commonly attend to act the most barbarous Cruelties." [39] The authorities' response was to send the constables and beadles out to clear the streets of poor street-walking prostitutes, whilst carefully leaving alone their clientele and those who serviced the wealthy: the Lord Mayor of London issued orders for the arrest of all street prostitutes in the City following an alleged robbery by one in January 1748; in August the parish officers of St. Bride's arrested 21 "loose Women", a further 16 "idle, disorderly Women" were arrested in St. Martin's in the Fields, "many" more were arrested in St. Clement Danes, and nine "Street Walkers" were committed to Bridewell by the Lord Mayor; in

November Saunders Welch, then High Constable of Holborn, later a Bow Street magistrate and the author of a pamphlet on prostitutes, led a sweep of the notorious St. Giles in the Fields area, vividly caricatured as Gin Lane some three years later by Hogarth. [40] Less resolve seems to have been shown with respect to "disorderly houses", some of which were owned by the rich and powerful. However, the vestry of St. Mary, Whitechapel decided to suppress bawdy houses at the expense of the parish in June 1748; one house was reported to have been shut down in the Strand in July, and a grand jury in the metropolis was reported to be contemplating presenting a number of such houses in October. In the end it was the sailors who took the most decisive action by demolishing the bawdy houses in the Strand area and in Goodman's Fields in the summer of 1749. Their action drew approval from various quarters, but disapproval where it counted. As a result the troops were called out and Bosvaren Penlez was hanged. The principal object of the sailors anger, Peter Wood's The Star, which was situated just off the Strand in Devereux Court, was not in fact raided until 1752, by which time Wood was no longer the owner. [41]

The responses to the crime panic of the early post-war period, between 1748 and early 1751, were at first concerned with getting rid of the problem of demobolised soldiers and sailors, by using them against smugglers or sending them to

Canada, they then turned to policing solutions, such as the financing of the detection of offenders through rewards, and finally to moral policing, with the suppression of gaming houses and street prostitution. All of these were short-term responses. The continuance of the problem into 1751 prompted a rethink.

5. The King and Fielding

A major turning point occurred on 17 January, 1751 when George II, presumably concerned at the way robbery was now affecting his friends, took the unprecedented step of mentioning the matter in his speech to both Houses of Parliament. [1] This led to the appointment of a large select committee under Sir Richard Lloyd on 1 February, and to a rash of pamphlets. [2] The crimes continued, however, and in November 1751 the King once again repeated his concern, calling on Parliament,

> to consider seriously of some effectual Provision to suppress those audacious Crimes of Robbery and Violence, which are not become so frequent, especially about this great capital; and which have proceeded, in a great Measure, from that profligate Spirit of Irreligion, Idleness, Gaming, and Extravagance, which has of late extended itself, in an uncommon Degree, to the Dishonour of the Nation, and to the great Offence and Prejudice of the sober and industrious Part of my People. [3]

Two and a half years later, in March 1754, concern was apparently still high and the Lord Chancellor called the judges together before they embarked on their assize circuits and instructed them to enforce the capital laws more rigorously. [4] However, the signs are that even before either the King's speeches or the Lord Chancellor's instructions a policy of hanging more of those who were capitally convicted was being pursued. Although statistics for the period before 1749 are lacking for London and Middlesex the indications are that in 1749-54 both the

percentage of the condemned who were hanged and the absolute numbers hanged were very high. Certainly Dr. Allen told James Maclaine in Newgate in 1750 that he had "very little Foundation for any Hope - That (if the public Papers were to be depended on) Robberies were so frequent... that the Administration found it necessary to execute the utmost Severity of the Law." [5]

After the King's speech in January 1751, although short-term policing solutions were still being pressed, some writers were also looking to the longer term. The most extended piece of work appeared in January 1751: An Enquiry into the causes of The Late Increase of Robbers by Henry Fielding. In it Fielding tries to tackle what he sees as the dilemma of his society. The end of feudalism had made the labouring classes independent, and to this comparative wealth and access to luxuries had been added by the recent rise of commerce. He believed that indulgence in these luxuries diverted them from work and encouraged their natural inclination to idleness and led eventually to crime. However, in a Mandevilleian passage, he wrote that he did not seek to abolish luxury since it was an inevitable consequence of commercial success:

> for as riches are the certain consequences of trade, so is luxury the no less certain consequence of riches; nay, trade and luxury do indeed support each other; and this latter, in its turn, becomes as useful to trade as trade had been before to the support of luxury.

> To prevent this consequence therefore of a flourishing commerce is totally to change the nature of things, and to separate the effect from the cause. A matter as impossible in the poltical body as in the natural. Vices and diseases, with like physical necessity, arise from certain habits in both; and to restrain and palliate the evil consequences is all that lies within the reach of art. How far it is the business of the politician to interfere in the case of luxury, we have attempted to show in the following treatise. [6]

What he seeks to do in An Enquiry is to confine the enjoyment of luxury to the wealthy on the basis that, "To be born for no other purpose than to consume the fruits of the earth is the privilege... of very few. The greater part of mankind must sweat hard to produce them". [7] Indeed, pursuing this mercantilist theme, he regarded work as a duty which the labouring people owed to society. [8] The tract is, therefore, not so much about crime and criminals, but about controlling the labouring classes: this was the section of society from which, he believed, the criminals came and, what was equally important, it was the foundation of the nation's wealth and military strength. He argued that this control was best achieved by increasing the powers of the justices of the peace, because while the independence of the labouring classes had developed since the end of feudalism there had been no counterbalancing extension of the powers of the magistrates, except for the Riot Act which he clearly believed was too little and too late.

The first part of his pamphlet is concerned with excluding the labouring classes - and to a lesser extent the

middling classes - from indulging in luxury: "All temptations... are to be carefully moved out of the way". [9] His first targets were the "places of pleasure". [10] As with his definition of luxury generally, he was not explicit as to exactly what he meant by this phrase, but it soon becomes clear that this vagueness was because he opposed all places of public resort where the poor gathered outside work. He suggested that the powers of the magistrates be increased, but how and by how much he did not say. He next addressed himself to drunkenness caused by the drinking of gin, "which I have great reason to think is the principal sustenance (if it may be so called) of more than an hundred thousand people in this metropolis". [11] Being unable to work gin drinkers were, he argued, forced to beg or to steal in order to buy gin. [12] Furthermore, gin drinking threatened the reproduction of both labour and military forces:

> Doth not this polluted source, instead of producing servants for the husbandman or artificer, instead of providing recruits for the sea or the field, promise only to fill alms-houses and hospitals, and to infect the streets with stench and diseases? [13]

Just as with public entertainment he was unclear exactly what to do about gin drinking. He felt that the laws of James I against tippling were obsolete, although in fact there is evidence that they were being used in 1750 by the Commissioners of Excise in a campaing against the retailers of gin which presaged the passing of the Gin Act, 1751. [14]

Fielding favoured a prohibition against distilling rather than higher licence fees, but was unsure whether or not this would work. In the end he seems to have settled on eihter confining gin to sale by chemists, or to raising the price beyond the means of the working people, together with some additional measures against drunkenness. The last in his list of luxuries was gaming, "a school in which most highwaymen of great eminence have been bred". [15] Gaming was, he believed, the most dangerous of the vices since it, "contrary to every other species of luxury, flatters its votaries with the hopes of increasing their wealth". [16] But losses were inevitable and these, he claimed, were made up by robbery. In spite of certain defects in the laws Fielding believed that the magistrates could achieve much in the effort to keep the labouring classes out of gaming houses by harassing them, and this was what he asserted, in a note of self-congratulations, the Westminster magistrates had been doing, and indeed, as has been mentioned, there was certainly some activity amongst London magistrates.

The first cause of the distress of the labouring poor which led some of them to poverty and crime being luxury, Fielding believed that the second cause was "the improper regulation of... the poor". [17] He claimed that there were few who could genuinely be classified as unable to work; those willing and able to work should be found work and he criticised the failure of the overseers of the poor to

fulfill their responsibilities in this respect. But the largest group of poor people were, in his view, those who were able to work, but were unwilling to do so. Here there were good laws, but they were not properly enforced. He argued for the revival of the laws by which justices of the peace fixed the wages of labouring people. This was aimed at reducing wages because he argued that by reducing labour costs prices of goods would also be reduced, demand would, therefore, rise and with it employment. Those unwilling to work for such wages as justices fixed should be put into a house of correction at hard labour. He acknowledged defects in the administration of these places which had discouraged justices from using them, and so he suggested that justices be given greater powers of supervision.

Fielding next discussed encouragements to crime, beginning with the familiar one of receivers of stolen property. Without them, he claimed, there would be no theft. He expressed a particular concern that pawnbrokers should be more closely controlled. In addition, he condemned those who paid people rewards for the return of their property without asking any questions, since this merely encouraged crime. This was a familiar issue. In January 1752 the Covent Garden Journal, the newspaper he published and which constantly contained stories illustrating points he had made in An Enquiry, carried a story claiming that a man called George

Buddle, who had been arrested in possession of stolen goods, had said that he intended to retain the items until a reward was advertised. [18] Some well-known people indulged in such deals aware that the uncertain criminal justice system was unlikely to ensure the return of their property: Horace Walpole issued such an advertisement after being robbed by James Maclaine, and eventually paid over 20 guineas for the return of his property, with Maclaine choosing Tyburn as the site for the exchange to take place. [19] The second encouragement to crime was the ease with which the labouring people were allowed to move about, particularly in London:

> Whoever indeed considers the cities of London and Westminster, with the late vast addition of their suburbs, the great irregularity of their buildings, the immense number of lanes, alleys, courts, and byplaces, must think that, had they been intended for the very purpose of concealment, they could scarce have been better contrived. Upon such a view the whole appears as a vast wood or forest, in which a thief may harbour with as great security as wild beasts do in the deserts of Africa or Arabia; for, by wandering from one part to another, and often shifting his quarters, he may almost avoid the possibility of being discovered. [20]

He argued that the vagrancy laws were inadequate since they did not make wandering in itself illegal, only those who pursued a particular profession or committed certain actions were vagrants. [21] In his view if the labouring people were prevented from wandering they might more easily be supervised and crime might thereby be prevented. He desired that justices be given the power to detain a suspicious person - he provides no definition of what this meant - for up to

three days so that an opportunity for victims of any crimes that he or she might have committed could come forward. The following year the Covent Garden Journal once again illustrated the point by implicating vagrants in a robbery and murder in Nottinghamshire, and claimed that vagrants had run riot in Penrith because magistrates had insufficient powers to control them. [22]

He claimed that the apprehension of felons was made more difficult by the general dislike of thieftakers and he tried to demonstrate their value. He also argued that the existing system of rewards was defective in that juries commonly convicted defendants of a non-capital offence and so the reward was not payable; also even if the reward were payable it was often difficult to obtain from those who are supposed to pay it. Fielding then spent a great deal of time arguing that victims should not be reluctant to prosecute for capital crimes, since in doing so they performed a service for society. However, he did believe that the costs of prosecutions should be paid to poor prosecutors to encourage them. The rule which required corroboration of the evidence of accomplices should be dropped since often their's was often the only evidence in robbery offences; evidence as to the character of defendants should be allowed even if the prisoner had not made it an issue; and alibis should be treated with caution. He then went on to argue that pardons should not be granted too frequently:

> The danger and certainty of destruction are very different objects, and strike the mind with different degrees of force. It is of the very nature of hope to be sanguine, and it will derive more encouragement from one pardon than diffidence from twenty executions. [23]

He agreed that no life was worth a piece of property, but argued in a confusing passage that this was not the point, "The terror of the example is the only thing proposed, and one man is sacrificed to the preservation of thousands." [24] If offenders were pardoned then "the lives of the persons executed are thrown away and sacrificed rather to the vengeance than to the good of the public, which receives no other advantage than by getting rid of a thief, whose place will immediately be supplied by another." [25] Finally, as has been seen, he believed that the public hanging failed to provide an example and, therefore, was ineffective.

Other writers in 1751 on these subjects generally expressed similar views to those of Fielding, and many referred to his work. "Philo-Patria", in A Letter to Henry Fielding, Esq, praised An Enquiry, but expressed surprise that it included nothing on the prostitutes, "the very Fountain-head, whence Robbery originally springs". The writer also suggested - prophetically as it turned out - that the best method of dealing with "Places of public Diversions" was through a system of licensing. [26] The same year the writer of Serious Thoughts In Regard to the Publick Disorders (1751) argued that the increase in robbery could be traced to the

excess of gaming, extravagance, lewdness and irreligion amongst all ranks of society, and was particularly anxious to eradicate gaming through licensing "Houses of Entertainment". This writer also wanted better watchmen, regulation of pawnbrokers, an end to gin drinking, the payment of the costs of prosecutors, and, in order to get rid of trading justices, the employment of only "Persons of Fortune and Reputation" to the Westminster and Middlesex benches. [27] "Philonomos", who wrote The Right Method of Maintaining Security in Person and Property (1751), argued that, although the laws on immorality could usefully be codified, the principal defect lay not in the laws, but in the way in which they were neglected: "the reviving of the civil discipline is all that is wanting, and the sufficiency of the laws would abundantly appear, if their execution was but suffciently attended to." [28] The writer of Public Nuisance Considered (1751) was one of the few to address the issue which had been of such central concern in 1748-49, namely robbery committed by members of the military forces. This writer believed that foot guards provided the greatest danger, and rather than being billetted should be placed in barracks where they might be properly supervised. The writer felt that robbery could be traced to the failure to extinguish luxury and debauchery amongst the labouring people through the enforcement of existing laws, especially those against bawdy houses, and that there was a need for the constant supervision of people who had no obvious means of

livelihood, suggesting that this be carried out by a full-time constable with tougher legal powers. [29] The following year "Civis", in A Method Proposed to prevent the many Robberies (1752) emphasised the need to clear vagrants and "idle People" from the streets since it was they who committed the robberies, and "who I am afraid the chief Part are our poor Manufacturers". The writer, therefore, urged that some plan be devised for putting these people to work. [30] The same year a writer called C.Jones, in Some Methods Proposed (1752), suggested that soldiers, other than officers, be prohibited from wearing swords in the streets, and that more severe methods of inflicting capital punishment be adopted for robbers and murderers. Like other writers, Jones proposed that the costs of felony prosecutions be borne by public funds, and wished that greater efforts be made against gaming. Jones also advocated stricter penalties for perjury which, like Fielding, Jones believed was behind most of the alibis presented by defendants. [31]

Aside from An Enquiry the fullest discussion to appear at this time was The Vices Of the Cities of London and Westminster (1751). Once again the link was made between, on the one hand, irreligion, luxury, prodigality and idleness, and, on the other, crime. However, this writer discarded the usual solutions of new laws, more severe punishments, the use of military guards "and other dangerous Corrosives", and

specifically criticised the habit of justices (and, although not named this would have included Fielding himself) using soldiers to enforce the law. Those who suggested such reforms "have no Plan of Government but Force, and no Coercive but what is founded on Fear, Cruelty and Violence". The writer pointed out that,

> unless there is a general Disposition in the Body of the People, to co-operate with the Magistrate in the Suppression of Vice and Immorality; and in the execution of the Law against publick Offenders, that it is out of the Power of any human Legislature, to contrive Laws, that can make that People honest, happy, or free.

The solution lay, therefore, in a moral reformation, in industry, in the fulfilment of public duties, such as prosecuting offenders and discharging public offices; the alternative being military rule. The principal solution suggested in this pamphlet is the setting up of an association of the leading inhabitants of London and Westminster who would undertake not to pay others to apprehend offenders, but to do this work themselves. Also suggested are: the more careful selection of parish officers to avoid choosing those who are easily corrupted, and then using these officers to clear the streets of beggars and to stop the influx of, amongst others, Irish haymakers; the eradication of trading justices by paying them salaries; the opening of a retreat for repentant prostitutes and the closing of bawdy houses; the abolition of gaming and gin shops; the reduction of alehouses and the taxing of places of

public diversions in order to exclude the labouring people; and the improvement of the watch through supervision by a good constable together with central regulation, and through employing only able bodied men. [32]

The King's speech of January 1751, therefore, brought in a new phase of the debate on crime. Whilst not rejecting the instant responses of closing down gaming houses or providing a more effective police force, suggestions about reorganising the poor laws and the criminal justice system also appear, and also proposals on rules of evidence, prosecution costs and capital punishment. Most notably although the demobilisation of soldiers and sailors gave rise to the crime panic, by 1751 the debate had largely severed its links with that issue, nor indeed was it exclusively about crime, instead it had shifted on to the control of the labouring classes.

6. The Lloyd Committee, 1751

It was necessary to look at the contemporary pamphlets before considering the work of the select committee of 1751 because we have no information about the evidence or the deliberations of that committee, only the resolutions it produced. The select committee, set up in response to the King's first speech, was put under Sir Richard Lloyd, and had an impressively long list of members, to which more were

added later. [1] However, it is almost certain that many were included merely as "window dressing" and that the active membership was small; this conclusion is supported by the fact that so few of the Committee's suggestions were eventually enacted. Its terms of reference were initially, "to revise and consider the Laws in being, which relate to felonies, and other Offences against the Peace". [2] These were expanded on 13 March to include consideration of the need to "revise and extend the Laws relating to the Poor". [3]

The first report was delivered to the House on 1 April, 1751. [4] In it the Lloyd Committee criticised the defective state of the watch in Westminster and the inability of the parishes to raise funds for its improvement. The Committee believed there was a need to encourage able-bodied men to take the job of watchman, and this required that they be offered better pay and that some system be devised whereby those who had other jobs might be able to carry out their watch duties and attend to their normal work. They suggested that the constable and watchmen be given the power to arrest "all and every suspicious Person or Persons" who failed to give a satisfactory account of themselves even though they might have committed no offence, and that the justices be empowered to send such people to the house of correction. The Committee also proposed that parishes be required to

advertise a reward following each robbery and that they pay the costs of any prosecutions. A bill based on this report was drawn up by Lloyd and Sir John Strange, the Master of the Rolls, and presented in May 1751. [5] However, although it went through the Second Reading stage and was sent to a committee of the whole house, that committee never met to consider the bill. [6] Unfortunately the reasons for the failure of this bill are not given, although the costs of the policing scheme, which were to borne by the parish poor rates, in other words by local householders, may well have had something to do with it. In passing it is worth noting that in March 1751 another committee was set up to consider "the better Paving, Enlightening, Watching, and Cleansing" the streets of Westminster. Beyond the inclusion in its membership of Lloyd, there seems no obvious link between this Committee and the Lloyd Committee. Lord Trentham reported from the Westminster Watch Committee six weeks later and a bill was subsequently introduced into the Commons, but neither the report nor the bill went beyond proposing a paving scheme in Pall Mall, no mention of the watch was made. [7]

The second report of the Lloyd Committee was presented to the House on 23 April, 1751. [8] Once again all that is left of this report is a note of the bare resolutions in the Journals of the House of Commons. The report amounted to an inquiry into the causes of the increase in robbery and theft,

and its conclusions were hardly startling. The first cause was "an Habit of Idleness, in which the lower People have been bred often from their Youth"; the second was "the Multitude of Places of Entertainment for the lower Sort of People" which tempted expenditure beyond their means; the third was "Gaming among the inferior Rank of People"; the fourth was "the great Security and Encouragement Robbers meet with from Receivers of stolen Goods"; fifth, the advertising by victims of a reward for the return of their property and a promise that no questions would be asked; sixth, a lack of care taken by pawnbrokers in taking in goods; seventh, "the great Delay and Expence, which attend Prosecutions and Tryals of Crimes", and linked to this the Committee also desired that "a more expeditious" and cheaper way be found of proceeding with criminal prosecutions so as to encourage prosecutors, and that prosecutions be paid for out of county funds. The Committee also stressed the deficiency in the powers of the police and the lack of powers which would allow magistrates to detain suspicious persons "for a reasonable time", by which they presumably meant so as to give victims of crime the opportunity to come forward and identify them. They also desired that a quicker way of suppressing disorderly houses be found. Then came the suggestion about removing the penalty of death in certain cases which has already been looked at. Next there was the need to remove the

"great Defects in, and Abuses of, the Houses of Correction"; this was probably linked to a concern, not with the conditions in which inmates lived, but rather to the desire to keep them at hard labour so as to eradicate idleness and the spread of corruption between prisoners which was believed to take place in the unreformed bridewells.

Although the Commons instructed Lloyd, Strange, Bathurst and Hardinge to draw up a bill on the basis of this second report nothing was appeared until the following session of Parliament. The new session opened on 14 November, 1751, but it was not until 10 January, 1752 that the report was read a second time, and the House gave leave for the introduction of three bills: one to regulate places of public entertainment, another to change the punishment for certain felonies to hard labour in the dockyards, and a third to regulate pawnbrokers. [9]

With respect to the bill on pawnbrokers a further committee was set up "to consider of Heads of a Bill", and this reported on 17 January 1752. It recommended that a licensing system be created which would restrict the trade, and that it be made an offence for pawnbrokers to take in goods that had been advertised in a specified newspaper. Pawnbrokers who returned stolen goods or who apprehended a thief were to be rewarded, and so was anyone who successfully prosecuted a pawnbroker. The committee ignored the requirement that they consider "the more easy Conviction of

Receivers of stolen Goods", or else they considered the terms receiver and pawnbroker to be largely synonymous. The pawnbrokers replied with a petition in which they ironically begged that another clause be added to the bill enabling them to sell up "and to go into some other Business, for the Support of their Families". [10] In the end although the bill was passed by the Commons in two successive sessions, it failed both times in the Lords. However, some years later John Fielding was to make much use of pawnbrokers in the execution of his police plans. [11]

As has been mentioned already, the Hard Labour Bill also failed to pass the Lords, so the only bill to emerge from the second report of the Lloyd Committee and eventually pass into law was the Disorderly Houses Act, 1752 (25 Geo. II, c.36). This was something of a rag-bag of the proposals from the second report. Section 1 made it an offence for anyone to advertise for the return of their goods with no questions asked, or, probably the more effective aspect, for anyone to publish such an advertisment, and indeed from this time such notices disappear from the newspapers. Places of public entertainment were tackled in section 2 begins:

> And whereas the Multitude of Places of Entertainment for the lower Sort of People is another great Cause of Thefts and Robberies, as they are tempted to spend their small Substance in riotous Pleasures, and in consequence are put on unlawful Methods of supplying their Wants, and renewing their Pleasures: In order therefore to prevent the said Temptation to Thefts and Robberies, and to correct as far as may be the Habits

> of Idleness, which is become too general over the whole Kingdom, and is productive of much Mischief and Inconvenience

Suppression was by means of a system of licensing, and anyone operating a place in which there was public entertainment without a licence was liable to a fine. The justices could also issue search warrants for such premises, and anyone in an unlicensed house could be arrested. Places of public entertainment were not allowed to open until 5 p.m., in other words towards the end of the working day. Prosecution costs incurred under section 2 were to be paid by parishes out of the poor rates - in some cases, as has been seen, this was already being done by a few parishes. Those who informed against unlicensed houses were to receive a reward upon conviction; a provision which The Covent Garden Journal claimed with delight, "hath struck a most extraordinary Panic" into the keepers of these houses and had forced many out of business. [12] Furthermore, section 10 prevented those accused under these provisions from removing the trial by certiorari to the King's Bench; a practice of which Fielding had complained in the Covent Garden Journal in January 1752. [13] The Act also included in section 11 the discretion for the court to allow the prosecutor, "on Consideration of his Circumstances", costs in a felony case, including an allowance for "his Time and Trouble". A further provision allowed a justice to detain suspicious persons for up to six days without charge or trial in a house of correction, during

which time a description of the person and items found on him or her was to be circulated. The examination of the person was also to be recorded and filed by the justice. If the individual were not linked to any crime, then he or she could be removed to their place of settlement, or, what was more likely, be ejected out of the parish. Once again the Covent Garden Journal enthused over this this provision in the form of a report that three men in possession of a bundle of linen had been committed to the house of correction and the goods advertised, and soon after the owner had appeared. [14]

The bill passed perhaps because it was the least controversial of the measures which the Lloyd committee suggested: it affected no vested interests, except those of the poor, and it adopted the familiar approach of strengthening local powers, thereby leaving the local officials virtually free to enforce the law as they wished. Indeed a rumour that a bill had been prepared "to reduce the Number of Places for public Diversion, and to make more effectual the Laws useful against publick Gaming" was circulating as early as 3 January 1751. [15] Yet the Act did not pass without comment: the conservative Gentleman's Magazine resented the interference with the amusements of the poor:

> If it can be thought right policy to deny all amusements to the lower ranks of people, and to throw all those now engaged in exhibiting such amusements out of that way of getting their bread, perhaps it will

> increase robberies, instead of lessening them; and it may be dangerous to frequent the places of entertainment to be allowed for those of higher rank. [16]

Aside from the work of the Lloyd Committee, gin had been the subject of legislation in the previous year. On 7 February, 1751, just a week after the appointment of the Lloyd Committee, the Bishop of Worcester, Issac Maddox, preached a sermon on the evil effects of spirituous liquors to the Lord Mayor, Aldermen and Common Council of London. [17] He was sent a vote of thanks and two weeks later the City presented a petition on the subject to the House of Commons complaining that gin drinking by the poor had arrived at "a Degree unknown to any former Times". This was, they claimed, not only injurious to "the Health, Strength and Industry of the Poor", and, therefore, damaging to the economy, it also "inflames them with Rage and Barbarity, and occasions frequent Robberies and Murders in the Streets and Avenues of the Metropolis". [18] Eighteen similar petitions followed in less than a month: ten from Westminster, two from Bristol, two from Middlesex, another from the City of London, and one each from Henley-upon-Thames, Manchester and Rochester; in May a petition arrived from New Sarum. [19] All said very much the same thing: for instance, the one from St. Martin-in-the-Fields claimed that as a result of gin drinking, "Idleness and Disorder take place of Industry and Morality amongst the labouring and common People". Most also

drew a connection between gin and robbery and murder. [20] At this time Hogarth published two powerful sets of prints, Beer Street and Gin Lane and The Four Stages of Cruelty, and advertised that, "As the Subjects of these Prints are calculated to reform some reigning Vices peculiar to the lower Class of People, in hopes to render them of more extensive Use, the Author has publish'd them in the cheapest Manner possible." [21]

Following the presentation of the first petition by the City of London a committee of the whole house had been set up [22], and on 24 April, 1751 Alderman Bethell reported from this Committee that the "excessive drinking of Spirituous Liquors" was mainly due to sales by unlicensed retailers. [23] The Gin Act (24 Geo. II, c.40) followed fairly quickly, being enacted in June of that year. It aimed to tighten up the licensing laws, and professed as its intention, the reduction of "the immoderate Drinking" of gin by "persons of the meanest and lowest Sort". The Act included powers of search and seizure under a warrant issued by a justice of the peace. There was also an attempt to identify recidivists through the creation of centrally-held criminal records: justices in and around London were required to make regular returns to the clerk of the peace for their respective counties.

7. Henry Fielding and the Legislation of 1751-2

The role played by Henry Fielding in the Lloyd Committee's proposals and in the framing of the Disorderly Houses Act, the Gin Act and the Murder Act has been a source of contention for some time amongst his biographers. The most extreme view was taken by Maelor Jones who claimed that the Lloyd Committee resolutions "might not unfairly be described as a summary of Fielding's Inquiry into the Causes of the Increase of Robbers"; a suggestion which reveals a very inadequate reading of the reports of that Committee. Jones does later concede that perhaps Fielding had not actually drafted the legislation. [1] Cross in his eulogistic biography seemed to believe nothing to be beyond Fielding's capabilities and no one outside his sphere of influence. For him Fielding was "the man behind the scenes" in the legislation. He regarded An Enquiry as the source of the interest in crime and the criminal law at that time; a claim which I have shown to be inaccurate, his work clearly came, as he himself acknowledges, as a response to the panic over crime. [2] Cross feels that Fielding only influenced the wording of the preamble to the Murder Act through his pamphlet Examples of the Interposition of Providence in the Detection and Punishment of Murder. [3] This seems unlikely since although the preamble resembles the sentiment of Fielding's preface, the wording is quite different; moreover, his pamphlet was only one of many which appeared on the same

subject, such as, for instance, A Warning Piece Against the Crime of Murder which was also published in 1752. [4] Cross is more confident when it comes to the Gin Act, partly because of the use in the preamble to the statute of the word "hath" instead of "has" and the similarity to the wording in parts of An Enquiry. However, the use of "hath" in legislation was quite common and if taken as evidence of Fielding's involvement it would entail ascribing to him a whole range of legislation including, for instance, An Act for regulating the Commencement of the Year (1751: 24 Geo. II, c.23). The idea that there are similarities between the Gin Act and An Enquiry is also unconvincing, indeed Fielding opposed the solution of licensing adopted by the Act and in the end provided no definite guidance as to the solution of the problem. However, in the end Cross is himself less than convinced about Fielding's involvement since the Act fell short of stopping the sale of gin and it attacked the distillers which Fielding did not do. [5] Interestingly it might be noted here that Fielding himself, through the Covent Garden Journal, claimed that the Act "was chiefly owing" to Issac Maddox's sermon. [6] When it comes to the Disorderly Houses Act Cross is certain that Fielding was the guiding force. The Act, he claims, followed Fielding's "most practicable recommendations", and in language "little altered from the Pamphlet". All Parliament did was to rearrange the

order of the proposals. He believes that this Act was a development of the bill which Fielding sent to Lord Chancellor Hardwicke in 1749 and which, Cross assumes, was the basis for An Enquiry; Lloyd then made a few minor alterations and submitted the bill to Parliament. However, the 1749 bill is now lost, and it is a matter of pure speculation as to what was in it. Moreover, much of Fielding's pamphlet does not provide "most practicable recommendations" which could have been enacted. For instance, although An Enquiry favoured the exclusion of the labouring classes from places of public entertainment, it did not present concrete suggestions as to how this was to be achieved, beyond desiring that justices of the peace be given more powers. There is also the need to explain why, if Fielding was so influential and his plans so convincing, there was a three-year gap between his 1749 "bill" and the 1752 Act. [7]

Amory and Zirker, on the other hand, have denied a link between Fielding and any of the legislation: Zirker, for instance, writes,

> He did not direct the Committee of 1750 [sic.], nor did he affect later legislation except, in some cases, indirectly. We may not even assume that the publication of the Enquiry... was officially requested. [8]

Zirker regards the evidence produced by Cross and the rest to be "sketchy" and believes that Fielding was really a minion whose views would carry little weight with government, as

shown by the treatment he received from the Duke of Newcastle which is described in The Journal of a Voyage to Lisbon and by his constant complaints about the lack of resources which the government gave him. [9] Zirker also argues that the quality of the membership of the Committee makes the claims for Fielding even more improbable. Yet, as I have said, there is little likelihood that all the powerful politicians who were called to sit on the Committee actually attended. Moreover, although Fielding's treatment by Newcastle was typically pompous he seems to have expected nothing less, and as to the money, it was rare for public officials in the eighteenth century not to complain about the lack, or late payment, of funds.

There is little contemporary support for Cross's view. One writer did remark shortly after Fielding's death that he, "by his publications laid the foundation of many wholesome laws for the support of good order and subordination in this metropolis, the efforts of which have been, and now are forcibly felt by the Public." [10] However, the writer was his half-brother and successor as principal magistrate at Bow Street, John Fielding - hardly an impartial source. The view that An Enquiry and the King's speech to Parliament were somehow linked, and so in this way the pamphlet led to the setting up of the Committee and could, therefore, be regarded as one of its primary source materials, has been hampered by the failure to date the publication of Fielding's pamphlet:

Cross says that it appeared in mid-January and Zirker that it was published roughly contemporaneously with the speech. In fact, it can be reasonably firmly established that it was published on 19 January, 1751, that is two days after the speech: the London Evening Post, 15 January, carried a notice that the pamphlet would be published on the following Friday, which was the 18th, however in the next issue, 17 January, publication was put back to Saturday, 19 January, and on 19 January it was announced as published "This Day". [11] It seems unlikely that the content of the King's speech would have come as a surprise to the government, and it is possible that, as chair of both the Westminster and Middlesex Quarter Sessions since May 1749 [12] and as a person who was in receipt of government funds and whom the government consulted on law and order issues, Fielding would have been consulted about the problem of crime in the metropolis by the government before the speech was made. Furthermore, it seems fairly likely that the Lloyd Committee, which was chiefly concerned with the problems of London, would have consulted one of the chief magistrates for the area. His pamphlet was dedicated to the Lord Chancellor, to whom he had sent his proposals in 1749 [13], and the government certainly regarded the situation in the capital as serious well before 1751, as can be seen from the issuing of proclamations against street robbers in February 1749, January 1750 and December 1750.

There had also been the rumour of a bill on disorderly houses at the end of 1750, and Fielding may have been consulted about that. Fielding's An Enquiry preempted much of what, in general terms, the Lloyd Committee reports said, although it would have been more of a surprise if the two had differed, their conclusions reflected the mainstream of published opinion at that time and stood within a fairly lengthy tradition of writing on poverty and criminality. Fielding's support for the reform of the gin laws can be found not only in An Enquiry, but also in another, previously unnoticed, contribution: one of the petitions which preceded the Gin Act came from the General Quarter Sessions of Middlesex of which Fielding was the chair. [14]

In the end the debate over Fielding's contribution or non-contribution to the Committee and the legislation cannot be resolved. Yet in spite of this uncertainty the pamphlet is still a valuable source. It received very favourable reviews, it was rare amongst contemporary pamphlets of this type in that it was reprinted and was often referred to with approval by later writers. [15] This popularity was not because it was particularly new or radical, but because it expressed the views of an important section of contemporary opinion, and since we have no full report of the proceedings of the Lloyd Committee or account of the Parliamentary debates, it does provide an insight into the reasoning and the sorts of considerations which must have been in the minds of the

members of the Committee and the framers of the legislation.

8. The Fieldings and the Criminal Justice System

The Lloyd Committee and Fielding, along with most of the others who published on the subject, agreed that it was important to increase the spectacle attached to whatever punishment was inflicted, and this aspect of contemporary opinion was represented by the Murder Act 1752 and the Hard Labour bill. At the same time attention was also being paid to the administration of the criminal justice system in the pre-trial stage. The pressure for it to produce results in the form of convictions had been built up by the crime panic, and expectations had been raised by contemporary writers that results could be achieved: this was implicit in many of the suggestions about improving the watch and the magistracy. Parliament responded by providing an increased emphasis on the detection and conviction of offenders. For instance, the powers of constables and justices were increased, by such measures as the provisions in the Disorderly Houses Act allowing the apprehension and detention of suspicious persons with a view to enabling victims of crime to make an identification; that Act also sought to encourage prosecutions through allowing costs, a power which was to be widened by a series of statutes over the following half century; there was also the important legislation enacted a

couple of years before (23 Geo. II, c.26, section 11, and 24 Geo. II, c.55) which enabled justices' warrants to be enforced outside the county in which they were issued.

At Bow Street the Fieldings emphasised this crime detection role. Henry Fielding sought to improve the chances of convicting people through his opposition to the corroboration rule. Officially this was not overturned until R. v. Atwood and Robbins (1788) [1], but what constituted corroborating evidence gave a wide range of discretion to the judge and jury, and it was perhaps this discretion as much as the rule itself which Henry Fielding resented and sought to eliminate. The rule was expressed by Baron Adams in 1765 when he observed during the trial of John Westcott that, "an accomplice's testimony ought to be received with particular caution; and as Bradley had, by his declaration, virutally confessed himself to be as infamous a fellow as had ever appeared in that Court, so no further credit was to be given to his declaration than as it was confirmed by other circumstances". [2] Justices like Henry and John Fielding took the decision on whom to admit as a witness for the Crown, and regarded their evidence as crucial in their work. [3] This power was an important part of the assertion of the magistrate's role in the criminal justice process, and the judges' use of the corroboration rule provided what Henry clearly believed to be an obstacle to an efficient criminal

justice system. They argued that instead of a rule which excluded such evidence it should be put to the jury who would decide if the witness was credible. Implicit in this view, as in so much of the work of both of the Fieldings, was the belief that the key to criminal justice lay in the pre-trial process. [4]

Yet I would suggest that the legal reforms were not the most important means by which the emphasis of the criminal justice system was shifted in the second half of the century from the trial to the pre-trial process, for this one should look at the way in which Henry and John Fielding - as well as Saunders Welch - used publicity, in the form of pamphlets, books and newspapers. Henry Fielding was a magistrate for less than six years, but in that time he produced, in addition to An Enquiry, A Charge delivered to the Grand Jury at... Westminster (1749), A True State of the Case of Bosvaren Penlez on the Strand riots in 1749, Examples of the Interposition of Providence in the Detection and Punishment of Murder (1752), A Clear State of the Case of Elizabeth Canning (1753) and A Proposal for Making an Effectual Provision for the Poor (1753); moreover, his novel The History of Amelia (1751) includes a great deal of comment on criminal justice. On top of these works, during most of 1752 he published and wrote for the Covent Garden Journal, which gave prominence amongst its news items to matters concerning the Bow Street justices and policing in general. Similarly,

John Fielding wrote prefaces, which focussed on his half-brother's work as a justice, to Henry Fielding's The Journal of a Voyage to Lisbon and The Fathers, or the Good-Natured Man. John also wrote on his own behalf, A Plan for preventing Robberies within Twenty Miles of London (1755), An Account of the Origin and Effects of a Police (1758), and Extracts from such of the Penal Laws (1768); he had an interest in the Public Advertiser which published notices of crimes and regular accounts of events at Bow Street, and which devoted more space to these than to reports of trials at the Old Bailey; advertisements issued from Bow Street also appeared in the Daily Gazetteer as early as the 1760s and in Lloyd's Evening Post during the 1770s. The use of publicity did not only operate as a means of gathering information on crime, it also drew attention to the work of the Fieldings.

Both of the Fieldings used these outlets to present crimes in London such as robbery and burglary as being committed predominantly by gangs, and as, therefore, carrying serious dangers to the public. It was said that Henry Fielding devised his first plan to combat a large gang of street robbers [5], in 1767 John Fielding claimed that through the operation of his policing plan all rural and London gangs had been successfully broken up for the preceding 15 years [6], and in 1770 he told a select committee of the House of Commons that the 104 burglaries

which had occurred during the preceding six months were the work of "not exceeding twenty people". [7] Detection work of this sort required great effort and skill, and was, by implication, beyond the capabilities of any private individual: only a skilled magistrate with a full-time organisation and national contacts could succeed. In The Journal of a Voyage to Lisbon Henry Fielding recalled how, in August 1753, "I was almost fatigued to death with several long examinations, relating to five different murders, all committed within the space of a week, by different gangs of street-robbers". [8] John Fielding's lengthy interrogations were often remarked upon in the newspapers: for instance, in 1761 he spent "several hours" examining Dupuy, Morgan, Walley and Wayne about a series of robberies, and in 1765 one writer commented on "the assiduity of Sir John Fielding" who, in spite of having various other business to attend to, interviewed two suspects five times over a period of twelve days. [9] Such publicity also drew attention to the focus of the Fieldings' work in respect of criminal investigations, namely the need to extract a confession and thereby virtually decide the case before the trial: when he was examined at Bow Street in 1761 Theodore Gardelle was encouraged "to husband the Time of the Court by making a Confession for the Benefit of the Publick". [10] The Fieldings presented the justices' court as the forum where crime could be resolved, hence their annoyance at the corroboration rule. The reading public were

also well aware of the other activities involving criminal investigation in which the Fieldings were engaged: how John Fielding ordered the autopsy of Martha Ray who had been shot by Rev. James Hackman in 1779 [11]; how "Mr. Fielding's men" were sent in pursuit of suspects all over Britain [12]; how Bow Street was in close contact with the government, received the assistance of silversmiths, pawnbrokers and retailers of second hand clothes; and how "a Horse Pursuit is always ready to be sent out on any Emergency" and was occasionally used for regular patroles against highway robbers. [13] Bow Street became well known as a clearing house for information which was made available to other justices and victims of crime around the country; John Fielding constantly advertised that letters providing criminal intelligence would be paid for at Bow Street. [14] For instance, in July 1768 the following notice appeared at the head of the front page of the Public Advertiser:

> From the POLICE.
> The extensive Sale of THE PUBLIC ADVERTISER, (joined to the Variety of Channels thro' which it passes) has alwyas been the Means of detecting of many ROBBERIES, and of apprehending so many OFFENDERS, that it may be proper to give THIS PUBLIC NOTICE, That, for the Future, all Informations of this Kind, sent to Bow-Street, will be constantly inserted in THIS PAPER: And if SUCH INFORMATIONS are properly attended to, by PAWNBROKERS, JEWELLERS, SILVERSMITHS, STABLE-KEEPERS, BUYERS OF SECOND-HAND CLOATHS, &C. few Robberies will escape Detection; especially if ALL PERSONS ROBBED make use of THIS PAPER to advertise their Losses in.
> J.Fielding. [15]

Other justices around Britain certainly made use of the Bow

Street office and were also encouraged to develop their own contacts. John Fielding was called in by the Coventry justice, Hewitt, [16] to help in the pursuit of a gang of counterfeiters and a gang of housebreakers, and Hewitt provides useful information in his book The Proceedings of J.Hewitt on the way in which such contacts worked. [17] The Bow Street office provided a quasi-official core to a system which was still very much reliant on the victim; there a victim might obtain information, and suspects could be brought for interrogation and negotiation. Although I would not wish to over-emphasise its importance in terms of number of cases in which it was involved, Bow Street did provide a highly publicised model. The relationship between the private individual's pursuit of suspects and Bow Street was well documented by James Bevell in 1765. Bevell, the steward to the Earl of Harrington, recounted how he had been involved in the apprehension of John Westcote for a robbery on the Earl. Fielding had assisted Bevell in the pursuit, including tracing one of the stolen bank notes which had been cashed at the Bank of England; Bevell and one of Fielding's men, William Marsden, who was also working on the case regularly met at Bow Street to discuss their progress; and in trying to trace another member of the gang, John Bradley, Fielding "publicly advertised, hand-bills were dispersed all over the kingdom, persons planted at all the alehouses he used to

frequent, and every other method used to discover and apprehend him." Then a man called Cooper was examined by Fielding and confessed to complicity in the robbery. Shortly afterwards, Bradley was apprehended and also examined at Bow Street. There then followed a battle between Cooper and Bradley to be admitted as evidence for the Crown, a common occurrence which it was in the interest of Fielding to encourage: on "hearing Cooper attempt to become evidence for the Crown against him and Weskett... Bradley at once, without being requested to do it, or without any promise of favour or affection, declared the whole truth". Bradley was then admitted as evidence and proceeded to confess to two other robberies in which he, Cooper and Westcott had been involved. [18] A different version of the events is recounted in An Account of John Westcote, but this agrees that Fielding played a key role, although the battle between potential witnesses for the Crown was between Westcote and Bradley; presented with their confessions "Sir John Fielding had nothing now but to consider whether Bradley or Westcote was the properest object of the Royal Mercy". [19]

Through this publicity both Henry and John Fielding presented an image of Bow Street's professionalism and efficiency: John Fielding, for instance, boasted to the select committee in 1770 that no street robber had escaped justice for 20 years; and in 1768 he had claimed that it was impossible for criminals "to continue their Outrages for any

Time, or, as usual, to collect themselves into large and dangerous Gangs", adding, "the Certainty therefore of speedy Detection, must deter some at least from this Course". [20] So Bow Street, particularly when John Fielding was in charge, presented the apprehension and conviction of criminals as the principal objectives of the criminal justice system and the justice, rather than the trial court, as the main means of achieving these objectives. In 1785, Martin Madan praised the Fieldings' police schemes along these very lines:

> Our gangs of thieves are grown too numerous, and the individuals which compose them too desperate and dangerous, to be controuled by the comparatively feeble powers of the private magistrate, or of the common parochial constable... [N]othing but active magistrates, who devote their whole time to the one single object of the police - and bands of stout, able, and resolute officers, whose only business is to execute the warrants of those magistrates - can insure any tolerable quiet to the metropolis and its <u>environs</u>. [21]

To some extent the Fieldings' new policing systems were merely an elaboration of the work of Sir Thomas de Veil, who had been the principal magistrate for Westminster until 1746, of Jonathan Wild and of the Mint solicitors, in that its principal method was the processing of information. [22] In common with other writers Henry and John Fielding were both critical of the watch: the <u>Covent Garden Journal</u>, reporting a burglary which had taken place in Fleet Street in spite of the proximity of a watchman, commented that, <u>The is a hard Reflection upon a Watchman, who was, perhaps,</u> asleep, or

warming himself at a Night-House, in either of which Cases he could not possibly have prevented the Robbery", and in 1769 in the midst of a rash of burglaries John Fielding launched into an attack on the "Negligence and Inattention" of the watch. However both still relied heavily on the watch and soldiers to perform policing duties. [23] Private and local policing initiatives, such as the efforts of individual victims, thieftakers, parishes and associations for the prosecution of felons, were still the main part of the detection of criminals, but the element of organisation was more evident after the middle of the century. [24]

In spite of the changes introduced at Bow Street, they were too minor in the context of the crime either nationally or just in London to have the sort of decisive effect which John Fielding occasionally claimed for them, and familiar worries resurfaced at the end of the Seven Years War in 1763 and again in the 1770s and 1780s. In 1765 one newspaper remarked that at the Old Bailey, "the largest Session of Gaol-Delivry that has been known in the Memory of the oldest Man living." [25] In March 1770 a committee of the House of Commons was set up to report on Fielding's plan for preventing burglaries and robberies and that November another committee was set up on the motion of Sir William Meredith to inquire into the state of the criminal law. [26] Despite Fielding's confidence before the select committee in 1770 it was reported five years later that, "Perhaps there never were

more numerous or formidable Gangs of Housebreakers than have lately infested, and do still infest, this City and its Environs." [27] In September 1775 more felons were said to be awaiting trial at the Old Bailey "than for a long Time past", and in September 1777 170 people tried which led to the observation that, "so great a Number has not been known for some Time." [28] The same concerns were repeated in the 1780s, towards the end of the American War of Independence. [29] Furthermore, the criticisms which were seen in the late 1740s and early 1750s reappear in the newspapers and pamphlets. [30] Having said that the Fieldings were able to use the crime panic and their own publicity to make subtle shifts in the popular perceptions of the criminal justice system; they also introduced more easily identifiable innovations such as the establishment of a centralised system of information which provided the basis for national cooperation between essentially local and private policing organisations in the late eighteenth century.

It is also important to recognise that much of the debate on crime from 1749 onwards was concerned not so much with matters of crime by themselves, but with the moral control of the labouring people. This was because a discussion of crime and its roots was seen as inextricably linked with the habits and lifestyle of the labouring people. So there was nothing strange in the terms of reference of the

Lloyd Committee being extended to cover the poor, or in Henry Fielding devoting more than a quarter of his pamphlet to them [31]:

> In serious truth, if proper care should be taken to provide for the present poor, and to prevent their increase by laying some effectual restraints on the extravagance of the lower sort of people, the remaining part of this treatise would be rendered of little consequence; since few persons, I believe, have made their exits at Tyburn who have not owed their fate to some of the causes before mentioned. [32]

Indeed Fielding went on to write a long, and rather forgotten, pamphlet on the poor two years later. The assumption was that the labouring people were naturally inclined to be idle and wished to indulge in luxuries rather than work. Those who were allowed to remain idle had no means of support and, therefore, turned to poor relief, begging or crime. So the problem of crime was defined as a problem not of unemployment or inadequate relief for the poor, but of a moral defect inherent in labouring people.

Once the labouring classes and their lifestyle had been defined as the key problems then the solution, in general terms, became obvious: the people had to be subjected to supervision and discipline, to a moral policing, and the crime panic both prompted the search for practical measures and required that they be implemented. Providing those solutions was difficult, certainly no one suggested a more pervasive police force, and it is a mistake to examine this era for the forerunners of this later development. Instead

the solutions suggested involved controlling the places at which the labouring people gathered and the activities in which they indulged, and specifying particular "deviant" groups for detailed control, such as prostitutes and vagrants. So the main legislative reforms which emerged from this period (aside from the Murder Act) were the Disorderly Houses Act, aimed, in part, at controlling places of public entertainment for the labouring people, and the Gin Act, which sought to withdraw both a leisure activity and, in the gin shop, a meeting place. Moral judgements made by contemporary writers have continued to be applied unthinkingly by historians, particularly with regard to the drinking of gin and the gin shops. But these public meeting places were where people gathered, away from employers and officials, not only to socialise, but also to discuss action in labour disputes. This aspect took up a great deal of John Fielding's description of the policing system which he took over from Henry. In the preface to An Account of the Origin and Effects of a Police (1758) John Fielding wrote:

> In large and populous Cities, especially in the Metropolis of a flourishing Kingdom, Artificers, Servants and Labourers, compose the Bulk of the People, and keeping them in good Order is the Object of the Police, the Care of the Legislature, and the Duty of the Magistrates, and all other Peace-Officers. [33]

He argued - in common with his half-brother and the Disorderly Houses Act - that the best way to prevent idleness was to remove diversions aimed at the labouring

people, and "To lessen therefore the Number of these is the Business of the Magistrate." [34] At this time the gin shop seems to have become largely a thing of the past, so for John Fielding the alehouse was the worst of these diversions since, as well as providing a rendezvous for the idle and the criminal, "here the Combinations of Journeymen are made to execute their silly Schemes." [35] Essential aspects of his policing plans were the gathering of information on gaming and other assemblies of the labouring people, and raids on these places were only thinly veiled by claims about the connection between gaming and crime, [36] to John Fielding industrial action by workers was a public order problem requiring firm action. The justices were placed at the centre of the imposition of this moral discipline not only through administrative action, but also through the expansion of their legal powers, particularly the licensing powers, contained in legislation such as the Disorderly Houses Act and the Gin Act. Such action was defended against the criticism of it being contrary to the liberties of the people by locating it within an ideology of liberty: as one anonymous author put it in 1751, "Liberty, that is, Political Liberty, does not consist in the free Excercise of the Will, but in the Safety of our Persons and Properties." This aspect was made explicit by John Fielding's successor, Sampson Wright, in the objectives which had laid down for the Bow

Street office in his newspaper, The Public Hue-and-Cry, where he specified the aims as being to prevent offences, to detect criminals, to "check the mischevious effects of luxury, and raise an attention, if possible, to a due subordination". [37] This gave a great deal of scope to the active magistrate.

9. Conclusion

It is difficult to judge whether or not there was a genuine rise in crime during the years after 1748, but fortunately this issue is of no importance here. What is important is that there was a belief that crime was high between the end of one war in 1748 and the start of the next in 1756 and it was this belief to which politicians and writers responded. [1] The panic began because of the expectation of problems following the end of the war. This was increased because of the economic downturn experienced in many areas, particularly in the South of England through which many of the troops would pass, and, paradoxically, the concern over the effects of greater wealth. The situation was further exacerbated by the problems of paying the troops, particularly the sailors. The Press and the public were, therefore, sensitised to expect problems associated with the return of the sailors and soldiers. So the reports of crime constantly made reference to allegations about the

involvement of sailors and soldiers; and when such people were arrested or convicted they were typically referred to not by name, but by their occupation, or former occupation, as sailors and soldiers. The initial response involved measures such as using these men against smugglers in Suffolk, Sussex and Kent, or opening up the new colony in Nova Scotia, or offering the proclamation rewards 1749 and 1750, and strengthening of parish police. However, as the panic continued into the 1750s so the debate extended into viewing this "crime wave" as symptomatic of wider moral issues and problems of social discipline amongst the labouring poor generally. So from 1751 the debate tended to be severed from its origins in the dembolisation, but this did not mean that it lost any of its momentum, indeed the King's speeches in January and November 1751, together with the setting up of the Lloyd Committee and the publication of large numbers of pamphlets, increased the discussion. The classic text in which this widening of the debate is demonstrated is Henry Fielding's An Enquiry into the Late Increase of Robbers, in which, despite the title, he does not discuss "the Late Increase of Robbers" at all, but concentrates on ways in which to impose moral control on the labouring poor, supplemented by suggestions about the refocussing of the criminal justice system towards policing objectives defined by the magistrates. One of the features of

this moral debate was to attack not only the habits of the labouring people, but also, if rather obliquely, those of the landed gentry, whose idle and parasitic lifestyle was allegedly being copied by the poorer classes and whose system of government had, it was implicitly claimed, broken down. So in this debate and in the bureaucratic solutions being canvassed we can see the emergence of a more coordinated attack by the increasingly confident middling classes on the other social groups. This attack gains support from the publicity by the Fieldings through which they parade their activities and claim both success and government support for their work.

In terms of criminal justice two key issues emerged from the mid-century crime panic. The first was the notion that a criminal justice system organised with more emphasis on the pre-trial process - and, by implication, less on the trial and the punishment - could do something positive to enable the detection of offenders and tne reduction of crime levels. The second was that in the longer term crime could only be prevented through the moral policing of the labouring people. Both of these solutions implied the need for the focus to be on a more centralised, professional and bureaucratic policing structure of the sort which was being created by John Fielding.

CHAPTER 15

CHANGES IN CAPITAL PUNISHMENT IN THE EIGHTEENTH CENTURY: THEORY AND PRACTICE

1. Tyburn Fair

It was accepted throughout the eighteenth century that in the field of social discipline a gap had been left by the recession of religious influence which had to be filled by secular restraints. [1] John Fielding summed this view up in 1758:

> The Restraints on the Conduct of Mankind in general, especially that Part of them who are happy enough to be Christians, are the Laws of the Gospel, and the Laws of their Country. Indeed such a Compliance with the former, as lays a Foundation for a well-grounded Hope in the Life to come, makes their Restraints by human Institutions unnecessary; but Experience teaches us that those Objects act the strongest on our Fears and our Hopes that promise immediate Advantages, or threaten immediate Punishments: Hence it is, that the common People stand more in Awe of the Laws made by Men, than of those which come from the Foundation of all Laws; and the Prison, Whipping-Post, Pillory, and Gallows, make more Men honest than may at first be imagined. [2]

The anonymous author of A Complete History of James Maclean (1750) agreed:

> It is certain, the Design of executing Criminals in so publick a Manner, and with so much infamous Solemnity, is to strike a Terror upon the Minds of the People, and to give them a just Horror of the Crimes, that are attended with such dismal and shocking Consequences; the Government judging that such alarming Spectacles must sink deeper into the Minds, and have a more lasting Impression on the Disposition of the Vulgar, than all the Lectures and Precepts of either Law or Religion. [3]

Fifty years earlier Timothy Nourse had expressed the same view, arguing that, "To reform these by soft Admonitions and persuasive Methods, is all but one as to polish and civilize a Wolf by reading of Moral Lectures. No, such Brutes are to

be taim'd by other Methods... Beadles, Catchpoles, Gaolers, Hangmen". [4] Yet events such as the "crime wave" in the late 1740s and early 1750s seemed to show that the existing system of punishments was failing. In July 1752 the Covent Garden Journal reported that despite the hanging of eleven people at Tyburn the following day saw "one of the most impudent Street-Robberies" near St. James's Square in London, "an Instance of the little Force which such Examples have on the Minds of the Populace." [5] The year before a newspaper reported how Henry Fielding had committed Solomon Smith to prison for picking the pocket of John Mewburn, "The Fact was committed at Tyburn within seven Yards of the gallows, before the Malefactors were executed... It is hoped that he will meet with a Punishment according to his Desert; for a Man can have no Fear of God in him, that he commits such a Vile Act, when he sees his Fellow-Creatures departing for crimes of like Nature." [6] Such incidents were common: in June 1748, as the condemned were being taken in procession to Tyburn, a pickpocket was detected by the crowd and ducked. Nor were they confined to the mid-century period: in June 1775 the keeper of New Prison, Clerkenwell, had his pocket picked while he stood watching the condemned prisoners going to be hanged, and two years later four pickpockets were reported to have been ducked by the crowd during a hanging at Tyburn. [7] Expressions of general concern about the apparent ineffectiveness of the gallows was also common: in 1782, at a

time when the numbers being hanged were rising rapidly, one newspaper observed that, "Notwithstanding the late and pending executions at Tyburn, the avenues of the metropolis continue to be infested as much as ever, and robberies committed with equal, if not greater degrees of barbarity". [8] Later the same year, following the conviction of Philip Sutton for picking a pocket at Tyburn, it was remarked of the hangings that, "the end for which [the lives] are taken is by no means answered; at least the example is thrown away upon those, for whom it is chiefly held out." [9] Similarly, in 1785 the Daily Universal Register observed on one execution:

> Capital punishments are inflicted not so much for the purpose of revenging on the individuals who are the object of them the violation of the laws, as for holding out examples, by which others may be deterred from pursuing evil courses; what little effect these terrible examples produce in the minds of hardened felons appeared a few minutes previous to the execution, where a man, unawed by the sight of nineteen criminals, on the point of expiating with their lives the crimes of which they had been guilty, snatched from a gentleman, a gold watch with a chain of the same metal [10]

Typically these problems were dragged to the fore when there was a general belief that crime was rising, and, not surprisingly, those periods also saw the publication of most of the major writings and proposals on punishment: Hanging, Not Punishment Enough was published in 1701, during a year in which 66 people were hanged in London, which was more than three times the number for any other year between 1700 and 1712, and was probably higher than any of the years in the

late seventeenth century; Bernard Mandeville wrote An Enquiry into the Frequent Causes of the Executions at Tyburn had originally appeared in the British Journal in response to the bloody activities revealed by the downfall of Jonathan Wild in 1725 and the hero-worship of John Sheppard, who had been hanged at the end of the previous year; George Ollyffe's pamphlet, An Essay Humbly Offer'd, for an Act of Parliament to prevent Capital Crimes, appeared in 1731 against a background of a "crime wave" which had led to the issue in 1728 by the government of a proclamation offering a one hundred pounds reward for the conviction of street robbers in London and also to four works by Daniel Defoe in three years on robbery; Henry Fielding's An Inquiry appeared in 1751, as has been seen, in the middle of another such "crime wave"; Eden published Principles of Penal Law and Dagge Considerations on Criminal Law in the early 1770s as the numbers condemned and hanged in London and Middlesex began to rise rapidly; and pamphlets by Madan, Thoughts on Executive Justice, and by Romilly, Observations on a late Publication, as well as Paley's Moral and Political Philosophy, which contained some influential remarks on punishment, appeared in the midst of unprecedented numbers of both capital convictions and hangings in the 1780s. [11]

The question was, what was going wrong? To contemporary observers the disorder in the crowd and the lack of concern

amongst the condemned were regarded as symptomatic of the failure of the gallows to terrify either group. It was inadequate as a spectacle, and it was around this issue that the penal debate revolved for most of the century. The hanging day was, according to Mandeville, "a Summons to all Thieves and Pickpockets, of both Sexes, to meet." [12] It was "one continued Fair", with "Hooting, Bawling, Clamour and Noise", a holiday for the labouring people: "Amongst the lower Rank, and working People, the idlest, and such as are most fond of making Holidays, with Prentices and Journeymen to the meanest Trades, are the most honourable Part of these floating Multitudes." [13] They drank gin, "the grand Preservative of Sloth, Jeneva, that infalliable Antidote against Care and frugal Reflexion". [14] They flung the carcasses of dead cats and dogs at one another, and "Whilst these ill-boding Meteors are shooting thro' the Air, the Joy and Satisfaction of the Beholders is visible in every Countenance and Gesture". [15]

For many the behaviour of the crowd was directly linked to the lack of concern amongst the condemned. In April 1752 the Covent Garden Journal reported the hanging of five people at Tyburn, one of whom, a man called Leake, threw an orange at the constable who had arrested him, joked with the crowd and asked them to protect his body from the surgeons; three of the others were said to have acted in a like fashion. This caused the newspaper to comment, "No Heroes within the Memory

of Man ever met their Fate with more Boldness and Intrepidity, and consequently with more felonious Glory... to the great Encouragement of all future Heroes of the same Kind." [16] The same problem spanned the century. In 1725 Mandeville had remarked on the behaviour of the condemned: "what is most shocking to a thinking Man, is, the Behaviour of the Condemn'd, whom (for the greatest Part) you'll find, either drinking madly, or uttering the vilest Ribaldry, and jeering others, that are less impenitent". Such behaviour, he concluded, hardened "the Profligates that behold them, and confirm to them, by ocular Demonstration, what they encourage one another with in viler Language... That there is nothing in being hang'd, but awry Neck, and a wet pair of Breeches." [17] Fifty years later in 1775 a London newspaper asked, "How are we to punish Criminals who fear not Death; or, at least, defy it till almost the last fatal Moment, which the Behaviour of most of the misguided Wretches strongly indicates during their Confinement, and of some even in the last dismal Journey." [18]

2. Striking "a far greater Awe"

For much of the century the key problem was defined as being the failure of the hanging as a spectacle, but different writers viewed this problem in different ways. For the anonymous writer of Hanging, Not Punishment Enough (1701)

the problem, and therefore, the solution, lay in the behaviour of the condemned; it was their lack of concern which meant that spectators did not fear the hanging. This writer argued that the condemned's behaviour arose because only those who were gripped by vice could commit capital crimes and that vice made them like animals, as a result they were irrational and, therefore, unconcerned. The solution was to force the condemned to be terrified by inflicting further pain: the condemned was to be "made to feel himself die." [1] This additional pain was not in itself the aim, it was regarded as a necessity in order to achieve the proper effect. The suffering was justified, the writer argued, because it would deter others from crime. [2] Thirty years later George Ollyffe, a clergyman and an enthusiastic supporter of the societies for the reformation of manners, wrote along similar lines in An Essay Humbly Offer'd, for An Act of Parliament to prevent Capital Crimes (1731). He argued that the lack of religious belief amongst criminals led them to have no fear of the divine punishments which would be inflicted after death:

> In the quick dispatch of Mens Lives, either by hanging, burning, or shooting, whereby the Sensation of the Torture is in an instant extinguished, 'tis too often seen how little concern or fear is produced even at the very time of Execution; when such as are Strangers to the Terror of future Judgment, think the whole of such Punishment only a short stroke, which they are no sooner under, but they are at the end of [3]

He, therefore, argued that, "an Execution that is attended

with more lasting Torment, may strike a far greater Awe, much to lessen if not to put a stop to, their shameless Crimes." Ollyffe felt easy in this suggestion, claiming that "tho' here and there a Miscreant may so severely suffer... yet how many hundreds of precious Lives would be hereby preserved". [4] Our two reformers suggested various methods of torturing people to death, some borrowed from other European countries, some unique to their own imaginations, including hanging alive in chains, breaking on the wheel, whipping to death and roasting over a slow fire. [5] The writer of Hanging, Not Punishment Enough added that before the execution they should be put into solitary confinement on bread and water, "to humble them, and bring them to a sense of their Condition", and in an effort to demonstrate a direct link between the crime and the punishment the condemned should be punished as soon as possible after the crime. [6]

In Hanging, Not Punishment Enough it was suggested that different forms of death with differing degrees of pain attached would enable a distinction to be made bewteen crimes, so a thief would die in a less horrible manner than a murderer. [7] Similarly, a murder in 1735 prompted "Philo-Patriae" to express the view that the recent increase in that crime, which he believed had occurred, was due to the lack of different forms of capital punishment for different degrees of offenders. The writer suggested that murderers should be

thrown to the lions and tigers kept at the Tower of London:

> The Horror that must naturally arise in them, at the Shocking and most dreadful Approach of such a Death, when thrust, bound Hand and Feet, into the den of these their Kindred Savages, and having nothing but a View of exquisite Torment from their sharp Talons and voracious Jaws, must needs have the most sensible Impressions upon them, and strike such a Terror on other Criminals, as in all likelihood, would make them avoid Cruelty and Murder, since death for Theft and Robbery would be but barely hanging. [8]

It was this idea of being able to discriminate between different capital crimes which also led a writer called C.Jones to argue in 1752 in favour of differential death penalties, and that certain offenders should "suffer most acutely in the Flesh, to caution others from following his dreadful Example." [9]

Although not reaching the peaks which these writers achieved, most of the writers in the first half of the eighteenth century agreed with their basic thesis that the execution had failed as a spectacle because of the attitude of the condemned. Bernard Mandeville differed from the writer of Hanging. Not Punishment Enough because he assumed that everyone, including criminals, was afraid of death, so for him the solution lay not in creating that fear, but in removing the things which kept it hidden. In An Enquiry into the Causes of the Frequent Executions at Tyburn (1725) he wrote that, "No Man can conquer the Fear of Death, but by something superior to it". [10] So, he asked, what was it that buoyed up the condemned? It was not innocence, because

they had been found guilty; it was not religion or patriotism because capital offenders showed by the commission of such crimes that they believed in neither of these. There was, in short, no reason for the lack of fear, therefore, he concluded that it must be false: "The Terror of Death inwardly excruciates him; But his Fear of Shewing this, of being called a Coward, and laugh'd at by his Companions, has some Command over his outward Appearance". [11] He suggested that in order to strip away the condemned's disguise all those things which provided him or her with some form of support should be removed: solitary confinement after the trial, a fixed time beyond which no pardons would be granted so that the condemned might not be supported by this expectation, a properly-paid ckergyman, a bread and water diet, no alcohol, and the giving of a certain number of bodies to the surgeons with the choice being made after the hanging "that no Felon could sure this would not be his Lot". [12]

> When a Man thus wean'd from the World, and all the Hopes of Life, should be drawn from his dark and solitary Dungeon, once more enjoy the open Air, and see himself expsed to gazing Multitudes, there met on purpose to feed their Curiosity at his Expence; when the Paleness of his Countenance, and the Shaking of every Limb, should without Disguise, reveal the Motions of his heart; and his Spirits neither confounded, nor bouy'd up by inebriating Liquors, should discover their real Condition and Incapacity to uphold their trembling Tenement; the Spectacle would be awful, and strike the Hearts of the Beholders: [13]

He delighted at the prospect of some prisoners emerging from

the prison in this state, but then, on the way to the gallows, gradually revealing their penitent state and becoming "lively, glow with zeal, and, in Strength of Voice and Action, excell the most vigorous Preachers." [14] Fielding too, in An Inquiry (1751), argued that one of the chief problems with the Tyburn hanging was that, "The day appointed by the law for the thief's shame is the day of glory in his own opinion." [15] The main cause of this was "the frequency of executions... The thief who is hanged to-day hath learned his intrepidity from the example of his hanged predecessors". [16] But he added that not only did the appearance of unconcern produce the wrong effect, so too did the "poor wretch, bound in a cart, just on the verge of eternity, all pale and trembling with his approaching fate", for such behaviour drew pity from the crowd. The aim had to be "to raise an object of terror, and at the same time, as much as possible, to strip it of all pity and all admiration." [17] Taking Garrick's Macbeth for his inspiration, he suggested that it should be "in some degree private", that is in the presence of only a few people, because imagining the death magnified its terror; it should take place as soon as possible after the crime, so the two events would be joined together in the spectators' minds; and, finally, it should be as solemn as possible in the procedure, dress and machinery. [18]

So most of the writers in the first half of the century

thought along basically the same lines. If crime was rising, and they believed it was, then the public hanging must be failing to deter people from crime since that was its function, indeed it may even be encouraging crime; this was in turn blamed on the deportment of the condemned; so the solution lay in making the condemned more effective in their allotted role. Some suggested that more painful methods of execution be employed, others wanted a rigorous preparation of the condemned and a more solemn ceremony. It was within this paradigm of achieving a more terrifying spectacle that the Murder Act, 1752, fitted: the Act refers to the need to add "some further Terror and peculiar Mark of Infamy" and "to impress a just Horror in the Mind of the Offender, and on the Minds of such as shall be present, of the heinous Crime of Murder". [19] The use of the bodies of felons for anatomy classes had been a long-standing tradition, however the choice of which corpses whould be taken seems to have been a decision for the anatomists rather than a penological one. It is true that a few months before the Act was passed Sheriff Janssen had ordered that the bodies of four men be handed over to the surgeons as an additional punishment for wounding a turnkey at Newgate during an escape attempt, but this appears to have been a rare exception. [20] So the decision would have been presumably based on the suitability of the corpse for the purposes of the teachers. This would have

involved matters such as the age and condition of the corpse, as well as the sex, since no women's bodies seem to have been taken by the surgeons: so, for instance, the surgeons' assistants took back a corspe they had removed from Kennington Common when it was found that it had venereal disease. In The Beggar's Opera, Matt of the Mint told the rest of Macheath's gang that his brother Tom had been hanged, "and so clever a made fellow he was, that I could not save him from those fleaing Rascals the Surgeons; and now, poor Man, he is among the Otamys at Surgeons Hall." [21] The likelihood that people among the crowd at Tyburn would oppose the removal of the body was probably another factor. The idea of using dissection as an aggravation which would horrify both the condemned and the crowd was well founded, as the riots against the surgeons demonstrated, and many writers had urged its use, including Mandeville. As the Gentleman's Magazine put it in 1751, "Every one knows how great an aversion most people have against being anatomized" [22], and this was rather confirmed by William Smith's reqeuest in the previous year for donations towards his burial, "I cannot refrain from anxiety, when I think how easily this poor body, in my friendless and necessitous condition, may fall into the possession of the surgeons, and perpetuate my disgrace beyond the severity of the law." [23] So it was not as a means of supplying corspes, but as a regular form of aggravated death penalty that the Murder Act was passed. Suggestions which had

been fairly common currency since Hanging, Not Punishment Enough were also included: the execution was to take place on the second day after the trial, and before then the condemned person was to be kept apart from other prisoners and to receive no visitors, except those authorised by the sheriff or the judge. [24] As has been seen, certain aggravated forms of the death penalty already existed for high treason and for women convicted of petty treason, and there were variations, such as execution at the place of the crime, hanging in chains and dissection, for less clearly defined groups of other offenders. The penalties included in the Act were, therefore, already broadly available to the courts, moreover, although the number hanged for murder was high in 1752, it was historically quite low: in London and Middlesex between 1749 and 1751 out of 163 people who were hanged, three had been convicted of murder. [25] So that the Act was largely a symbolic response to the post-1748 panic which had placed pressure on the authorities to do something about crime.

3. "a Matter of Entertainment"

After the mid-century period we find the emergence of a critique based more firmly on the view that the failure of the public hanging as a spectacle, at least in London, was due not so much because of the behaviour of the condemned (although that notion was not by any means discarded), but

more because of the frequency with which such hangings occurred - usually six or more each year. In 1774 it was reported that in the jury room at the Old Bailey someone had written, "The Sword of Justice, when too deeply stained with blood proves an indifferent corrector of the morals of a nation." [1] In some respects this was a revulsion against the excesses of the criminal justice system, but it was also thought that people were either becoming too hardened to death, or too sympathetic to the offender. One correspondent to the Public Advertiser in July 1768 wrote that, "the Frequency of our Public Executions, when Human Creatures are monthly convey'd to the Gallows, with as little seeming Concern, as if they were so many Oxen fatted and fitted for Slaughter." As a result the hanging became "a Matter of Entertainment to the common Herd of Spectators, striking so little Terror into them by its Frequency, that they have often been known to have even committed Thefts under the Gallows, whilst the Criminals have been suffering." [2] One of the biographies of James Maclaine written in 1750 began with the following passage:

> Considering the Number and Frequency of Executions in this Metropolis, the almost infinite Multitudes that resort to these shocking Spectacles, with a kind of unnatural Eagerness, one would be tempted to imagine, that Hanging is become a Sport; and publick Justice executed on the most atrocious Criminals, is looked upon by the Inhabitants of the Cities of London and Westminster, as a mere pastime... [E]ither the Morals or the People are so much debauch'd, and their Hearts so hardened, that they cannot understand the Design of

> these Wretches being brought to suffer in their Sight: or Executions are become so frequent, that they have lost the Force of Novelty to make them operate on the Minds of the People, according to the wise Intention of the Legislature. [3]

The same writer added that while some of the spectators became hardened, others regarded the sufferings of the condemned "with Compassion, Simpathy, and Pity" [sic] and as a result, "They condemn the Severity of the Law, than express their Horror at the Crime", so "it has brought Theft, Robbery, Pilfering, and the lowest Vices, into some kind of Repute." [4] Rev. Parker, preaching at York in August 1783 after the hanging of John Ryley, felt it necessary to warn the congregation, "To whatever degree you may indulge pity for his distresses, and his family, take care to cherish an equal hatred to his guilty actions." [5]

In part these lines of thinking lay behind the suggestions of Beccaria and his followers. Beccaria himself made a famous appeal against the sheer cruelty of the capital laws. But he and his followers argued at greater length about the need for punishment to act as a deterrent from crime, and, therefore, the focus of attention should be on the crime not the criminal. Capital punishment, however, made the suffering of the criminal the focus, or, worse, by constant repetition it pushed spectators beyond sympathy and hardened them to suffering. [6] For these writers this justified the reduction of the number of capital offences. Yet it is important to recognise that Beccaria did not reject the

traditional view that punishment should involve a public spectacle he simply regarded the public hanging as not only a cruel, but also an ineffective form of spectacle. He argued:

> It is not the intenseness of the pain that has the greatest effect on the mind, but its continuance; for our sensibility is more easily and more powerfully affected by weak but repeated impressions, than by a violent, but momentary impulse. [7]

On the same grounds of the need for public spectacle he also rejected transportation and imprisonment, for him the most effective punishment was public labour whereby the offender was "condemned as a beast of burthen, to repair, by his labour the injury he has done to society." [8] Spectators would view such a punishment with horror - and this, of course, was the reaction he sought - because of the value he assumed that everyone placed upon liberty: "there is no man, who upon the least reflection, would put in competition the total and perpetual loss of his libery, with the greatest advantages he could possibly obtain in consequence of a crime." [9] Beccaria's British followers adhered to this view. The anonymous author of Thoughts on Capital Punishment (1770) suggested that putting offenders to work on public roads - with one finger chopped off for identification purposes - would make them "living, standing, visible Examples". [10] William Meredith, in his speech proposing the setting up of a select committee on the criminal law in 1770, spoke of the need to change the punishment for some offences

to hard labour [11]; soon after William Eden in Principles of Penal Law (1771) and Henry Dagge in Considerations on Criminal Law (1772) both wrote in favour of the same form of punishment. [12]

Although the notion that capital offences might be entirely swept away, or at least radically reduced in number, and replaced by hard labour in public was new, the idea of using this form of punishment was not. The view that only idleness lay at the root of both poverty and crime had long been commonplace, and workhouses and houses of correction where the poor and petty offenders were, at least in theory, to be set to work as a cure for their idleness dated back to the sixteenth century. It was on this basis that the Lloyd Committee proposed in 1751 that felons be put to hard labour in the dockyards. QUOTE LLOYD Much has been made of this proposal by Radzinowicz who sees in it the first clear signs of a movement against capital punishment. [13] In fact, the proposal was never intended to replace capital punishment, as the bill which was introduced into the Commons makes clear. It was merely a means of providing an alternative to transportation which could be awarded against those capital convicts whom the government decided to pardon or those who had been convicted of an offence punishable by transportation. [14] The other interesting feature of this proposal was the way in which this bill fitted in with existing penological thinking. The preamble suggests that

transportation was inadequate in part at least because of its failure to provide a public example: it refers to the need "to appoint some other Exemplary Methods of punishing those Crimes, in order more effectually to deter evil-disposed Persons from committing the like Offences for the future; and to make such Offenders as shall not be so deterred visible and lasting Examples of Justice to others". Dockyard tasks were chosen because they required "little Skill, but are extremely laborious", and the docks also provided plenty of space for housing convicts within a secure compound. [15] The bill was passed by the Commons, but failed in a fairly well attended House of Lords. [16] The reasons for this defeat can only be guessed at. One correspondent to the Gentleman's Magazine argued against the bill that it would deprive honest labourers of work and so force them to commit robberies, and that there would be little deterrent value in such a punishment since both food and conditions would be good. The only other suggestion of what went on in the Lords is provided by a footnote to this letter added by the editor, "we have it from good authority, that this bill is rejected by the l--ds from another motive - because 'twas too severe." This comment should be considered against a contemporary belief that transportation to America was not a severe punishment anymore because of the development of American society. [17] Doubtless partly because of that opinion of

transportation the idea of public labour projects continued to attract support: for instance, in 1754 it was suggested by the writer of Proposals to the Legislature. For preventing the frequent Executions and Exportations of Criminals that it might be used as a replacement for capital punishment, because "the punishment of death is too transitory to leave any long impression on the mind". [18] Some years later the ending of transportation to America meant that, while a search went on for an alternative destination, a suitable punishment had to be devised for those who would otherwise have been transported. For the most part convicts seem to have been left in prison, which led to problems of overcrowding that I will touch on later in this thesis. The other choice was to put them to work dredging the Thames under the Hard Labour Act of 1776 (16 Geo. III, c.43). The question of what sort of hard labour convicts might be put to had been considered the year before: in February 1775 one newspaper carried the suggestion that public work on the roads would put labourers out of jobs and therefore convicts should be used only in hauling road materials. [19] Doubtless this would have been rejected on security grounds. Whatever the reasons for adopting the form of work that this Act did the objective of it acting not only as a punishment, but also as a spectacle was initially reported as being successful. In 1777 the London Magazine published an article describing the punishment, and in July it was reported that,

> The Curiosity of the Public is such to view the Convicts at work at the Ballast-Lighters, that it is supposed thirty Pounds per Day have been spent at Woolwich through that Circumstance only on an Average for three Months past. [20]

Indeed the success of the experiment encouraged at least one newspaper to suggest this as a replacement for the death penalty:

> The sanguinary Complection of our Laws has long been complained of. One Correspondent wishes some other Mode of Punishment than Death was adopted for all Crimes except Murder. At present it seems to appear that the Ballast-Lighters do more towards Reformation than the Gallows. [21]

The same month saw a similar comment:

> Our Laws are cruel and sanguinary, and at the same Time ineffectual to the Prevention of Crimes, What good Man, therefore, would not wish a Substitute for hanging, as well as for Transportation? Necessity compelled us to adopt another Mode for the latter [22]

4. "the Possibility of Pardons and Reprieves"

Writers throughout the eighteenth century agreed that one way in which the criminal justice system undermined the effect of capital punishment was by granting too many pardons. The writer of Hanging, Not Punishment Enough, Ollyffe, Mandeville, Fielding, Beccaria, Eden, Dagge, Madan and Romilly all criiticised this aspect of the criminal justice system. However, once again there was a difference in the conclusions to which this led the different writers. Amongst the group up to and including Fielding the view was

generally held that the common use of the pardon and the way in which it was sometimes granted very late encouraged the condemned to believe that they might be pardoned right up until the moment of their death, and this, in part, explained their unconcerned behaviour. Mandeville wrote that, "the Possibility of Pardons and Reprieves, that often come very late, and which, with or without Grounds, most Criminals continue to hope for, 'till they are hang'd, is another great Clog, that keeps attach'd to the World those that are less abandon'd, and more relenting than the Generality of them; and who, without that Hindrance, would, in all Probability, prepare themselves for certain death, which overtakes many whilst they are still doubting of it." [1] Slightly different was the view to which writers later in the century generally subscribed, namely, that potential offenders were more affected by the expectation that if caught they would be pardonned: "The danger and certainty of destruction are very different objects... It is of the very nature of hope to be sanguine, and it will derive more encouragement from one pardon than diffidence from twenty executions." [2]

Such views led to two conclusions, both of which supported the argument that the pardon should be limited, or preferrably abolished. However, one line of thinking was that the law should be fully enforced so as to turn the "danger" of hanging into "certainty", whilst the other was that the frequency with which pardons were granted indicated that the

law was too severe and, therefore, full enforcement was impossible unless the punishments were mitigated. The most famous exposition of the first view was Madan's pamphlet Thoughts on Executive Justice (1785). He argued that crime was only likely to be reduced "when the fears of severe punishment duly operate on the minds of those whom no other consideration can restrain." [3] He argued that the laws were certainly severe, therefore, the only reason why they were not effective in deterring people from committing crime was because they were not put into effect. He wrote that it was important "to shew, that, whatever can induce men to the commission of crimes, must, in the end, bring them to destruction", only in this way would people be deterred from crime. [4] He also believed that the failure to enforce the law fully was contrary to the intention of Parliament and as such "it is illegal, arbitrary, and unconstitutional; tending to overturn the true distinction between the legislative and executive powers". [5] It seemed odd to him that the legislature should enact laws if they expected the executive to mitigate them: this "appears to me to be giving themselves a very needless trouble, which might have been spared, by not enacting such Laws at all." [6] Madan's view undoubtedly had its supporters: in 1785 Alderman Townshend told the Commons that "it was to no purpose to multiply penal laws if they were not put in force". [7] This was followed the next year

by a petition from the City of London which asked for "a speedy and due execution of the law, both as to capital punishment and transportation, without which all other regulations must prove nugatory and abortive, and the mischiefs complained of must daily and rapidly increase." [8]

Some twenty years before Beccaria had presented the other side of the coin. He believed that it was important to link the punishment to the crime so as to offset "the seducing picture of the advantage arising from the crime". [9] This link could not be forged if offenders were pardoned since that led people to expect the pardon rather than the punishment. On top of this he also argued that the pardon was part of a system of individualised sentencing which drew attention away from the crime and on to the individual offender. [10] Therefore, he supported the view that penalties should be fixed and fully enforced, without the possibility of being mitigated. Finally, he argued that, since the reason for the use of the pardon lay in the excessive penalties, then before the pardon could be eliminated it was first necessary to get rid of the reason for its use, and this required the substitution of milder punishments. [11]

In opposition to both of these views was the less often expressed opinion of the lawyers and judges. Perhaps not surprisingly they sought to defend judicial discretion. Blackstone used Beccaria's work to a limited extent in his

Commentaries, and expressed, in a rather ambivalent fashion, certain concerns about the number of capital offences. However, he subscribed to a more optimistic view of human nature which became influential in poor relief and penology after the middle of the century. He believed that an individual offender might be reformed, and so general deterrence was only one aim of punishment. Individualised sentencing was, therefore, crucial, since it had to be left to the judge in each case to decide which objective was to be pursued and by what means. [12] Sir Richard Perryn, one of the barons of the Court of Exchequer, took the unusual step of directly replying to Madan's pamphlet in his charge to the Grand Jury of Sussex in 1785. He too defended judicial discretion and regarded Madan's suggestion as an attempt to make "our laws like the laws of Draco, which, from their severity, were said to be written in blood." [13]

Generally the view presented by Dr. William Paley in his book, Moral and Political Philosophy has been regarded as more or less representative of the judges' position. However, his work shows some differences in approach to that of Blackstone. Although the book was published in 1785 it was based on a series of lectures given at the University of Cambridge between 1768 and 1776, so it is not surprising that some of what he wrote in his chapter entitled "Of Crimes and Punishments" was almost certainly prompted by, and directed

at, the work of Beccaria and his English followers of the early 1770s. However, like Beccaria and most of the writers around this time, he concentrated on the efficacy of particular types of punishments as public spectacles. Against Beccaria he argued that punishment should be measured not be the value of the property, nor should the moral culpability of the offender be considered, instead the guide should be the need to prevent crime in future for the sake of the protection of the public. All else fell before this supreme aim. In practice this resulted in an apology for the status quo. He believed that punishment should be proportioned to the ease with which an offence can be committed and the difficulty of detection: for instance, the death penalty was attached to stealing from the bleaching grounds not because it was a more heinous crime than others, but because, "the property being more exposed requires the terror of capital punishment to protect it." [14] Equally the writing of threatening letters required "a more condign and exemplary punishment, by the very obscurity with which the crime is committed." [15] His view of penal practice as an excercise in deterring potential offenders from crime led him also to argue that the system of having a large number of capital offences worked well since it did not require the death of all offenders, but instead allowed "a few examples of each kind" of offender to be made: "By this expedient, few actually suffer death, whilst the dread and danger of it hang

over the crimes of many." [16] He, therefore, defended the pardon as essential to this system based on the execution of a few, well chosen examples. However, he did have some reservations about the effectiveness of the existing system. The importance of the spectacle of punishment in order to strike "terror into the minds of those for whose warning and admonition it was intended" [17] led him, like all the other writers of that time, to seek a punishment which would provide a greater spectacle. He suggested that certain offenders might be thrown to a pride of wild lions. Unlike his predecessors who had suggested punishments along these lines, he was concerned that the horror of seeing a person killed in this way might create sympathy and divert attention away from the lesson of the whole event; he, therefore, suggested that the prisoner be cast into a den, "where they would perish in a manner dreadful to the imagination, yet concealed from the view." [18] On the grounds of the need for a public spectacle he also rejected the substitutes for capital punishment: transportation, for instance, was inadequate since it "is unobserved and unknown... [The convict's] condition strikes not terror into the minds of those for whose warning and amdonition it was intended." [19] However, he did accept that certain punishments, most notably solitary confinement at hard labour, had some value, but only, presumably, in the case of those convicted of lesser

offences or those not considered as "suitable" for capital punishment. [20] Finally, he excused the high rate of executions on the ground that this was the price which had to be paid for "The liberties of a free people" which meant that a pervasive policing system was not possible.

Although as the title suggests Samuel Romilly wrote his Observations on a late Publication, intituled, Thoughts on Executive Justice (1786) in response to Madan's pamphlet, his work was also a response to Beccaria and his followers. Furthermore, both Madan and Romilly's pamphlets must be read within the context of the period; in this light it is likely that Romilly was also attacking the shift towards a more rigid attitude to capital convicts during the 1780s. Whereas Madan saw crime prevention in terms of increasing the terror of the public hanging by administrative means, Romilly believed that what one writer had called "the legal massacres" [21] of the early 1780s showed the failure of the gallows. His pamphlet was a step away from most previous work since he did not argue for a punishment which would act as an effective public spectacle, although he did seek one which would act as a general deterrent. His argument was based on the belief that certainty of punishment was the best means of deterring people from committing crimes, and that, therefore, the aim should be to enable the detection of offenders. He recognised that it was impossible to detect all offenders, but he did think it possible to provide more encouragement to

prosecutors. In his view they were discouraged from prosecuting by the punishments which might be inflicted: in other words, they were repelled more by the potential punishments that might be inflicted than by the desire to see the criminal law enforced. [22] From the offender's point of view Romilly held to the traditional line that, if the matter was given any consideration at all, he or she expected to escape. [23] In opposition to Madan's argument that the executive had no right to pardon offenders and thereby suspend the operation of the law, he referred approvingly to Paley's view, published the year before [24], and also pointed out that Parliament had approved of selective enforcement by its failure to do anything about it. [25] Like Beccaria he regarded the excessive penalties which were attached to certain crimes as being the reason why the pardon was used so often, and he launched an attack on Parliament as "the author of unnecessary evil". [26] Spectators were not deterred by executions for theft, instead "they imagine they see revenge sanctified by the legislative, for to what other motive can they ascribe the infliction of the severest penalties for the slightest injuries?" [27] Yet even if the death penalty were proven to deter people from crime it was not worth the price:

> death cannot be inflicted for a mere invasion of property, consistently with reason and justice, nor without a gross violation of the laws of nature, and the precepts of our religion. Between a sum of money

> and the life of an individual, there is no proportion, or, to speak more accurately, they are incommensurable. [28]

On this ground alone he congratulated the executive for failing to enforce the law rigorously: "it is inseparable from the nature of too severe laws, that they should not be executed." [29] This did not, however, lead him to argue that all capital punishment should be abolished. As an alternative to both capital punishment and transportation, he advocated the untried Penitentiary Act, 1779, on the grounds that offenders could be reformed. [30] He also adopted Henry Fielding's argument that it was important to attack the roots of crime through putting people to work and through preventing them "from plunging into drunkenness, gaming, and idleness", and to achieve this aim he accepted the need for a more effective police force, although not one run by central government. [31]

The idea of full enforcement did have some affect on the administration of criminal justice. It was a concept upon which many of the societies for the prosecution of felons were founded in that they generally required their members not only to prosecute felons who had committed crimes against them, but also to press for the full punishment to be inflicted: for instance, the Manchester Committee for the Detection and Prosecution of Felons and Receivers of Stolen Goods resolved in February 1772 that suspects "should be

prosecuted with the utmost Rigour of the Law", and, "To prevent the great number of Robberies daily committed: After Conviction of every Offender, particular Application, will be made to the Judge or Justices, that such Offender may suffer the Punishment of the Law in its utmost Extent." [32] As has already been mentioned, in 1754 and probably even earlier the government adopted a policy of fuller enforcement. In 1775 there was a rise of 42% in the number of hangings over the previous two years and an increase in the rate of those condemned who were later executed from 36.8% in 1774 to 62.2%. [33] This reflected a crime panic during that year which saw the reintroduction of measures adopted after 1748, such as parish subscriptions for rewards and the setting up of patroles, and led to the suggestion that a scheme of full enforcement with respect to certain types of offender be adopted on the lines of that used "Near thirty Years ago". [34] Another "crime panic" accompanied the winding down of the War of American Independence, and this together with the crisis over transportation prompted the adoption in 1782 of a policy of denying pardons to robbers, burglars and housebreakers, and in September of the following year the Deputy Recorder condemned 58 people to death at one session at the Old Bailey and during that year a total of 173 were condemned there. This was the highest figure of the century, and although it dropped back in 1784 and 1785 the percentage who were executed rose from 30.6% in 1783 to 64.2% in 1785.

On the Home Circuit there was a similar story: the level of commitments for trial at the assizes rose between 1782 and 1783 by 176.5%, the number condemned rose by 221% and the number executed by 184%. The rise in these figures continued through 1784 and into 1785, in this latter year the percentage of those condemned who were actually executed rose from 34.1% in 1784 to 60.4%, the previous high being 45.2% in 1782. Knapp and Baldwin provide the figures for the Lent assizes in 1785, and these show that in the English assizes, outside London and Middlesex, (the figures for Wales are not given) 242 were condemned and 103 executed. The official response to this was to continue the 1782 policy of tightening up on the granting of pardons. After a drop in 1786, and in spite of a fall in the numbers condemned, the percentage of those condemned who were later executed rose to 81.4% in London and Middlesex in 1787; although on the Home Circuit the fall which had occurred in 1786 continued into 1787. [35]

As has been seen in Part I of this thesis, Romilly, who had sought an entry to politics through the pamphlet, was disappointed to see it sell only 100 copies, whereas Madan, who more closely responded to the general opinion, brought out a second edition. [36] So it is wrong to present Romilly's pamphlet as having a great importance at the time it was written. Yet the 1780s did have an importance which

can be discerned from various clues rather than from a single text. The praise which Mr. Justice Willes was reported to have had for Romilly's pamphlet was no doubt because it supported the discretion of the judiciary [37], and the judges may well have not been so keenly disposed to the idea of limiting the excercise of the pardon as Lord Mansfield appears to have been. [38] It also seems possible that the judges agreed with Romilly's view that the laws "have been, for the most part, the fruits of no regular design, but of sudden and angry fits of capricious legislators." [39] It is significant that many of the leading criticis of the capital laws were lawyers - Blackstone, Eden and Romilly. Blackstone had argued that capital punishment should not be attached to "slight offences" [40], and that it was the severity of the capital laws which had forced the judges to respite sentences, and this, in turn, led offenders not to expect to be hanged even if they were caught. [41] In other words, Parliament had caused the problem: capital punishment had been "inflicted (perhaps inattentively) by a multitude of successive independent statutes, upon crimes very different in their natures." [42] As has been seen in my discussion of judicial attitudes to legislation, there was not only a sense of pride in the common law and of its importance within a constitution founded upon common law definitions of property, but also a belief in its supreme rationality; it was looked upon as a science. It seems likely that Romilly's violent

attack on the tangle of criminal legislation struck a chord with those who regarded it as a cancer on the common law, although they perhaps did not agree with his suggestion that many of the capital offences should be abandoned. It is significant that one of the first capital laws to be repealed in the nineteenth century was the Infanticide Act (21 Jac. I, c.27), which put the burden of proof on the mother to show that the child had been born alive if its birth had been concealed. Blackstone wrote that it "savours pretty strongly of severity" [43] and East agreed that it was "a very severe law". [44] The case law had reduced its severity somewhat [45], but its whole principle offended against the principles of the common law, and it was the judge Lord Ellenborough, generally pictured as the chief opponent of reform, who saw to its repeal in 1803. [46] This is not to argue that the judges were sympathetic to Romilly's views generally, after all Ellenborough's Act included several - perhaps as many as ten - new capital offences. What they objected to was not that infanticide should be a capital offence, but that the statute contravened the "common law method" of doing things and in doing so had besmirched the image of the common law.

5. "Order, Decency, and Solemnity"

Since there were no substantial repeals of capital statutes in the eighteenth century it might be argued, as Hay has done, that it was not the work of the reformers which was of importance during that period, but rather the opinions of the conservatives. Radzinowicz, on the other hand, has written on the basis that since there were repeals in the nineteenth century then that fact gives the work of the eighteenth-century refomers a greater importance. Yet whatever the differences in their approaches, for both Hay and Radzinowicz the reforms came in the nineteenth, not the eighteenth, century. However, a closer examination of the practice of capital punishment reveals that important changes took place in the eighteenth century, and these, as I shall argue in this section, undermined the nature of the public hanging.

As with so much else substantial changes in the nature of the Tyburn hanging did not occur until the years after the peace of 1748. The problems faced by Sheriff Janssen in October 1749 when a group of sailors came to demand the bodies of their "brethren" have already been mentioned. The incident led to some major policy decisions by Janssen, some of which seem to have been more or less permanent. First, he directed that the bodies of the hanged should be handed to their friends and not to the surgeons. One of the things which had almost certainly facilitated the riots over the

bodies was the practice of the civil and military authorities withdrawing once the condemned had been hanged, without waiting the customary hour in order to supervise the cutting down of the bodies. Indeed the authorities often expressed an impatience with the pace at which the hanging took place. When Samuel Smith was Ordinary of Newgate he remarked on one occasion in May 1684 how, when he had spent one and a half hours in prayer with the condemned, "the Sheriffs Officers *were earnest to hasten* the Execution more than once, and were reproved by the Ordinary for being so hasty, when so weighty a Work was a doing". [1] In 1736 the rescue of Thomas Reynolds was effected because, according to the London Evening Post, "The Sheriffs Officers believing the Prisoner dead, were retir'd from the Place of Execution before he was cut down." Similarly, the rescue of James Buchanan from the gallows at Wapping in 1738 took place just after the Ordinary of Newgate, and quite probably the other officials, had withdrawn. [2] There seem to have been no recriminations following these incidents, and the continuation of the riots around the gallows suggests that this policy was probably not altered until 1749. When Janssen became sheriff probably he, but if not then certainly some of his officers, stayed in order to supervise the handing over of the corpses. By the time Earl Ferrers was hanged in 1760 a new custom had evolved to keep the sheriffs amused: after Ferrers was hanged "the

sheriffs fell to eating and drinking on the scaffold, and helped up one of their friends to drink with them, as he was still hanging, which he did for above an hour". [3] Staying in order to supervise the cutting down of the bodies also enabled Janssen to introduce the practice of using dissection as a form of aggravated punishment, as he did in May 1750 when four men were hanged who had wounded a Newgate officer during an attempted escape from prison. In 1752 this practice was repeated with respect to the bodies of Broughton and Hayes who had also attempted to escape from Newgate. The General Advertiser described how the bodies were handed over:

> Yesterday the Bodies of Broughton and Hays, those harden'd Villains, were, by Order of the Sheriffs of *London and Middlesex*, deliver'd to *Mr.* Harrison, Surgeon of the London Hospital, to which they were escorted by a great many of their Officers, and met with no Opposition. And we are assured, that they will be publickly dissected To-morrow... as a Terror to other Offenders in such most atrocious Crimes. [4]

Previously, as has been mentioned, the choice of bodies for dissection seems to have been purely a matter for the anatomists. The other major innovation in 1749, and, paradoxically, one which, amongst other things, enabled the sheriffs to control the handing out of bodies, was Janssen's decision to refuse the assistance of the military. In part this action was almost certainly political. Janssen had been elected in 1747 to the House of Commons as an opposition member, and in the aftermath of the war one of the issues on which the opposition was most vocal was the attempt by the

government to maintain a large standing army. [5] It seems likely, therefore, that Janssen would have regarded it as rather incongruous for him to have accepted assistance from the military. His action certainly drew a great deal of support: the London Evening Post, for instance, commented,

> The Order, Decency, and Solemnity, visible in the melancholy Processions... shew our Constitution in its *most distinguish'd Light; and manifestly prove*, that a small Military Force, is sufficient to secure and protect us from all intestine Feuds and Commotions. [6]

Some months later this newspaper was still repeating what it saw as the moral of the incident: reporting Janssen's prosecution of two constables who had failed to turn up for the hanging, the newspaper remarked, "it was owing to these Neglects that had made it ncessary for the Civil Power to call in the Military to attend the Executions, which was repugnant to our Laws." [7] After this time it seems that the *military were not entirely dispensed with* when trouble was expected, but that they were generally kept out of sight: for instance, when the Gordon rioters were hanged in St. George's Fields in August 1780, a large troop of cavalry were in the nearby King's Bench prison and about 1,000 other soldiers were in the locality, but none was visible at the place of the hanging. [8] Yet this change in policy actually seems to have enabled the sheriffs to have had a greater control of the hanging. As has been mentioned, a military escort would only have been called upon if a rescue of the condemned was expected, and then, at most, probably only fifty soldiers

would have been used, nor were they under the direct control of the sheriffs. Although the civil officers might not have been so well-armed or trained as the soldiers, there were more of them, as appears in the report of a hanging at Tyburn in March 1750. Eleven people were hanged, and guarding the procession, apart from Janssen, there were two under-sheriffs, two to three hundred constables and several high constables. These officers were under the control of the sheriff, which meant a large force was in attendance throughout the whole of the proceedings. This enabled him both to direct the distribution of the bodies, and also to maintain a strict separation between the crowd and the condemned during the procession and at the gallows.

> The several Carts were lin'd by Constables within, and by Civil Officers on Horseback without; and no Persons, either on Horseback or on Foot, suffer'd to mix with *them; by which Means* the whole proceeded regularly and without Interruption. [9]

So, although Linebaugh is to some extent correct in identifying the period around 1749 as one in which the balance of forces at Tyburn changed in favour of the labouring people and against the surgeons because of the decision to hand over most of the bodies of the hanged to their friends or relatives, in another sense Janssen had begun the attempts to regain physical control of the site of the execution for the state, and his ability to dictate both to the surgeons and to the crowd on the handing out of the

bodies - including the way in which he reserved the right to hand them to the surgeons as a means of aggravating the punishment - is evidence of his success in achieving this objective.

These changes were followed by technological and administrative innovations in the method of hanging which increased the separation of the condemned from their friends and which saw the hanging become less public. Up until the late 1750s the hanging of most of those condemned at the Old Bailey had been conducted on the permanent triple-legged gallows at Tyburn, near Hyde Park, and the method of killing involved driving from under them the cart on which they *stood. [10] In 1760 in place of the cart a drop was used for* the hanging of Earl Ferrers. It was described in a contemporary account as consisting of "an Elevation in the Middle of the Scaffold, where part of the Floor had been raised about eighteenth inches higher than the rest", on a signal given, "that Part, upon which he stood, instantly sunk *down from* beneath *his* Feet, and left him suspended". [11] Although this was the first use at Tyburn, a crude form of drop had been employed elsewhere: at Wapping in 1752 when Captain Lowrey was to be hanged, he stood on the scaffold and, in the words of the Ordinary, "the Executioner struck out the Prop of the Scaffold very dextrously, and he dropp'd down in a perpendicular Line, and never struggled." [12] Such methods offered the possibility of a much quicker death than

the slow strangulation of the cart, in which the condemned relied on friends to pull on their legs in a last gruesome act of friendship. However, the drop seems to have been abandoned at Tyburn after the hanging of Ferrers, possibly because of the problems encountered on that occasion, and there was a return to the use of the cart. But the decision to experiment was significant.

At around the same time the old triple tree was torn down and a mobile gallows was employed at Tyburn. The first use was probably in October 1759 when, according to the Whitehall Evening Post, "The Gallows, after the Bodies were cut down, was carried off in a cart." [13] Experiments with this structure were apparently made, for in July 1769 it was reported that before the hanging "A new Gallows, of an uncommon Construction, was erected", although no details are given.[14] This method does not seem to have been more convenient for the authorities, indeed in 1781 a hanging was delayed for half an hour while the scaffold was built. The use of a mobile gallows was symtomatic of a change in attitudes to hangings which I will explore in a moment.

So during the second half of the eighteenth century there was a policy of supervising the hanging which was facilitated by the use of large numbers of civil officers; in addition, experiments with new techniques were made. Already a new strategy can be seen to have emerged, even though it

was not one that was necessarily planned in a coherent fashion. The hanging was becoming less public: the procession was still there, but the condemned were less accessible, and the gallows was no longer a permanent feature of the geo-politic of London, it was no longer required to perform its role as both a geographical signpost and a reminder to the people of the state's power. The next development was the abolition of the procession to Tyburn. A similar move had already occurred in relation to Kennington Common. This had, since the 1730s, acted as the main place of execution for those convicted at the Surrey assizes, although Guildford was also used. In 1768 it was announced that in future hangings would take place in the assize towns, and, although this did not mean the end of Kennington Common as a site (a hanging occurred there in 1770), such a decision inevitably meant fewer hangings and smaller crowds. [15] Then in 1783 came the abolition of the procession to Tyburn. As from that December executions were held outside the debtor's door at Newgate prison. [16] This amounted to a recognition of a substantial change in the fucntion of the public hanging. A measure of how much the notion of the hanging as a spectacle had been undermined by the late eighteenth century is evident from the way in which changes in administrative arrangements and the site were directed, in part, by considerations of cost and inconvenience to householders. For instance, one of the reasons for abolishing the procession was that Alderman

Skinner, a sheriff at the time, had estimated the loss of work on hanging days to be #20,000 a year. [17] The abolition meant that the hanging was much quicker and could take place earlier in the day, usually around 8 a.m., rather than towards midday, so the Public Advertiser observed soon after the abolition, "No longer will thoughtless Youth neglect their Employments to attend Tyburn Executions". [18] Later alterations in the hangings at Newgate seem to have been made on the grounds of inconvenience to neighbours and cost to the City. For instance, the 1783 scaffold was abandoned because, since it was not permanent but had to be built before each hanging, "a great number of workmen" were employed through the night and into the next afternoon constructing and then removing it, to the great annoyance of householders, who also complained that the roads were closed to traffic for long periods of time. [19] That such reasons were successfully advanced, shows how much the importance of the hanging had been undermined. The question is how did this occur?

To an important extent the crowd and the condemned had appropriated Tyburn into their culture and had forced their own customs upon it. The policies initiated by Janssen had to some extent regained the site for the state, but he had made certain concessions, his was a negotiated settlement. The behaviour of both the crowd and the condemned continued to be seen as revealing a lack of proper solemnity, and the

alterations in the hanging were justified along these lines. Sheriffs Turner and Skinner, who initiated the aboltion of the procession, argued at the time that the hanging day had become a holiday, that spectators came "with the strange Expectation of satsifying an unaccountable Curiosity than with a Sober Solicitude for Moral Improvement." They continued by criticising "the Meanness of the Apparatus, a dirty cart and ragged harness, surrounded by a sording Assemblage of the lowest among the vulgar"; the crowd "becomes a Riotous Mass, and their Wantonness of Speech breaks forth in profane Jokes, Swearing and Blasphemy." [20] In the early nineteenth century Knapp and Baldwin, the editors of The New Newgate Calendar, claimed that this arrangement was "more humane to the miserable suferers, as it spares them the additional mortification of hours' exposure to an idle and unfeeling mob." [21] The point is that this change merely demonstrated the way in which the essentials of the system had long since been lost.

All these explanations indicate a particular view of the crowd current at the time. From about the late 1760s on, and more particularly in the 1770s and 1780s, there is not only an increasing tendency to point to the effect which the hangings were thought to have had on the spectators, but also an expression of offended sensibility by middle class observers. One commentator wrote in 1768 that the public hanging was "a Matter of Entertainment to the Common Herd of

Spectators". [22] Another remarked that,

> Whatever Ideas... we may form of the Savages of distant Climes, we have Savages at home equal with the most ferocious. Witness the Numbers who hasten to an Execution, not with Emotions of Compassion, but of boundless Curiosity. [23]

In 1786 the Daily Universal Register reported with distaste how crowds of people had been going to Surgeons' Hall for three days in order to view the dissected body of Hogan, and commented that such exposure "from being frequently repeated tends to harden the minds, of the vulgar, and familiarize them with spectacles of horror." [24] The following month the same newspaper remarked on the "savage curiosity" of the spectators at a hanging outside Newgate, adding that they "fight, swear, curse and pickpockets", and revealed "a shameless apathy". [25] The place of hanging which was meant as an assertion of law and order was instead a place of illegality and disorder, with the crowd rather than the state demonstrating its power. To some extent this situation had long been recognised and for much of at least the first half of the century efforts had been made to turn Tyburn into a well-ordered site of education. After the mid-century period, however, this desire is gradually discarded. What emerges is a feeling of disgust at the behaviour of "the Common Herd", "the Savages", which was thrown into stark contrast by the sensitivity of the middling classes:

> It is impossible... for a Man of humane Feelings to view a Procession to the public Place of Execution,

> without being inspired with a Wish to prevent the Necessity of exhibiting such horrid Spectacles. [26]

Whereas the labouring people were characterised as deriving immense pleasure out of hangings, the "Man of humane Feelings" had no desire to watch such spectacles. Those housekeepers who lived in the Old Bailey and who offered windows to rent for hangings were said, by the Daily Universal Register in February 1786, to have "degraded themselves from the rank of citizens". [27] First the introduction of a mobile gallows, so that the idea of hanging people might not be a permanent feature of London, and then the abolition of the procession showed how it was not the condemned who was being protected by the changes in the nature of the hanging, but the "Man of humane Feelings". However, there also develops out of this increased sensitivity some awareness of the individual as a suffering human. So, at the same time, a brief campaign against the burning of women for petty and high treason was run by The Times in response to the burning of Margaret Sullivan in June 1788 for coin offences. To some extent the campaign was chauvinistic, arguing that women "by being the weaker body, are more liable to error, and less entitled to severity", however, the more consistent themes were the discrimination between women and men, and the view that the punishment was too harsh:

> Must not mankind laugh at our long speeches against African slavery - and our fine sentiments on Indian

> cruelties, when just in the very eye of the Sovereign we roast a female fellow creature alive, for Putting a pennyworth of quicksilver on a halfpenny worth of brass. [28]

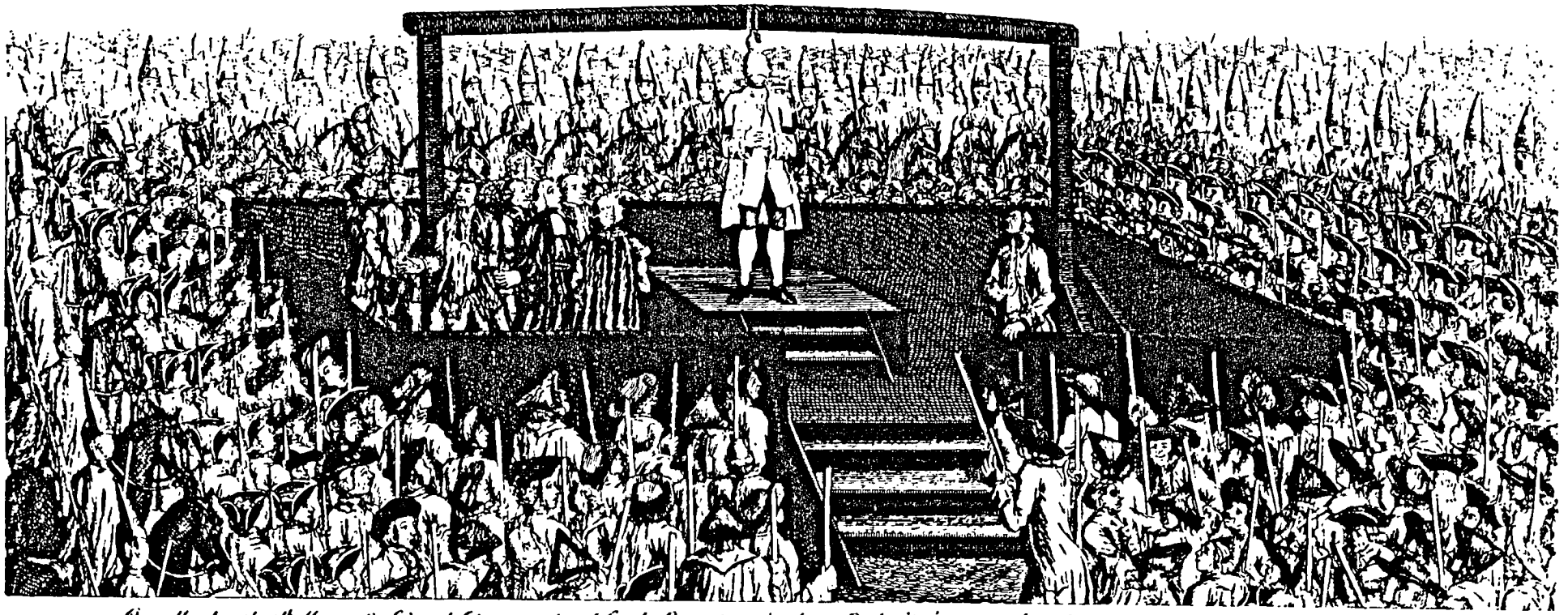
Such punishments of mutilation were being gradually withdrawn: branding had been abolished in 1779 and burning of women was abolished in 1790. The abolition of the procession to Tyburn was a part of this trend. In the short term what triggered off the decision was the increase in the number of the people hanged in the 1780s. [29] There was the old concern over the effect such carnage would have on the spectators, to which was now added the effect it - and the behaviour of the spectators - would have on the "Man of humane Feeling". Of course, this appears to throw up a paradox in that the number of hangings which were occurring was increasing at a time when increased sensitivity required that they take place in a less public way. The explanation was the expressions of disgust did not necessarily bring with them opposition to the use of capital punishment. What is significant is that the notion of the hanging as a spectacle, which was the key concern of the pre-mid-century reformers, was no longer the most important consideration, so it is clear that by the 1780s the view of the hanging as an engine of state power had been substantially undermined.

When the procession was abolished new, detailed arrangements were made which had three objectives: to keep the condemned out of sight of the crowd for as long as



TYBURN, 1747 (from W.Hogarth, Industry and Idleness)

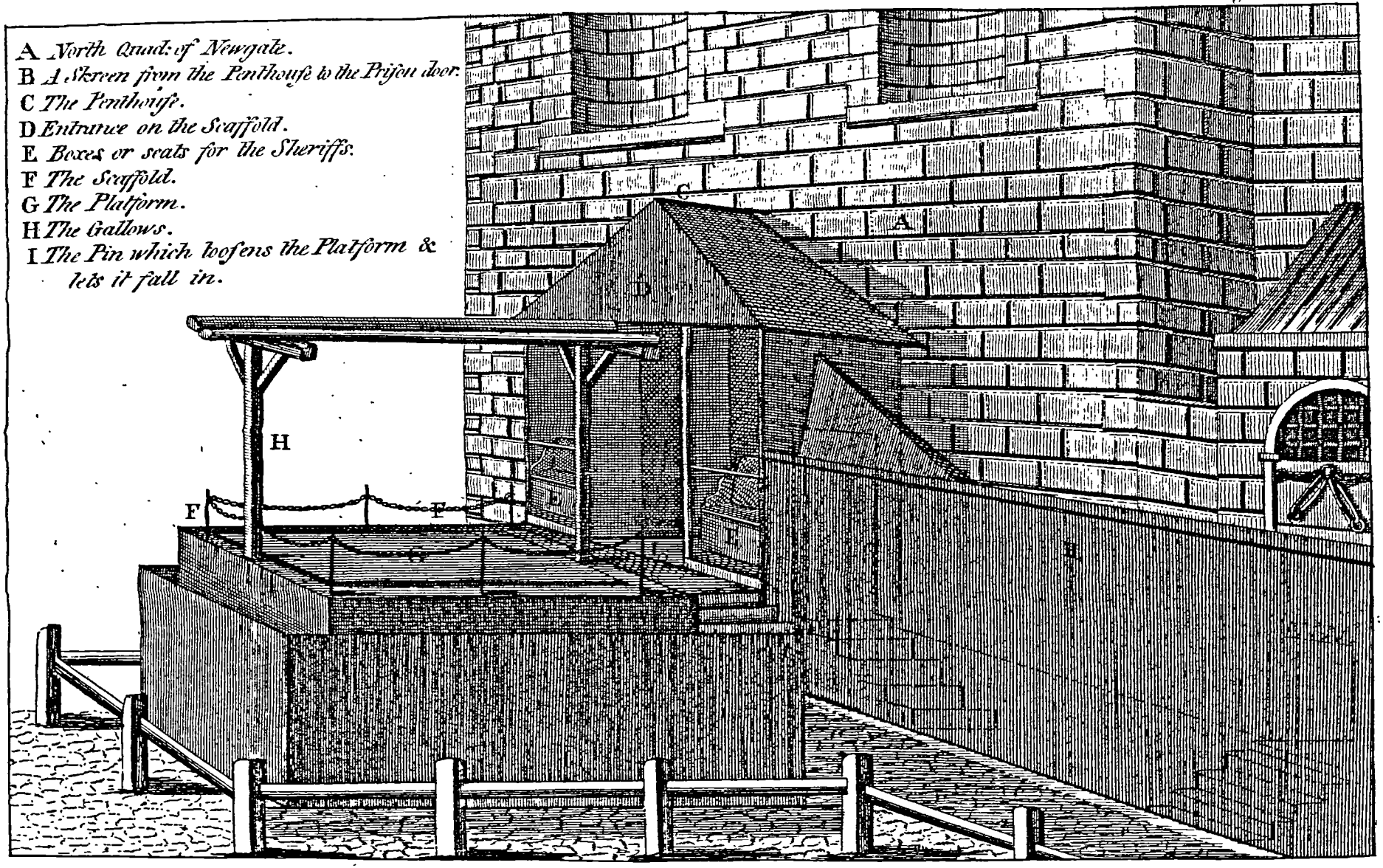
A Correct View of the Scaffold, Gallows &c. & manner of Execution of Laurence Shirley late Earl of Ferrers at Tyburn for the barbarous murder of Wm. Johnson his Lordships Steward, Drawn from the Spot at the time of his Execution.



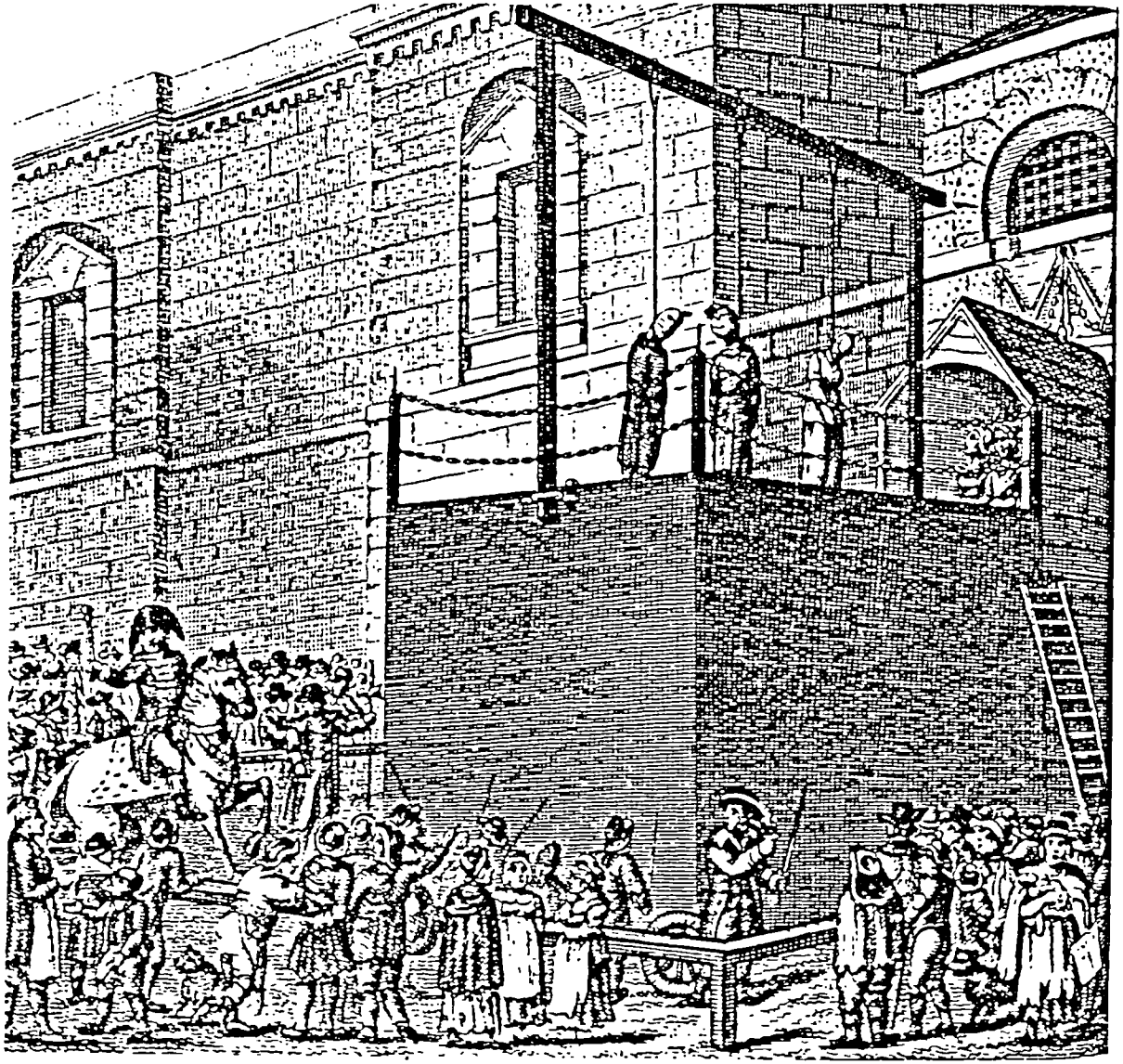
On Monday the 5th May 1760 being the Day appointed for the Execution of the Earl of Ferrers the Sheriffs of London & Middlesex in Consequence of a Warrant directed to them, waited on his Lordship at the Tower; & from thence proceeded to the place of Execution, preceded by a great number of Constables, & a Party of Horse; & that Coach, in which his Lordship went in his own Landau attended by Mr Sheriff Williams & the Chaplain of the Tower drawn by six Horses, & the melancholy Procession ended with a Hearse dressed with Feathers & mourning Coach each with six Horses covered with Velvet. His Lordship was dressed in a light coloured Coat & Satin Waistcoat embroidered with Silver & black Breeches, he seemed very Composed & the Executioner Servants & Others Employed in the Procession quite Resigned when he came to the place of Execution: & untimely fell this unhappy Lord a sacrifice to his ungoverned Passions, may his untimely Fate admonish us to temperate our Actions with prudence & check every growing Vice in its infancy, least we like him fall a Victim to our Passions.

The Drop and the Mobile Gallows: the hanging of Ferrers, 1760

Gent. Mag. Dec.r 1783.



The new gallows outside Newgate, 1783.



Newgate, early C19th.

possible, to keep them out of reach and to get the hanging over with quickly. The Standing Orders required the attendance of 120 constables as well as all the sheriffs' officers. Some of these patrolled the area between the scaffold and the railings around the scaffold, others patroled between the crowd and the railings. No one was allowed on the scaffold, except the condemned, the sheriffs, the hangman and his assistant, and the clergyman. In addition there was the use of architecture to achieve the objectives. The height of the scaffold from the ground effectively ended the possibility of the sort of communication between the condemned and members of the crowd which had occurred when the hangings were conducted at Tyburn. The condemned emerged from a hidden passage directly on to the scaffold and so was out of sight until the last moment. Finally, the hanging took place in about half an hour. During that time the condemned prayed and the literature indicates that few delivered dying speeches. Soon the whole operation was speeded up even more. When Henry Fauntleroy was hanged in 1824 it was observed that,

> The whole of the ceremony was performed with humane dispatch, and from the time of the culprit leaving his cell to the moment when he was launched into eternity, scarcely more than three minutes had elapsed. The glimpse which those near the scaffold caught of his face was but momentary. The clergyman stood before him and concealed his person from the gaze of the multitude until he had fallen. [30]

The activities of the condemned and the crowd had undermined the value of the hanging to the state, and although through the technological and administrative changes in the second half of the eighteenth century the state regained control of the gallows, its function had changed from being a means of educating people in lessons of state power through death to purely a means of killing. The public features of the hanging - taking a person through the heart of London and killing them in front of their friends, relatives and workmates - which were intended to make it a demonstration of state power had actually enabled it to be undermined in the performance of that function. So, for instance, although the sailors at the hanging in October 1749 had reassured Janssen that they did not intend to obstruct him in his duties, their action in dictating how the bodies should be distributed had effectively reduced the image of Tyburn as a symbol of the state's omnipotence. Dr. Johnson's remark to Boswell made in response to the abolition of the procession indicates how ambivalent the objective of the hanging had become by 1783:

> they object that the old method drew together a number of spectators. Sir, executions are intended to draw spectators. If they do not draw spectators, they don't answer their purpose. The old method was most satisfactory to all parties: the public was gratified by the procession: a criminal was supported by it. Why is all this to be swept away? [31]

The changes made by the authorities enabled the state to recover control of the gallows by separating the condemned

from the crowd and by increasing the speed of the hanging, but the actions which enabled this control to be regained drastically altered the function of the gallows - or rather recognised that its function had already been altered by the intrusion of notions of popular justice and religion and by the failure of many of the condemned to conform to their allotted role. Rather than the supreme site for the expression of law, order and state power, it had become a place at which the labouring people were able to reject the dominant system of values by making the hanging day a holiday from work, by acts of petty crime and by assertions of popular justice and religion through the exercise of collective strength. Connected to this was the view that the gallows and the crowd were disgusting to the people of "feeling"; the Tyburn hanging had lost its objective and seemed to them a sadistic anachronism. The abolition of the procession and the other alterations consequent upon it made the presence of the crowd largely irrelevant; the contact which had undoubtedly provided support for many of the condemned had been removed, either because it was a source of disorder or because "humanitarians" did not regard it as of value, in their terms, to the condemned. The gallows became primarily a means of killing people and as such its being made increasingly private and fast became logical. This exposed it to examination purely as a form of punishment and

opened it up to comparison with other punishments, such as imprisonment and transportation, and to questions which judged its effectiveness solely in terms of crime control.

CHAPTER 16

PRISONERS AND REFORMERS

1. Prison Histories

The upsurge in prison building and alterations in prison discipline in the late eighteenth century are typically connected with the emergence of a philanthropic movement in the middle of that century. Some historians portray these reformers as humanitarians motivated by a sympathy for prisoners which links up with their concerns over the excesses of the "the Bloody Code"; others argue that these humanitarians, although keen to get rid of the bulk of capital offences, were at the same time seeking to impose a harsh prison discipline on a broader range of offenders. There is, in fact, less separating these two groups of historians than might at first appear, since both adopt the perspective of the reformers as their basic assumption, namely that the pre-reform prison was chaotic and in need of reform. The work of a long line of writers, of whom John Howard was only one, is accepted as an entirely objective description of the prisons as places of squalor and misery. In short, both groups of historians are agreed that the condition of the pre-reform prisons was appalling and required reform, the only ground for difference being about the way in which the philanthropists went about that reform. To take one example of the writing which typified eighteenth-century accounts of prisons and which has subsequently been adopted by historians, Mandeville wrote of Newgate in 1725:

> The licentiousness of the place is abominable, and

> there are no low jests so filthy, no maxims so destructive to good manners or expressions so vile and prophane, but what are utter'd there with applause, and repeated with impunity. They eat and drink what they can purchase, everybody has admittance to them, and they are debarr'd nothing but going out. Their most serious hours they spend in mock tryals, and instructing one another in cross questions, to confound witnesses; and all the strategies and evasions that can be of service, to elude the charge that shall be made against them. [1]

That situation has then been compared by historians with the prison opened at Pentonville in 1842, in which order and discipline were pursued:

> Rules to be invariably suspended over the bedding. Pot-cover and pot under the table. Cell broom on the middle rail of the table. Soap, comb, brush on the rail in front of the pot-cover. Drinking mugs, one at each corner of the table ... Books behind the salt box. Slate against the wall, behind the books. Signal board in front of slate. Towel neatly folded on the clothes' pegs. [2]

Most prison historians have accepted these two pictures of disorder and of order, and have simply sought to explain how one became the other. This approach pays scant attention to the nature of the eighteenth-century prison. But beneath Mandeville's account can be seen a clear prison culture. Noticeably, Mandeville is most concerned, not with dirt or disease, but with disorder; prisoners eat and drink as they wish, swear prophanely and hold mock trials. Here is a hint that the prisoners had a certain amount of power to determine their own lives and that gaolers fell in with this. Similarly, the portrayal of the nineteenth-century prison resembles a vision of a bourgeois society, with everyone and

everything firmly put into a place. In the penitentiary the most remarkable feature is that the prisoner has disappeared; he or she is no longer a problem, the rules have restored order. To accept this view, the historan must be prepared to explain what had happened to the riotous eighteenth-century prisoners; where had they gone? were they simply subdued by rules?

2. The Prison in the Eighteenth Century

There is plenty of evidence of the terrible health conditions in eighteenth-century prisons. One writer referred in 1781 to "the horrible prison of Newgate; a building so contracted, loathsome, and dark, that it baffles all description." [1] Similar comments crop up throughout the century. Gaol fever was clearly commonplace, although generally only mentioned in passing. In 1720 the Original Weekly Journal commented that the prisoners were "dying in Newgate like rotten Sheep." [2] Although the Ordinaries of Newgate were more concerned in their Accounts with the state of penitence of each prisoner, casual asides constantly refer to prisoners suffering illnesses because of the conditions in Newgate. Typical of the way in which they referred to such illness is Dr. John Allen's comment in 1700 on John Cooper: he "was seiz'd with the Jayl-Distemper, which is a violent Feaver, attended with a delirious Light-headedness, and so

was not in a capacity to give any Account of himself." In his Account for March 1739 Guthrie observed of John Adamson that he was "miserably poor and nak'd, neither was there any body to relieve him: He seem'd to me to be foolish, or a little craz'd; but he declar'd himself penitent". In early 1740 even before his trial Thomas Hawkins was,

> lame of his Legs, which Lameness after Conviction increased till his Irons were taken off, then he fell sick and feverish, and at Times was out of his Senses; he was very poor and naked, and his Cell became so loathsome, by Reason of his illness and nastiness, that one cou'd scarce go within the Door

At the same time William Motte was so weak through illness that he had to be carried into the cart on the day he was hanged. In March 1740 Guthrie reported that of the 31 then under sentence of death, nine were sick - although one he believed only "pretended sickness" - of whom two eventually died in prison. In 1741 he noted that Mary Harris had turned blind because of the damp and a lack of clothing. A couple of months later he reported that John Dean was unable to attend chapel because "his Feet and Legs, through nakedness and cold, swelled so, that he was not able to walk... nobody coming after him to lend him any Assistance". In April 1742 Guthrie observed that all eight who had been condemned were "very much Subject to Illness", including Charles Newton who "generally crawled up to attend Divine Service" and Samuel Wood who attended supported by a keeper. [3]

At bottom the assumption of historians who have bothered

to glance at the eighteenth-century prison is that the descriptions of the reformers must be true because there was no control, prisoners were free to do as they pleased, so were gaolers. Joanna Innes is almost alone in seeing the prison of the eighteenth century in its own terms. [4] In her discussion of King's Bench prison in London, she reveals that far from a state of anarchy existing the prisoners maintained their own discipline, and that the authorities readily approved of this arrangement.

It is clear that the maintenance of discipline within the prison did not have a high priority in the gaolers' list of objectives. They had to earn their living through the fees they charged prisoners and through the goods they sold to them. Of course, they wished to prevent escapes and to produce prisoners in court, however, they were motivated not by penological theory, but by the fear of being fined if they failed to do either of these. The desire to keep costs down meant that the gaoler would hire as few staff as was needed to fulfill these functions. Yet cost is only a part of the explanation. The gaolers did not see any point in interfering with the lives of the prisoners. After all they provided him or her with a living, so that in some respects they were more like clients than prisoners. Disorder within the prison caused by the imposition of a strict regime would lead to a loss of profits.

For their part the prisoners required just treatment. In the King's Bench prison, Innes writes, "Consultation, conciliation, mediation ... were the most powerul weapons in the weak armoury of prison government." [5] Moreover, the bodies which represented the prisoners were formally recognised by the Court of King's Bench. The King's Bench prison was almost wholly for debtors, however, similar organisations existed in London's main criminal prison, Newgate. In 1633 the Court of Aldermen of the City of London ordered the Newgate prisoners to organise their own internal government and to appoint stewards. This was undermined by the keepers who took control of the appointments. However, following complaints at the unjust treatment by these "Partners", the Court of Aldermen revived the old system in 1730, and from then on prisoners elected their own officers who inflicted discipline through rules and judicial hearings. [6]

Although more local studies of prison communities are required, the study of these London prisons enables some new light to be shed upon the reformers. From this persepective we can see that much of their work concentrated upon the breaking up of prison communities.

3. The 1780s: "The legal massacres" [1]

Anyone reading a newspaper from the mid-1780s might be forgiven for feeling that history was repeating itself. The Gentleman's Magazine, reporting in November 1783 at the end of the Old Bailey sessions, informed its readers,"Villains increase so fast, that a bare recital of their names and atrocious crimes would more than fill our Magazine." [2] Eight months earlier at Gloucester assizes the story had been the same; thirteen were capitally convicted, an event which elicited the comment, that it was "a melancholy proof of the profligacy of the times." [3] To the Public Advertiser in October 1784 the situation was desperate. It reported that "highway robberies are ... committed at noon -day, in a public road, in the sight of several passengers," and asked,"who is safe from their depredations? Sun-shine is now no security." [4] The Solicitor-General, Sir Archibald Macdonald, spoke in the House of Commons in 1785 of "the alarming height to which depredation and outrage had arrived." [5] A petition from the City of London presented to George III in March 1786 drew attention to "the rapid and alarming increase of crimes and depredations in this city and its neighbourhood, especially within the last three years." [6]

London and Middlesex, despite being rather unrepresentative of the rest of England and Wales, was the pulse which politicians and commentators took as a measure of

the nation's health. The number capitally convicted in London and Middlesex in 1783 had reached 173, a rise of more than 60% on 1782 and more than double the figures for 1750 and 1751; indeed it was to prove the highest annual total of the century. [7] In September 1783 the Deputy Recorder at the Old Bailey passed the death sentence on 58 people, and at the following sessions a further 24 were condemned,"Two such sessions... were never known in London." [8] Matters hardly improved in the following years, for, although there was a decline in the numbers of people capitally convicted in London and Middlesex, this was not reflected in the numbers hanged. The years 1783 and 1784 saw respectively 53 and 56 people hanged. These figures were higher than for any year since the period 1749 to 1752, with the lone exception of 1780 when rows of Gordon rioters dangled from the gallows. [9] However, 1785 and 1787 saw almost a hundred hanged each year, with another 50 in 1786. Nearly all of these people were hanged for property offences, typically burglary (44% in 1785) and robbery (32%).

The reader of the contemporary newspapers not only discovers a similarity in the alarm at the amount of crime, but also in the causes which were said to lie behind it. The American War of Independence had ended in 1782 [10], and the armed forces began the demobilisation of 100,000 men early the following year. It was an accepted maxim that war meant

less crime [11], and it is more than likely that there was some truth in this. The casual workers were more easily able to get work, or they joined, or were pressed into, the forces. Those whom the justices thought to be vagrants or simply "suspicious" could be sent into the army or navy. [12] So the end of the war not only meant that there was no simple solution to dealing with the unemployed. Moreover, unemployment got worse as the troops were demobilised, either because their were no jobs for them, or because they took work from others.

A correspondent writing to the Whitehall Evening-Post in March 1783 commented:

> the reducing of the navy, army, and militia, will cast a number of men adrift, many of whom are idly inclined, and may become obnoxious to the laws [13]

This was hardly prophetic since disturbances had already been reported at Wapping following the discharge of sailors from a man-of-war in February. [14] At Portsmouth the next month the sailors were said to be "very riotous, and are constantly going about the streets drunk, and fighting with each other." [15] Other soldiers and sailors rioted not out of exuberance, but out of anger. In April the Horse Guards were called out when several hundred sailors protested in London at the non-payment of wages and prize money. [16] At Portsmouth "many mutinies" were reported in the same month. On board Janus the men were told that rather than being discharged, as they had expected, they were ordered to North America. They responded

with a mutiny and by this means obtained their discharge. [17] Similarly a regiment in Wakefield surrounded the house of General Tottenham in order to obtain their discharge [18], and the Devonshire militia refused to hand over their arms. [19]

The predicted unemployment did indeed occur. Six or seven hundred unemployed sailors, formerly in the Royal Navy, occupied St. James's Park to protest against the practice of employing foreign sailors at low wages. [20] They were quickly dispersed, but proceeded to the docks where they unrigged several outbound ships. [21] On top of this reports started to come in of crimes committed by sailors. Several coaches were robbed near Clapham Common in February 1783 by four sailors. In Hampshire, through which a great number of often destitute soldier and sailors had to pass, it was reported that:

> since such a number of soldiers and sailors have been discharged, it is dangerous for people to be from home after dark, as robberies are very frequently committed by them. [22]

The numbers of men drifting through the southern counties, sometimes with a family in tow, must have been enormous. During one week in March it was reported that 200 men with families had applied at the Mansion House for money in order that they might continue their journeys. [23]

The discharged soldiers and sailors provided only one part of the problem that lay behind the panic of 1783 to

1787. The harvest of 1782 had failed causing shortages, high prices and food riots. In December 1782 Welsh colliers stopped corn being exported and sold it at Wrexham market. [24] The most serious incident occurred at Newcastle on 7th March when a crowd stopped a boat loaded with flour and cheese. They unloaded the boat and started to sell the cargo. The magsitrates met the crowd. They agreed to prosecute forestallers and to start a subscription to assist the poor. But the crowd, apparently dissatisfied with this, forced the magistrates to let them have the whole cargo of flour which they then sold. The magistrates said later that they had complied in order to avoid bloodshed. But such a defiance of authority required blood, and retribution was swift. Stephen Barlow was arrested for riot, tried at Stafford assizes on 15th March, convicted, and then, on 18th March, hanged - his distraught wife hanged herself the following day. [25] The dearth and the fear of the times hanged two more in Yorkshire that year after a highly disciplined crowd had been led, in a column of twos, to the market at Halifax where they seized the corn and sold it at a fair price. [26]

The apparent lawlessness of the country frightened many of the gentry, who, especially in London, recalled with a shudder the Gordon Riots of 1780 when the crowd ruled London. "The poor were in revolt against authority", commented a recent historian. [27] Just as worrying was the the all too

apparent helplessness of authority during those riots, and this was exacerbated by the supposed unreliability of the troops:

> the soldiers refused to fire despite orders, then fired over heads, only when officers threatened to shoot them did they fire on [the] mob ... It is said that the Soldiers are much on the side of the Populace & tell people that they ought to read Fox's Book of Martyrs, & that then they would see whether the Papists ought to be tolerated. [28]

So when hand-bills circulated in March 1783 calling the people to arm themselves and to gather in St. George's Fields, London "to take upon themselves the vindication of their own rights", the troops and the City of London Military Association were called out. [29] The instability of the government since the resignation in 1782 of Lord North following his defeat in the House of Commons over the government's conduct of the war simply made the feeling of insecurity worse. [30]

These problems led some aristocrats to retreat into temporary palliatives. Lord Salisbury announced his intention in March 1783 of emloying two hundred of the Hertfordshire militia after their discharge in making improvements at Hatfield Park. [31] Earl Ferrers ordered his wheat sold at Leicester market in January 1784 and the excess price over five shillings a quarter to be paid to the poor. [32] The grand jury at Oxford assizes recommended to the county's overseers that they find work for the unemployed. [33] The Whitehall Evening-Post articulated the fears underlying these

projects:

> If the gentlemen in the different counties do not exert themselves ... in providing employment for the numbers that will shortly be turned adrift, they must relinquish the comfort of enjoying [their] property in security. [34]

A more popular solution was to harass the mobile poor. As sailors began to arrive in large numbers on to London streets in February 1783, so the magistrates gave orders "for reputed bad houses to be searched every night, and disorderly persons to be taken up." [35] Elsewhere in the country the following years told the same tale. For instance, in Cardiganshire it was reported that measures were being stepped up against vagrants in 1786 following "several Robberies and Burglaries" which, it was supposed, were the work of gangs of vagrants. Strangers were to be watched and reported on, and officers were to make regular searches for "all vagrants, strollers, or other suspicious persons". [36] At Worcestershire Quarter Sessions in January 1786 it was declared that similar measures would be taken because:

> felonies and other heinous crimes and offences [which] have lately very much incrased ... and it is apprehended that the greater part thereof, are chiefly committed by some of the uncommon number of vagrants, and other idle and disorderly persons wandering up and down the said county, or pretending to be passing through the same. [37]

These fears reflected not simply the typical suspicion of any poor person who seemed to be outside the structures of provincial authority, but also the view that the war had

blocked off an important means of getting rid of troublesome offenders. I have already mentioned how one the reaction to the "crime wave" of the 1780s led to a reduced use of the prerogative of mercy, it also led to a burst of prison building activity.

4. Population, Women and the Magdalen Hospital

If the internal organisation of the prisons gave direction to the suggestions for reform, that alone does not explain why reform came about. For this we must look back, first, to the mid-century period, and then to the 1780s. The lengthy wars in the 1740s and 1750s mixed with the views that even without the loss of life which they caused the population was declining and the continued belief in the need for a large and active labouring class, both for the prosperity of the economy and for the military, gave rise to a series of projects which focussed on poor women and children in an effort to ensure the reproduction of the labour force. The charities of the period concentrated on sexual matters. Of the twelve voluntary hospitals which were set up in London eight were lying-in hospitals, and another was the Lock Hospital for venereal disease. [1] The lying-in hospitals were for poor married women. In 1739 Thomas Coram set up the Foundling Hospital to save children, but in particular illegitimate children who might otherwise have been abandoned. One of its aims was expressed in 1749 as being to "supply the Government plentifully with useful Hands". [2] In 1756 as the war began John Fielding helped to establish the Marine Society in order to relieve poor children by sending them into the Navy. [3] There were also initiatives with regard to prostitutes. As has been seen in Part I of this thesis, prostitutes were portrayed in both the

criminal literature and the more theoretical tracts as the embodiments of immorality and evil; they were women who, it was believed, were unable to function properly in the role of women since they did not work and their promiscuity meant that they could not give birth. Dr. Short's recipe in 1750 was to encourage marriage and discourage luxury, hence the popularity of his view which fitted in with other work around this period on crime and immorality. Others, such as Franklin in 1751, Wallace in 1753 and later in that decade William Brackenridge and Richard Forster, all agreed with Short's main theses about the link between luxury and the decrease in population and between marriage and the increase in population. Here, apparently, was empirical evidence for what authors on economics and crime were saying in the mid-century period about vice, crime and national economic and military strength. The spectre of the prostitute spanned all these different studies. It was against this background that the Magdalen Hospital was set up in 1758.[4]

Little research has been done on this institution, even the main history of women's imprisonment pays only passing attention to it [5], and yet in it we find worked out concepts which became important in the imprisonment of both women and men. One historian has written that it symbolised a change in attitudes during the eighteenth century from the view that prostitutes were "totally unregenerate hardened

sinners, fit only for flogging in Bridewell", to the discovery that they "were not beyond redemption, but on the contrary were fit subjects for penitence and salvation". [6] But this tells us little about what "redemption" meant and how it was to be achieved. In Part I of this thesis I outline the ideological construction of labouring class woman as both a worker and a mother within a family, and subject, therefore, to control not only through work, but also through subordination to a man. The prostitute symbolised the rejection of these roles. Moreover, she symbolised the addiction to immorality, idleness and insubordination which was allegedly rife amongst the labouring poor. The Magdalen Hospital was a response to all these images of the prostitute, and as such its regime was constructed around them. [7]

Significantly, although justices often sent women, the Hospital only admitted those who expressed "a desire to reform". According to Jonas Hanway "to compel women to repent, is an absurdity in terms" [8], a view which he later forgot when transferring the idea to criminal convicts. But having entered then they were to be subjected to "the strictest order". Hanway argued that vice was "a disease of the mind" which was derived from idleness, so that it could only be expunged by habits of virtue which originated in work. Less idleness meant, for Hanway, "fewer prostitutes,... fewer beggars and fewer thieves: there would likewise be a

heavy expence in the poor-rate saved." [9] Robert Dingley, a director of the Bank of England who is credited with the idea for the Hospital, wrote in 1758 that the institution "will be a means of employing the idle, of instructing them in, as well as habituating them to work; of reforming their Morals; of rescuing their bodies from Disease and death, and many Souls from eternal Misery." [10] On first entering the institution the women were given uniforms, and they were placed apart from the existing inmates to see how they reacted to the discipline. [11] The women were discouraged from talking to one another, particularly about their former life, and were encouraged to indulge in solitary contemplation. Those who could not be reconciled to their families were trained in work which would reconstruct them as women - that is, domestic service functions. In its discipline the Hospital sought to mould the women around the contemporary ideological construction of woman. Reforming prostitutes meant inserting them into a male view of society, and success was measured, according to one report, by the number of good wives produced. [12] The ideas of "useful" work, separation and discipline were all to be found in the later suggestions of the prison reformers; and the ideological construction of women which formed the basis of the Magdalen also provided the assumption upon which reform of women's imprisonment was based. [13]

5. The Philanthropists

The philanthropists of the 1770s and 1780s, such as John Howard, were generally motivated by the same religious belief and dissatisfaction with the life of leisure or business into which they had fallen that impelled many of the reformers of the 1790s and early nineteenth-century. However, whereas the latter were responding to what they regarded as a crisis in society symbolised by the radicalism of the working class, John Howard's motives were not infected by such considerations. This does not mean that his philanthropy was apolitical, for once again he sought to impose certain values on society.

John Howard was typical of the eighteenth-century ideal of a philanthropist. Born in 1727, he was a wealthy country landowner who, on being appointed High Sheriff for Bedfordshire in 1773 at the age of 47, was horrified to find the conditions in which prisoners lived. He believed that the abuses he saw were due to neglect and to the fee system upon which the gaoler depended for his or her income. Howard wondered if this situation was the same in gaols outside his native county; so his long travels began. [1]

Howard's interest in prison reform was motivated by the search for a vocation by which he could salve his conscience weighed down as it was by the life of idleness to which his wealth had brought him. He was obsessed by the idea that he was grappling with the forces of darkness: bringing the light

of philanthropy into the darkness of the dungeon. For him the Fall meant that all people were sinners, so that criminals merely symbolised the sins of all; their punishment was a reminder of the punishment that awaited all in the hereafter. God had shown that the battle against evil had to be fought on earth by sacrificing his son, and he had also shown through this action that victory could be achieved. Howard's efforts in seeking both to comfort and to reform those who had broken secular laws was in this way a furthering of God's purpose. The famous painting in the British Museum of Howard visiting prisoner reminds the viewer of countless similar paintings of Christ. [2]

Howard gave the developing bouregoisie a perfect hero. He stressed their values of authoritarianism, self-reliance, frugality, the rejection of luxury, and an obsession with inquiry and measurement. His "saintliness" gave these values a rightness and righteousness. The contrast between Howard and the typical travelling aristocrat which Burke brought out in a speech in 1781 was the same contrast which the bourgeoisie saw between their hard work and empiricism, and the luxury and idleness of the ruling gentry.

> He visited all Europe, not to survey the sumptuousness of the palaces, or the stateliness of temples; nor to make accurate measurements of the remains of ancient grandeur; nor to form a scale of the curiosity of modern art; nor to collect medals, or collate manuscripts - but to dive into the depths of dungeons, to plunge into the infection of hospitals, to survey the mansions of sorrow and pain, to take the guage and

> dimensions of misery and depression, and contempt; to remember the forgotten, to attend to the neglected, to visit the forsaken, and compare and collate the distressed men in all countries [3]

The corrupt prison was a symbol of the corrupt and inefficient society which became embroiled in war with the American colonies; Howard was a symbol of a new, caring, frugal, disciplined society.

Principally through the work of Howard imprisonment became a serious candidate as a replacement for execution and transportation. Even after transportation had been resumed in 1787 its unsuitability for minor offenders, the need for a place to hold those awaiting trial, and a general dissatisfaction with transportation, meant that the prison did not lose its attraction to many reformers.

The major objection to imprisonment had always been that it was a place of debauchery. It was also a place where first offenders and those awaiting trial mixed with hardened felons who passed their vicious habits on to all those with whom they had contact. Moreover the unhealthy state of the prisons meant that there was an excellent chance that a term of imprisonment would turn into a death sentence. Furthermore, the administration of the prisons was supposed to be rife with corruption. The gaolers lived off the fees they extracted from prisoners, and, of course, in many prisons the inmates were left to run their own affairs. For the reformers this was a highly irrational form of punishment, and,

therefore, both cruel and inefficient.

The allegations which Howard made in his book The State of the Prisons [4], published in 1777, really caught the public imagination. The book appeared at a time when the American War of Independence meant that there was great worry about the question of what to do with felons who had been sentenced to transportation. He provided an argument based not on anecdote and impression, as had been the case with earlier books on prisons [5], but on a wealth of detail which overwhelms the reader not with passion but with sheer volume. Whilst Bentham was to a large extent correct when he referred to the book as "a rich fund of materials; but a quarry is not a house" [6], Howard's great importance was in his indication of the possibilities of the prison.

Broadly speaking the problems which Howard saw in his visits to prisons were chiefly ones of administration, and, therefore, the solutions, for him, lay mainly in the reform of that administration. There were too many prisons, many with no prisoners. Gaolers had to make a profit from the prisoners and this led either to cruelty or to laxness. Those who could pay could have almost anything they desired, those who could not pay might suffer appalling deprivations. It was profit which tended to dictate the organisation and the discipline of the prison. [7]

This state of affairs was allowed to continue for several reasons. The gaoler's job, like so many others in the

eighteenth century, was often similar to a piece of property; it was often something which the gaoler or an ancestor had paid for, and, therefore, he or she had the right to exploit it free from interference. In any case, the local justices and the sheriff who had responsibility for the prisons were not interested in them; even if they were, there was an unwillingness to spend the ratepayers' money on improvments, and, therefore, they felt unable to interfere. Finally, it was part of the contemporary view that those in prison should suffer; the prisons should be places of terror. According to the prison reformer Nield, the typical argument was that since the prison was:

> provided for the Miscreant, and for the Miscreant alone: who having opposed the ordinances, has abandoned the protection of the Laws. Leave him to his doom of misery: Let him rot in the vapours of a dungeon; and drag his unwieldy chain, at the mercy of his Keeper. [8]

A crucial part of Howard's criticism was that bad gaol conditions led to gaol fever. As has been mentioned, it was not so much the danger of the prisoners succumbing to the fever that worried the local justices, but rather its spread to people living in the areas around prisons. The assize judges almost certainly urged measures to be taken against gaol fever. Indeed an outbreak which killed some of the judges at the Old Bailey in 1750 led to the placing of a windmill on its roof in order to act as a sort of lung: expelling bad air, inhaling good. A similar concern lay

behind the rule at Shrewsbury gaol in 1752 that the gaoler "take care that prisoners have clean straw every week and soap for washing their linen". In evidence to the House of Commons Committee on the Gaols in 1774, Dr. Fothergill and Surgeon Potts had recommended that clean clothes be provded for the prisoners before they appeared in court "as a preservative to the Courts of Judicature". Howard argued that gaol fever might be eradicated in a properly reformed prison, and medical evidence supported this view. [9]

However, although Howard's main line of attack was perhaps deliberately one which would appeal to the justices' self-interest, it was not his only objective. He also pointed out the possibiliities for the moral improvement of the prisoners. This jump from body to mind was, of course, no jump at all; disease and vice were both infectious, and both fatal. Therefore, his suggestions for splitting prisoners into classes were aimed at both the suppression of gaol fever and of immorality. Naturally this meant an attack on the association of prisoners which lay at the heart of the eighteenth-century prison. Moreover, in order to make the prisons healthy he also suggested that they be sited outside towns. This was a more radical idea than has perhaps been recognised. Previously prisons were often simply converted town houses to which visitors had easy access; the prison had been very much in contact with the community outside. By

seeking to block of vicious influences and to produced a controlled environment in which the spread of disease, moral and physical, could be prevented. Howard's suggestions had the effect of marking off the prison as separate from the community. [10]

6 . The Penitentiary Act 1779

In 1774 the Committee on Gaols produced two statutes which bore the imprint of Howard. The Discharge of Prisoners Act (14 George III, c.20) was for the payment of the fees of prisoners who were acquitted at their trials; this had been the initial cause of Howard's inquiries into prisons. The second statute was the Health of Prisoners' Act 1774 (14 George III, c.59) which required prisons to be ventilated, regularly cleaned, provded with sick rooms, baths and a surgeon, and it prohibited, although subject to provisos, underground cells - the symbolic dungeons.

In 1779 the Penitenatiary Act was passed. [1] According to Jeremy Bentham the Bill originated "from a high department in administration", and that even before its enactment it had been "pre-announced by the Judges in their circuits". Bentham, referring to Howard's book, noted that in the Act "all the excellent matter of the book ... is engrafted, but many capital improvements superadded!" [2] It was, in fact, drawn up by Howard, Blackstone and Eden, who had been

converted to the idea of imprisonment after his dismissal of it in his book Principles of Penal Law. However, Blackstone was later to complain that the plan had been subverted for, whilst it had called for new prisons throughout the country, the Act only provided for the construction of two large prisons in London, one for men, the other for women. [3] The causes of this are fairly easy to guess at. The government would have been unwilling to create political trouble for themselves by building prisons in the provinces. Whether these were in central government hands or were paid for out of local rates, this intervention by government would have led to opposition from the local justices. Just as importantly, the cost would have been enormous.

The 1776 Act was an explicit criticism of the system of transportation which most people saw as little more than a means of getting rid of offenders without putting them to death. Section 5, for instance:

> And whereas, if many Offenders, convicted of Crimes for which Transportation hath been usually inflicted, were ordered to solitary Imprisonment, accompained by well regulated labour, and religious instruction, it might be the means, under Providence, not only of deterring others from the Commission of the like Crimes, but also of reforming the Individuals, and inuring them to Habits of Industry.

The two penitentiary houses were to be administered by a committee of supervisors. The prison officers were to be salaried, although the idea of profit could not be entirely removed from the minds of the legislators. Section 18

expressed the hope that the salaries of the governors and the taskmasters would be taken from the profits of the prisoners' labour, so that "it may become the Interest, as well as Duty of each Governor and Task Master to see that all Persons under his and their Custody and Direction be regularly and profitably employed."

The labour to be performed was, by section 24, to be:

> of the hardest and most servile Kind, in which Drudgery is chiefly required ... such as treading in a Wheel, or drawing in a Capstern, for turning a Mill or other Machine or Engine, sawing Stone, polishing Marble, beating Hemp, rasping Logwood, chopping Rags, making Cordage

The prisoners were to sleep in separate cells, and, if the nature of their tasks allowed it, were to work alone. Uniforms were to be provided "as well to humiliate the Wearers as to facilitate Discovery in case of Escapes". The prisoners were to receive only the prison diet.

On entering the penitentiary a prisoner was to go into the first and most severe class, then to progress into the second and third classes, each of which was less severe than the one before (sections 38-9). This allowed both punishment and reward for behaviour. The committee of supervisors were also allowed to reward "the most diligent and meritorious" with a payment from the profits of their own labour (section 45), and the best prisoners could be recommended for a remission of their sentence (section 49).

The Act was well received. Dr. William Smith captured the essence of the new prisons when he commented that the rigid regime would "convey as ignominious and horrid an idea as possible where no eye should pity - no hand relieve - no sympathising friend have it in their power to make the criminals state less wretched." [4] The prison was to level all distinctions; all did the same work, wore the same uniforms and ate the same food. The prisoner was cut off from the society outside, and the community of the prison was to be smashed.

The project never really got off the ground. Those appointed as commissioners - Howard, Fothergill and the treasurer of the Foundling Hospital, George Whately - could not agree on a suitable site. In 1780 Fothergill died and Howard resigned soon afterwards. Whatley was joined by three new commissioners: Thomas Bowdler, who was on the committee of the Foundling Hospital, Gilbert Eliot and Charles Bunbury, these last two were members of Parliament who had piloted the Bill through the Commons. The new committee agreed on a site, but no prison was built. [5] The government was reluctant to get involved in long-term financial and administrative commitments. In any case transportation was regarded as cheaper and as having advantages for the development of the colonies. A Committee under Bunbury was set up in 1784 to look into the means of putting the Act into effect, [6] but the government faced by the crime wave after the American War

of Independence was merely trying out all possibilities. They also set up a Committee under Lord Beauchamp in 1785 to look into transportation, and eventually adopted that solution. [7]

7. Gloucester Penitentiary

By popularising the notion of the prison as having a positive function, Howard had indicated that a viable alternative to the death penalty and transportation existed. It was not, however, the middle classes who initially took up the challenge, but rather the provincial benches. Many were manned by gentry who were dissatisfied with the corruption and inefficiency of government highlighted by the war. It was amongst them that the initial calls for economical reforms originated in the late 1770s. These were translated by the Society for Constitutional Information into calls for parliamentary reform on a moderate scale. [1] Many of those who took up this cause were naturally drawn into the reform of local prisons by their heightened awareness of corruption. The local prison represented corruption and inefficiency on their own doorsteps, and it was something about which they could do something.

Two Acts passed in 1782 (22 George III, c.64) and 1784 (24 George III, session 2, c.55) enabled the building of

houses of correction on the new principles. The house of correction was designed for petty offenders, runaway husbands who left their families on the parish relief and apprentices who absconded. Such minor offenders, not yet steeped in vice seemed ideal material for a programme of "treatment". The Acts forbad the sale of alcohol in the prison, allowed for the appointment of an inspector and a chaplain by the quarter sessions, divided the inmates into classes and put them to work, and provided for the payment of the keeper by salary. The Acts were permissive and few parishes made use of them. However, the Duke of Richmond prompted the Sussex justices into building a house of correction at Petworth under the new plan. Completed in 1789, the prison featured separate cells, separate excercise yards and separation in chapel by means of stalls. [2]

From 1783 when the post-war panic over crime was at its height there was a spate of local Prison Acts enabling particular areas to build new prisons, including Hull in 1783, Gloucester in 1785, Shropshire and Middlesex in 1786, and Devon and Staffordshire in 1787. [3]

Prison reform in the late eighteenth-century was, then, very much a matter of local initiative, requiring a justice with enough enthusiasm and influence to carry a project through. In most places there was no such person, Gloucester was an exception. Precedents set in the legislation of 1779 and 1782-4 were the pattern for the Gloucester Penitentiary.

Sir George Onesiphorous Paul (1746-1820) was its inspiration. He had been a supporter of moderate parliamentary reform. He was the wealthy son of a cloth manufacturer whose interest in prisons began when he became High Sheriff. [4] His guiding principles in building of the Gloucester Penitentiary and other prisons in the county were, first:

> Confinement to punish should also be confinement to reform. It should be a state of continued occupation, and of complete seclusion from ... society, by the one, to create a habit of industry; by the other, to force reflection on the mind.

Secondly, he said that prisons "should be places of terror, to those whom the laws would terrify; of punishment, to those whom they would punish". [5]

Paul sought to terrify not through squalor which led to gaol fever, but through the measures used to prevent that fever. Hygene in the form of baths, hair cuts and uniforms [6] became a punishment, a humiliation of the prisoner, a levelling of all prisoners, and a symbolic cutting off from the outside world. Kidd Wake, imprisoned for five years in 1795 for shouting "No War" at George III, wrote later of his reception at the Penitentiary:

> I was taken to the bath; and, being stripped of all my clothes, compelled to put on the parti-coloured dress of convicted felons. My head was shaved; an iron ring put around my leg; and I was shut into a solitary cell [7]

Prisoners were kept in solitary confinement, they were to be in the absolute power of the staff so that no inmate culture

could develop. Work was subordinated to the objectives of the prison rather than to profit. The aim was to teach the love of industry in the abstract [8], and thereby demonstrate that the only legitimate way for the propertyless to earn a living was through work. Prisoners were allowed to work as a relief from solitary confinement, so the withdrawal of work was to be seen as a punishment.

8. The Panopticon

During the 1780s and 1790s the plans were drawn up of a prison for which much influence has been claimed, Jeremy Bentham's Panopticon. [1] He drafted the plan in 1787 and revised it in 1791. It was to become an obsession with him because he saw utilitarianism as an essentially practical system, and the Panopticon provided a blueprint for translating theory into practice.

For Bentham the best method of preventing crime was through example, reforming the offender was a subordinate objective simply because there were fewer actual criminals than there were potential criminals. He outlined certain principles which were to guide punishment: the rule of lenity, that no prisoner was to be made to suffer to the prejudice of his or her health; the rule of severity, that no prisoner should enjoy a better lifestyle than the poorest free person; the rule of economy, that the institution should

be run as cheaply as possible. [2] He still subscribed to the idea of spectacle, and suggested that the public be encouraged to view the prisoners. The prison was to be like a theatre with its inmates creating a dramatic effect. The aim was to play on the imaginations of visitors. He wrote,"In a well-composed committee of penal law, I know not of a more essential personage than the manager of a theatre." [3]

The internal organisation of the Panopticon was to be guided by the need to prevent the prisoners from not conforming to the discipline of the prison. This was to be achieved by a system of inspection which prevented the convict from knowing when he or she was being watched. Bentham sought "to make them not only <u>suspect</u>, but be assured, that whatever they do is known even though that should not be the case." [4] The design of the building was a circle of cells facing in towards an unlit tower in which the governor lived. By this means the governor could see the whole of the prison without being seen, so that neither prisoners nor staff could be sure if they were being watched or not. They would, therefore, be forced to act at all times on the assumption that they were being watched; they would police themselves. The self-inspection mechanism was completed by the requirement that instead of a salary the governor received all the profits of the prisoners' labour. This would ensure that the objectives of work and discipline were maintained.

Bentham sought to change habits rather than to effect what he regarded as much more difficult, an internal reformation of the prisoners. He wished to turn the prisoner into a self-disciplined worker, hence the progress made by a convict was measured by "the improved quantity and value of their work." Following his view that pain and pleasure were the springs of action, he argued that work ought to be "a cordial" not a burden. [5] However, profitable work became such an important part of his later revisions of the Panopticon that it caused him to radically alter one of the main features of his original plan and allow prisoners to share cells.

Bentham's Panopticon was in many ways a bridge between the idea of the public spectacle epitomised by the execution at Tyburn and the hidden punishment at Pentonville prison. Other features of his plan were anachronistic by the late eighteenth-century. The idea of contracting out to the gaoler was something which had been blamed by Howard for prison abuses and neglect, although with the Panopticon it was clear that the abuse would come in the form of concentrating on extracting as much work from the prisoners as was possible. On these grounds the Holford Committee of 1810 rejected the plan. [6]

The Panopticon did give a foretaste of the obsession with detail in prison design which was to come in the

nineteenth century, but its influence on architecture was far less noticeable. Cooper has recently argued that the problem of inspection within prisons was solved not by Blackburn, the early architect and friend of Howard, but by Bentham. [7] Yet it was Blackburn's radial plan not the Panopticon which was widely adopted. William Crawford, a member of the Society for the Improvement of Prison Discipline and later one of the first government appointed prison inspectors, wrote that Bentham's plan could only work in small prisons, for if the prison were large then the prisoners would be too far away from the central tower for the governor to be able to observe them in any detail. Moreover, the outer wall would be obscured which would allow easier escapes. Crawford himself favoured the radial plan, with corridors radiating off from a central point like spokes in a wheel, and on either side of the corridor were the cells. [8]

9 . Sydney Smith's Critique

The Holford Committee which decided against the Panopticon had been set up to look once again at the issue of the construction of a penitentiary in London, and their deliberations led to the building of Millbank on the River Thames. It cost a massive half-a-million pounds and opened in 1816. The decision to build it was a result of the growing disillusionment with transportation coupled with the decline

in the use of executions. At the start of their sentences prisoners went into the First Class which was run according to the separate system. However, apart from the first five days, communication of a limited kind was allowed with other prisoners, and both the school and the chapel were attended in association. This association was extended to work periods for those in the Second Class. [1]

Despite the construction of Millbank, it was still necessary to use the old prisons, especially where the inmates were debtors and therefore considered as unsuitable for penitentiary discipline. William Hardwick wrote from the Fleet prison in 1825, "the Fleet is so full we are crowded five or six in the Rooms to sleep..." [2] Neither conservatives nor reformers liked Newgate. The fictional hero of The Disabled Sailor recalled that prison "as agreeable a place as ever I was in, in all my life. I had my belly-full to eat and drink, and did no work at all." The reformer Basil Montagu simply called it "of all places the most horrid" [3] being suitable for preserving neither health nor morals. It was to Newgate that Elizabeth Fry and her Ladies Committee went in 1817, however her approach relied too much on individual effort and zeal whereas the penitentiary seemed to offer a machine for reforming prisoners. [4]

Yet those prisons built according to the new principles seemed to be faltering in the period after the Napoleonic War

as the crime wave filled them. Petworth and Gloucester both had to give up the separate system. Moreover many prisons had been virtually unaffected by the reformers, or else, according to Paul, had grossly misapplied the new principles. [5]

For the most part local justices only rebuilt when overcrowding forced their hands, and many prisons were woefully inadequate to even the basic functions. In 1788 men were employed at Presteigne County Gaol "to secure the Gaol so as to prevent if possible the Prisoners from Escaping". When in 1790 the Radnorshire bench decided that the county needed a house of correction, significantly they did not build one, but merely converted a house which they bought for 130 guineas. The only aspect of the new prisons which did appeal to this bench was that of the profits supposedly made by prisoners at the new Dorchester Penitentiary; they "ordered an account of these to be hung up in the County Gaol". [6]

The 1820s saw growing criticism of the new prisons, or, more accurately, a more vociferous expression of views which had always been held. The radicals hated the penitentiaries because they had been used against them; they regarded the solitary system as cruel. The conservatives, like Sydney Smith, criticised them for being too luxurious. He doubted their ability to reform prisoners, but in any case, he argued, people were imprisoned,"<u>principally</u> for a warning to

others, partly for their own good" [7]; the main aim was not, therefore, the reform offenders. It was wrong to discuss the success of the prison on the basis of recidivism figures, he argued, the correct way was to see what effect it had on crime as a whole. He favoured punishment pure and simple, and on this ground criticised prisons, like Bury gaol and Preston House of Correction. These he regarded as little more than factories in which prisoners instead of suffering were paid and came out with a work skill. Such prisons were, for him, no source of terror and would not deter others from crime, indeed he believed that they led people to commit offences in order to gain entry. He wanted "nothing but the tread-wheel, or the capstan, or some species of labour where the labourer could not see the results of his toil, - where it was as monotonous, irksome, and dull as possible". Convicts should leave prison fit, but "heartily wearied of their residence". [8] Smith favoured cutting diets, solitary confinement for up to three months in darkness and then ordinary solitude. He favoured religious instruction, but not if it involved, as Fry's programme did, teaching reading and writing. In sum he aimed to make prisons "engines of punishment, and objects of terror". [9]

Interestingly, then, Smith was not against prisons, he merely opposed what he saw as their failure to deter, and in view of the rapid increase in crime after 1815, he found many

that agreed with him. The Society for the Improvement of Prison Discipline advocated the treadwheel in 1818 and within six years it had been adopted by 26 counties. [10] However, the treadwheel was only in part a response to the sort of criticisms which Smith made; there was also the reduction in demand for prison labour due to the unemployment following the war and to industrialisation. But at Millbank the accusation that the discipline was too soft led George Holford, who was now on its management committee, to spring to its defence in a series of pamphlets. [11] Yet, at the same time, the diet was cut back in 1822-23, which led to an outbreak of scurvy. [12] The conservative critique had its effect. In future prison disciplines had to be justified in terms of their general deterrence.

10. Government Intervention 1823-1835

The Gaol Act 1823 [1] was introduced by Peel as part of his package of reforms of the criminal justice system. There had been general legislation before, but this Act was the first comprehensive statement of principle from central government. The Act followed the increase in crime, the pressure from the Society for the Improvement of Prison Discipline, which sought local reforms and uniformity of administration, and a report in 1822, which stated that prisons should be managed according to notions of "terror and

... real punishment" but that there should be restraints on "unnecessary severity" so the prisoners "do not, by the effect of that sentence, become worse members of society, or more hardened offenders." [2]

The Gaol Act sought a measure of uniformity of practice (section 10), but more than that it tried to impose some of the penological ideas established at the end of the eighteenth-century. It approved of the idea of reformation as long as it included some punishment. The preamble stated that prisons should:

> not only provide for the safe Custody, but shall also tend more effectually to preserve the Health and to improve the Morals of the Prisoners confined therein, and shall insure the proper Measure of Punishment to convicted Offenders.

These aims were to be achieved by "due Classification, Inspection, regular Labour and Employment, and Religious and Moral Instruction". The Act set itself against solitary confinement, although it required separate sleeping cells "if possible". The prisoners were to be divided into five classes. The Act forbad the use of alcohol, imposed health requirements, required regular inspections by visiting justices - their neglect had been a fundamental criticism running through Howard's book - and made the attendance of a chaplain obligatory. Interestingly, the chaplain, beyond his religious duties, was required to inform the visiting justices of "any Abuse or Impropriety" (section 30). This

gave chaplains a foothold in the prison administration which some were to use to good effect, and which inevitably led to conflict with the governors. The government gave themselves a similar foothold by requiring that each prison make a report to the Secretary of State annually. Although this seems to have been fulfilled by governors in a rather perfunctory fashion, the existence of the requirement provided a precedent for future interventions by central government, as, of course, did the whole Act.

Government intervention on a much bolder scale was not long in coming. In 1833 a select committee complained that county rates were rising because of, amongst other things, prisons and the payment of prosecutions costs. Yet those on the bench who spent the rates were unaccountable. Then an inquiry into municipal corporations in 1835 complained about the poor state of borough gaols. [3] The way was clear for the House of Lords Committee of 1835 to recommend a greater uniformity in prison discipline in the local prisons. To achieve this they required first that all prison rules and diets were to be referred to the Secretary of State for approval, rather than to the assize judges as had been the practice in the past. Secondly, they recommended the appointment by the government of prison inspectors. With the clamour of ratepayers for more efficient, more accountable local government to back reforms, central government secured the Prison Act 1835 (5 & 6 William IV, c.38) which included

both of the Committee's main recommendations.

Initially five inspectors were appointed, two of whom operated in the Home Division until their deaths in 1847 - William Crawford and Reverend Whitworth Russell, the chaplain of Millbank and a nephew of the Home Secretary, Lord John Russell. These two turned out to be the most influential figures in the prison system. Although the Act did not give the inspectors powers to order changes in the local prisons, it did create a small corps of experts who had access to the prisons, to the Secretary of State and to Parliament, and whose reports could create much embarassment. It seems that to a large extent the local justices followed the advice of the inspectors, although sometimes they sought to assert their independence. [4] An extreme example of this was the case of William George, governor of Caernarvon County Gaol, who was the subject of an inquiry by Russell in 1843. He was charged with drunkenness and various abuses. Russell recommended dismissal, a view which the Secretary of State supported, but which the justices ignored. It was undoubtedly a source of great embarrassment to them when similar charges were brought in 1848 and a second inquiry called. This time George was sacked before the inquiry even began. [5]

1. Crawford, Russell and Religious Reformation

There were three basic types of prison discipline competing at this time. The Gaol Act idea followed Howard's classification with work, but no silence or separation except at night. This was basically a negative approach in that it merely sought to prevent moral contamination, it did not seek to reform the prisoner. The two other types of prison discipline did seek reformation; the separate system as used in Philadelphia and the silent system as used in Auburn. The choice was between a religious and a capitalist conversion. Although, in practice, the means of conversion differed the aim was in both cases to produce a worker-citizen - loyal, self-disciplined, independent yet reliant on wage labour, and hard working. Both sought the obliteration of the individual with independent aspirations, and his or her replacement by the individual who was one of a mass, moulded not in the image of the bourgeoisie, but in the image which the bourgeoisie had of the worker-citizen. The prison was to be a model of egalitarianism with each prisoner being treated equally, none being allowed to exempt themselves through wealth from the rigours of imprisonment. The difference, then, lay in the way each of these systems - the separate and the silent - set about achieving their common goals. The separate system sought to do this through an internalisation of a particular set of values, whilst the silent system sought only to create a behavioural change.

At Auburn, which operated the silent system, there was a microcosm of the ideal bourgeois productive unit with its socialisation restricted to veritical relationships - prisoner-warder (employer-worker), never prisoner-prisoner (worker-worker) - and thereby it sought to break up prisoner (worker) sub-cultures (trade unions). The prisoners were rewarded by wages or remission. Pavarini has recently described this system as one where the prisoners are "no longer just "disciplined in abstraction" (as in Philadelphia prison), but perfectly "synchronised" in collective, dissociative activity". The prisoner was one of a productive mass, but at the same time, through the requirement of silence, he or she was alone. [1]

Crawford disliked the silent system because prisoners managed to communicate and this reduced the terror. Also the officers had too much discretion which could lead to a lack of uniformity and to abuses. The incentives of wages and remission encourage hypocrisy. But in the end Crawford clearly had no faith in a system that did not seek to change the prisoner's soul. He, therefore, praised the separate system as used in Philadelphia. [2] This was a translation into penological practice of the religious beliefs of the Quakers. According to the Quaker writer Fox,"Every man ... is illuminated by the divine light and I have seen it shine through every man." [3] To achieve this illumination a person

had to be quiet, hence the format of the Quaker meetings, long periods of silence with no ritual, punctuated by occasional declarations by those present.

The Quakers regarded prisoners merely as people who had never listened to the Inner Light. The solution seemd obvious, lock criminals up in separate cells and they could not ignore it. This view was widely accepted by those outside the faith as well. The Hanoverian royal physician, Zimmerman, argued in a pamphlet published in this country in 1795,"Solitude restores every thing to its proper place", for whilst the world weakened the soul, solitude led to self-scrutiny, virtue and religion. [4] But Crawford felt that solitary confinement was insufficient. In 1834 he wrote,"The mind becomes open to the best impressions and prepared for the reception of those truths and consolations which Christianity can alone impart." [5] The prisoner could not be allowed to seek his own path, religious instruction was, therefore, essential.

Work was a feature of the separate system, but it was always subsidiary to the requirments of reformation and the need for solitude. Crawford criticised the emphasis placed on productive work, commenting,"It is one thing to render a convict a skilful mechanic, and another to induce him to become an honest man..." Work was a comfort, a means of preventing insanity caused by dwelling on past sins, as such it would come to be regarded as a privilege and a pleasure,

and inevitably it would become an internalised part of the convict's values. [6]

Solitude was not only believed to reform offenders, it was also regarded as an excellent deterrent. It was argued that to criminals past vices were such a terror that they would be frightened of having to face them, and would immediately give up their lives of crime. Moreover, it was believed that whereas the silent system required constant discipline to enforce it and this produced resentment, under the separate system the prisoners would not feel vindictive because it was architecture not prison officers which maintained the discipline. Finally, even if the separate system failed to effect a change in the prisoner, it at least prevented him or her from getting worse. [7]

The Lords Committee of 1835 accepted the principle of the separate system, although an examination of the evidence prsented to the committee gives little clear support for it as a means of reformation. Those prisons where it was in operation generally based their assessment of its success on whether or not a prisoner was recommitted to <u>that</u> prison ignoring the possibility of imprisonment elsewhere. Others simply expressed opinions based on no evidence. Some prisons actually denied that the system provided any beneficial effect at all, or they felt unable to guage its effect. [8]

The Prison Act 1839 (2 & 3 Victoria, c.56) bore the

imprint of Crawford and Russell. Although the Act fell short of directing the local prisons to adopt a particular form of discipline, the possibilities for intervention were increased as were measures which sought to restrict the discretion of the justices. Classification was continued by the Act. This accepted, as Crawford had done [9], the practicalities of local prisons which could not readily be converted to the separate system, and where local opinion might object to the expenditure involved. The Act did actively discourage association since it prohibited the use of prisoners in the administration of discipline. This has been generally seen as a way of forcing local authorities into adopting the separate system, because it required them to take on more staff in order to maintain the association of prisoners. But this was also a further blow at the eighteenth-century prison organisation with its cooperation between staff and prisoners. In the new discipline there could be no such intercourse, the prisoners were there to be "treated". The Act also provided that all plans for new prisons had to be approved by the Secretary of State, and all separate cells had to be certified by the inspectors.

Under Crawford and Russell the influence of the chaplain increased in Millbank. By the late 1830s all else was subordinated to it. The inevitable conflict led to the resignation of the governor, Captain Chapman, in 1837, and the appointment of a chaplain-governor, Rev. Daniel Nihill.

However, the new discipline collapsed within a few years when it was found that lengthy periods of solitary confinement were causing insanity. [10] But Russell and Crawford were not dismayed, they blamed Millbank's architecture. The way was now clear for their ideas to be incoporated into a new prison, Pentonville. Their determination to achieve their objectives was attested to by Sir Joshua Jebb, who had been appointed as Surveyor-General of Prisons in 1839:

> When Lord John Russell determined upon erecting Pentonville Prison, I was requested by the then inspectors of prisons, Mr. Crawford and Mr. Russell, who had brought the subject of separate confinement forward, to allow them to be associated with me in the consideration of the plans, and they urged this reason: they said, "We do not wish to control your professional opinion; but if you erect a prison which we do not consider to be adapted for the enforcement of the system which we advocate, we will not certify the cells, and the prison will be useless. [11]

Pentonville was conmpleted in 1842 and represented the high point of the attempt to build a disciplinary system into an institution. It was built on the radial plan with four wings and cells on either side of each wing. The cells were constructed to provide for all the requirements of the inmate, except for excercise and for chapel, but elaborate arrangements allowed solitude to be maintained even then. Silence was such a dominant theme that the warders wore felt overshoes. They were also kept to a strict routine by means of a series of clocks positioned around the prison which had to be punched at set times. Here was a machine operating, to

a large extent, independently of the wills of both staff and prisoners. The main exception was the chaplain who had much discretion since his job was central to the original concept. [12]

Through the influence of Jebb the Pentonville model was being reproduced throughout the country by 1850. Indeed it signalled what the historian Robin Evans has called, a "second, more comprehensive and uniform rebuilding of the English prison system". [13] However, no matter what the hopes of Crawford and Russell had been, the worry over the mental effects of solitude meant that prisoners were only kept in Pentonville for 18 months, then they were tranported. Soon even this period was reduced to combat insanity. Moreover the same criticisms as appeared in the 1820s resurfaced, as Evans put it, Pentonville was regarded as "at once too well-appointed to deter, and too dreadful to reform". [14]

When it was discovered that crime rates were not dropping and recidivism had not ceased, the chaplains, who had most to lose from the defeat of the religious reformation idea, jumped to its defence. Clay, chaplain at Preston, and Field, at Reading [15], claimed that the system was perfect, and that the failures were due to the prisoners being too feeble or too hardened, which seems more like a criticism than an excuse, or else it was due to the lack of employment for ex-prisoners. But for his part Crawford was having doubts

as early as 1845. Then in 1847 Crawford and Russell both died. The main supports for the religious reformation system had been removed. [16] The disagreements within the ranks of the inspectors, which the domination of the two men had obscured, surfaced. [17] The role of religion declined in the penitentiaries, and many began to wonder if a single approach was likely to work on such a heterogeneous group of individuals as found their way prisons. [18] The appointment of Jebb as Surveyor-General in 1844 allowed him to step into the gap left by the deaths of Crawford and Russell, and to promote his more pragmatic approach, which concentrated on achieving outward obedience from the prisoners. However, the prison itself had come to dominate penal practice. Indeed the work of building new prisons became even more important during Jebb's time as transportation was wound down. [19]

12.3.2 Local Prisons

What happened in the penitentiaries of Gloucester, Millbank and Pentonville did not necessarily happen in the local prisons. As has been suggested, the vast majority of local authorities ignored the reform movement of the late eighteenth-century. No doubt most would have echoed the reply from Radnorshire Quarter Sessions to a request for comments on Sir Herbert Mackworth's Prison Bill in 1779: "they have no

Objection to the general plan of the Bill only think it too extensive for Small Countys such as this". [1] Since the Presteigne County Gaol regularly had only a dozen or less inmates even as late as the nineteenth-century, the justices could see little point in going to the expense of large scale rebuilding. On the other hand, civic pride required them to maintain the position of Presteigne as an assize town, and they, therefore, wanted a gaol. [2]

Howard in 1789, Loughborough in 1793 and Nield in 1812 [3] found that little had changed since 1777 apart from a decrease in gaol fever. The old "abuses" were still present. De Lacey in her paper on Lancashire prisons, notes the complaint of a prison inspector in 1839 who remarked of a visit to one prison that he had seen "the women playing blindman's bluff in one shop, while those in the other were dancing." Nor, he noticed, was any work being completed. Elizabeth Fry told the Lords Committee in 1835 that prisoners:

> have no Instruction, no Employment, no Inspection, no Classification, and that they get into a most low and deplorable State of Morals, and they may be truly called Schools for Crime; I would not say that all are in that Condition, but I fear many are. [4]

The Gaol Fees Abolition Act 1815 [5] abolished fees and substituted payments by the county to the gaoler. However, old habits died hard and in 1847 William Went was sacked as gaoler of Presteigne County Gaol for charging a debtor five shillings for the hire of a bed. [6] Yet the justices did

become more interested in prisons as their financial involement grew. Furthermore, the regular visits by justices to prisons after the Gaol Act 1823 probably had an effect. In Presteigne soon after these visits started, it was suggested that a new prison be built. [7]

13. The Resistance of the Prison Community

Clearly though the eighteenth-century prison was not killed overnight by the discovery of the penitentiary discipline. The reason for this was that the relationship between the gaoler and the prisoner still existed. The primary concern of the early nineteenth-century gaoler was to keep some order and the best means for doing this was through a harmonious relationship with the prisoners. Where there was disorder, gaolers restrained or punished, they did not use religious persuasion. In 1822 Gully the gaoler at Exeter Borough prison did try talking to one of the prisoners, William Way, but "When I found reasoning with him had no effect I used the cane which had effect what was desired - peaceable behaviour". [1] This sums up the attitude of probably most of the early nineteenth-century gaolers; they simply wanted a quiet life, and the reformers found that the mere abolition of fees did not get rid of this. It required the formation of a corps of professional officers, and this

did not emerge until much later in the century. [2]

What the reformers failed to recognise was that in spite of the alterations in architecture and discipline the prisoner still existed. An examination of the records produced by prisons reveals that rather than being simply passive and ready to be imprinted with the latest discipline, the prisoners often resisted. The first indication of this was the continual rise in crime and recidivism.

Certainly the majority of prisoners served out their time without dissent, although, recidivisim shows that even amongst them we may discern a stubborn refusal to do more than conform during their incarceration. Some prisoners reacted more positively. A few waited until their release to complain. Kidd Wake wrote a pamphlet about the horrors of Gloucester Penitentiary, and John McCormick attacked the regime in Brecon County Gaol in a letter to The Hereford Times in 1855. [3]

Inside the penitentiaries of Millbank and Pentonville there appear to have been great problems in keeping order. Prisoners transferred from the more relaxed atmosphere of the county gaols rebelled in 1818, chanting in the chapel for better food, breaking up their cells, and attacking officers. This continued at regular intervals until in 1828 the authorities admitted defeat and introduced whipping, which the discipline of the new prison was meant to have made redundant. Similarly at Pentonville, some prisoners were

broken by the discipline, committing suicide or going mad. Others fought back by tearing up bibles, smashing furniture and assaulting warders. [4] In 1815 iron bars were put into the hulks so as to separate prisoners off from each other; the bars were ripped down. [5] Even where prisoners were separated from each other they maintained contact by tapping messages along pipes. [6] A prisoner who did what was regarded by others as too much work might be attacked, as was John Norbury a weaver imprisoned at Lancaster Castle in 1845. [7]

Prisoners commonly attacked the staff, and it is noticeable that the chaplain's role was very much resented within the prison. He was a symbol of the new disciplines which were being introduced, and also had the task of getting the prisoners to accept the justice of their sentence. They reacted. In 1844 the chaplain at Brecon County Gaol, Morgan Jones, reprimanded Winifred Morris for irreverent behaviour in chapel, he was entirely unable to fathom her motives, and commented,"This person ever since her imprisonment, seems to delight in doing things contrary to the rules of the prison." The next year he admonished all the women "with regard to their behaviour in prison". [8]

Single prisoners often kept up lengthy campaigns, the objectives of which can only be speculated on. John Edwards, a felon in Brecon County Gaol, complained in June 1852 to the

visiting justices that the potatoes served at the prison were bad. As with all such complaints the justices sided with the staff. The next day Edwards was charged with "general Insubordination and assaulting the Turnkey", he received six days in solitary confinement on bread and water. Six months later Edwards complained to the justices of "improper treatment". Again his complaint was rejected, the visiting justice merely recording that Edwards had been punished by the governor for "cursing & swearing at the barber". Three months later he was back in solitary confinement for refusing to work. But rather than this subduing him, the justice noted,"he has been very boisterous, kicking the door & singing, & although spoken to by me on the subject five minutes ago, he still continues kicking." He was given a further three days solitary, although three turned into seven. The justice decided that he was "either deranged or pretending to be so" and called in the surgeon. Here Edwards disappears from the records. [9]

The case indicates the degree of division which had appeared within prisons since the eighteenth-century. The prisoners had lost their rights to complain and, feeling their grievances as much as their earlier counterparts had, they showed their dissatisfaction. Some still accepted the authority of the officials and the justices, but when they failed to receive justice from them, they resorted to noise and violence in protest. The attempts to impose a discipline

had failed because they had not taken into account the capacity for resistance, both passive and active.

14. The "Achievements" of the Penitentiaries

The prison was by no means invented in the nineteenth-century, however it took on an important role during that period. It was were offered as the alternative to the death penalty, and by the 1850s, with the hulks and transportation being wound down, it had become firmly rooted in the forefront of penal practice. The form of discipline was certainly a matter of debate, but it is significant that the prison's central role was not questioned after the 1820s, nor was it likely to be in a society where similar institutions were so familiar: factories, schools, workhouses, hospitals and lunatic asylums, all used techniques of inspection and regulation. [1]

The reduction in capital offences and the development of the modern prison also had an important effect on the entire criminal justice system. During the eighteenth-century the moral lifestyle of the accused was considered at the trial, it was an essential factor in the jury's decision whether to acquit, to convict as charged, or to convict on a lesser, non-capital charge. After the 1830s the reduction in capital offences meant that the jury no longer had to decide such

issues. Courts still judged guilt or innocent, but it was becoming less concerned with assessing the accused's character since his or her life was not a stake. There was no need for a selection process.

Such issues became largely irrelevant to the the trial. So that whereas in the eighteenth-century the jury had a major role not only in deciding guilt and innocence, but also in sentencing, in the nineteenth-century it was only the first issue that really concerned them. Of course, in sentencing the character of an offender had relevance, but this was very much a subsidiary issue.

The character of the prisoner was now a matter for the prisons. For the reformers it was this rather than the crime that should determine the "treatment" administered. The prisoner was regarded as suffering from character defects which had to be corrected. [2] These defects were the familiar vices and, therefore, their cure was sought through religion, since it was argued that it must have been a lack of religious education that allowed the individual to commit the vices which led to the crime.

But other considerations ultimately had more influence than the idea of religious reformation. In the immediate post-1815 period, criminals had been regarded as symbols of a wider alienation of the working class; this followed the view of many eighteenth-century writers that the poor and the criminals were virtually indistinguishable. The penitentiary

allowed distinctions to be made. Criminals were now seen as something apart from the working class, as defective humans. This led to the notion that a separate "criminal class" existed. [3] In the production of this "class" the penitentiaries, and the police, had an important role, in that they marked out criminals. Crime became manageable, it was no longer something in which a large mass of people indulged.

On this view the type of discipline adopted within the prison was unimportant. Hence in 1863 the Carnarvon Committee [4] returned to the view taken by Sydney Smith, that prison should act as a general deterrent rather than seek reformation of prisoners. The prison was, then, not ultimately a method of imposing labour discipline on the inmates as has been commonly argued, rather it was a way of separating the working class from crime which was such a threat to capital. Crime was something which was committed by people who were not members of that class, and as such they stole not only from the upper and middle classes, but also from the workers. Hence, society as a whole could adopt a hostile view of criminals.

Yet at the same time the new prison was a symbol of power, as the gallows had been in the eighteenth century. Like the workhouse under the New Poor Law it was not primarily - or perhaps, more accurately, not only - for

locking people up, but also for disciplining those not in prison. So, although convicts might resist and obstruct the prison discipline, their role in social control was assured simply by their existence. Clive Emsley has commented that this equation of mine is "appealing", but argues that, at bottom, "the prison was accepted as being designed not as an encouragement to [the working classes] to behave, but as a place where genuine offenders were to be punished." [5] Undoubtedly on one level he is right, but my argument is that although working people may well have viewed some - or even most - of those who had been in prison with distaste, the prison itself was a symbol, hence the care taken in designing the facades of prison buildings. Perhaps it was not so close a threat for most people as the workhouse, but nevertheless it was a threat, and as such an instrument for general control.

CHAPTER 17

CONCLUSION

The literature of crime provides an important source for historians which can be used on two levels. First, the historian can pick out the details scattered throughout the texts and reject the rest. Alternatively, the text can be examined as a whole. Typically it has been only the first method which has been adopted: so, for instance, Peter Linebaugh used the biographies written by the Ordinaries of Newgate as a source for a study of the labouring people of London. In this thesis I have employed this method, but I have also discussed the value for the historian of reading the text as a whole. Unless we do this we are not making any attempt to understand it as readers in the eighteenth century understood it. Typically the literature has been neglected and more recently used with extreme caution because historians see one of their first problems as being to sift out the facts from the fiction. The similarity of the plot structures in the biographical literature of crime has led historians to reject most of these texts as fiction. Against this I have argued that in this repetition there is an important key to the use of the literature as an historical source. Selecting and arranging source materials is something all writers do, including biographers and historians. These processes are very revealing. I have argued that the production of the literature of crime was collaborative; it involved a writer, an editor, a bookseller and a printer. The material is, therefore, mediated by this process of

publication: for instance, as was seen in Chapter 1, whilst booksellers were often anxious to obtain first-hand accounts from prisoners, they felt that it was necessary, and entirely legitimate, to employ editors to make the manuscripts acceptable to their readers. So, although there is evidence that some of these pamphlets were autobiographical, this does not mean that what we have is the same story that we might hear if, as historians, we were able to interview these people, nor would what they told us be the same as what they might tell their friends. The literature is not, in other words, objective, it is filtered, and the nature of that filter is of great interest. This literature, I have argued, was produced by, and for, the middling sections of society. Its perspectives are their perspectives: for instance, the view of apprenticeship presented by Defoe in his biographies of John Sheppard concentrates on the employer's side of apprenticeship, the apprentice's side of the story is buried. The literature reveals the emergence of a self-confident middling class in the eighteenth century, critical of both those whom they are determined should be their subordinates, namely the labouring people, and of those who form the governing elite. Problems of crime are depicted as symptomatic of deeper problems of social discipline and of the failure of existing structures of power to maintain that discipline, and the solutions portrayed as being in the hands

of the middling classes through employment. There is also an implicit criticism of the middling classes themselves, but this is on a different level in that it attacks their failure to fulfill their crucial role in the government of the labouring classes.

The themes in the literature also provide insights into the changes which occur in the criminal justice system and the penal process. Although capital punishment was by no means the most common form of penalty, it was regarded as having an important symbolic role to play in the governance of eighteenth society. Government was fragmented and consequently rather weak, it was, therefore, prone to the intermittent public display of coercion. This was a key feature in the criminal justice system and, of course, the public execution. The authorities also provided displays of paternalist concern, although not so much through the pardon system as through such things as subsidising food in times of dearth - action which was often prompted by riots or threatening letters. The symbolic nature of capital punishment required a selection process which tended to focus attention on the individual rather than on his or her crime by discriminating between people on the basis of lifestyle. In doing this attention was diverted away from the punishment as being inflicted for a particular crime, and turned it into a punishment for a particular lifestyle. This concentration on the individual carried through into the public hanging and

the attempts to persuade the condemned to confess. The public nature of the criminal justice process also allowed people with very different interests to intervene, such as surgeons seeking subjects for anatomy classes, vivisectionists seeking human tissue for experiments, gaolers seeking income, and victims of crime seeking information. Similarly, although the biographical literature concentrated on the question of lifestyle by presenting the criminal's death as directly linked to social indiscipline, it too focussed on the individual. The result was that the criminal justice system gave the individual a degree of power. One way in which a state asserts its authority is through its power to define crimes, to judge guilt and to inflict punishments, yet the criminal justice system enabled the individual to reject those definitions, by claiming he or she had been wrongly convicted, or that the action punished should not be regarded as a crime or should not be subject to the death penalty.

The suggestions for reform in the eighteenth century are centrally concerned with this question of power. For much of the century the proposals for reform were superficially within the traditional paradigm of punishment, that is, they speculated on ways in which capital punishment might be made into a more terrifying spectacle. People, like the writer of Hanging, Not Punishment Enough and George Ollyffe, argued that this might be achieved through killing by torture, but,

although similar suggestions crop up throughout the century (even in the work of Paley), there is nothing to suggest that these ideas enjoyed great support in the eighteenth century, indeed the shift tended to be away from mutilations of living people: so, for instance, branding on the face for those within the benefit of clergy was rapidly discarded. Indeed the importance of Hanging, Not Punishment Enough really seems to derive not from eighteenth century, but from its use by Basil Montagu, one of the founders of the Society for the Diffusion of Knowledge upon the Punishment of Death, as a tactic with which to blacken those who opposed the Parliamentary reform campaign in the nineteenth century. He republished it in 1812, and Romilly made a specific reference to it in the House of Commons in the following year. The other strand of opinion, represented by Mandeville and Fielding, made suggestions which they regarded as within the traditional paradigm, yet which involved reducing the public nature of the execution. It is this type of reform which was most influential: the separation of the condemned from the crowd, first by the use of guards, then by abolishing the procession and by using architecture, administrative regulations and speed. The effect of this was not to increase the spectacle, but to turn the execution into purely a means of killing people. The lessons of power, gained by the open procession through crowds of friends, relatives and neighbours, had virtually vanished. Punishment no longer

relied on the role played by the offender nor did it hope for the crowd to take a part. Punishment was to be a highly rational and ordered process. The way in which the hanging had changed could be seen in the willingness of the authorities to make further alterations purely on the grounds of cost and inconvenience, indeed it seems likely that these reasons were, in part, at the root of the decision to abolish the procession in the first place. In the place of the public hanging were put anonymous mass punishments in which neither the condemned nor the crowd, supposedly, have an opportunity to resist.

The other strand of suggestions involved increasing the certainty of punishment. Once again it was seen by some (for instance, Madan) as a means of increasing the spectacle of the punishment, but in effect it was getting away from the traditional form of the criminal justice system in that it required - and to some extent responded to - changes in the system, and laid a greater emphasis on the possibilities of a police. The idea was not so much to select people for the gallows, the motivation for the criminal justice system was to detect all offenders and render them up for punishment. To some extent the blood money, most notably the M'daniel scandal, gave an impetus to this bureaucratisation process and to the professionalisation of the police. Moreover, the policing initiative drew on the connection which had long

been made between crime and immorality amongst the labouring classes.

This view is not to reject the notion that "humanitarianism" played a part; the international nature of the reform of capital punishment indicates that reform cannot be explained purely in terms of changes internal to Britain. But on its own "humanitarianism" is a rather empty term, and in practice the revulsion against public hangings was often more a revulsion at the behaviour of the crowd. This sort of "humanitarianism" regarded the labouring people as irrational, almost animal in nature, and, therefore, requiring a tighter discipline. It was, in other words, a rejection of the loose forms of government based on negotiation and intermittent bursts of coercion.

Finally, I wish to use my study of change in criminal justice in the eighteenth century to make some more general observations about the nature of change in history. The first thirty years of the nineteenth century have often been called the Age of Reform, but, although there was much activity in that period, I hope I have shown that change has its roots in a much longer time scale. The wholesale reduction of the number of capital offences was possible because events in the eighteenth century had undermined the effectiveness of the public hanging and changed the way in which that effectiveness was judged. Significantly changes in capital

punishment, in part, were often based in things which had been suggested and implemented not out of a desire to reduce the number of capital offences, but in order to increase the effectiveness of the spectacle. On one view Janssen, and even the sheriffs who abolished the procession to Tyburn, merely wished to reduce the disorder around the gallows, but these actions both changed the nature of the public hanging and were symptomatic of a change which it had already undergone. With this in mind it is possible to suggest that change involves short term ruptures which are rooted in longer term processes. Moreover, these longer term processes do not necessarily have any clear objectives, other than short term expediency: Janssen merely wanted a trouble-free hanging day. One of the main questions for a study of criminal justice and punishment in the eighteenth and early nineteenth centuries is, to put it crudely, to explain how the old system rooted as it was in the notion of publicity, became the more private system of the mid-nineteenth century. Looked at over the long term the differences can be easily spotted: the withdrawal of the hanging from the centre of London and the other major towns and cities to within the prison walls, the reduction in the number of capital offences, the centrality of the prison to the system of punishment, and so on. However, over the short term it is impossible to locate the date on which a switch-over occurred, various key dates are identified, but to explain them, to find their roots we have to push further

back. So we might ask, how was it that Peel, for instance, was able to abolish so many capital offences in such a relatively short space of time? One answer would perhaps involve assigning credit to the efforts of Romilly and other early nineteenth-century campaigners, but this does not provide a complete explanation, and so we are pushed further back. My view is that, to an important extent, the success of the nineteenth-century campaign rested, initially, not so much on some humanitarian critique, but on the way in which the failure of the gallows had revealed gaps in the old system of criminal justice and punishment which had been plugged by short term measures that had themselves further undermined the old system by changing its objectives. There is another point. Earlier in this thesis I wondered how it was that a system of criminal justice which, in Hay's portrayal, seemed perfectly organised around the needs of the ruling elite could change. The answer is, of course, that like any such system it was by no means perfect, even in the limited terms of the ruling elite. The imperfections led to alterations, and gradually the build up of those imperfections and those alterations changed the nature of the system itself. The reforms of the nineteenth century, which seem to usher in an entirely new system, have led many historians to argue that the nature of the break with the old way of doing things can only be characterised as a rupture

rather than a gradual change, and call it the Age of Reform in order to remove the necessity of explaining that change. My argument is that change is a much more rationally explicable occurrence than the use of such a term implies, and that, although its more manifest effects seem to be short term, its roots lie in the long term break up of the system which is eventually replaced. In other words, there was no cataclysmic break with the old system, the new had its roots in the old and its development was both facilitated and to an important extent shaped - and limited - by the old. As the gallows is recognised as failing to achieve certain objectives so, initially, its character is altered slightly, but still the problems multiply so solutions which draw their inspiration from a system rooted in spectacle are suggested. None of these ideas is, in fact, new: the penitentiary, for instance, has many parallels with the original conception of the house of correction. But these old ideas are given a new slant: for instance, the penitentiary is suggested for serious offenders. So it is that the new comes out of the old; the two are simultaneously connected and separate.

THE UNIVERSITY OF HULL

THE REFORM OF PUNISHMENT AND THE CRIMINAL JUSTICE SYSTEM IN ENGLAND AND WALES FROM THE LATE SEVENTEENTH CENTURY TO THE EARLY NINETEENTH CENTURY

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PART I: CHAPTER 1: THE POPULAR LITERATURE OF CRIME AND ITS READERS

1. The Neglect of the Popular Literature of Crime

1. F.R.Leavis, The Great Tradition, Harmondsworth, 1977, p.8.
2. Leavis, Great Tradition, p.139.
3. Leavis, Great Tradition, p.12.
4. F.W.Chandler, The Literature of Roguery, 2 vols., Boston, 1907, vol. I, p.181.
5. L.J.Davis, Factual Fictions: The Origins of the English Novel, New York, 1983, p.131. Similarly, J.J.Richetti, Popular Fiction Before Richardson: Narrative Patterns 1700-1739, Oxford, 1969, pp.23-59.
6. The Genuine Memoirs of Joshua Crompton; Written by Himself in the Cells of Guildford, After his unhappy Conviction for Forgery on the Bank of England; Who was executed on Gangley Common near Guildford, on Thursday the 20th of August, 1778. They contain some useful and interesting Cautions to Mankind in general, but more particularly to the Credulous and unwary, who, like himself, might fall sacrifices to Art and deception. The Whole authenticated by the Rev. Mr. Dyer, London, 1778, p.3. See also, The Life of Captain Cranstoun, [London 1752], p.31 (probably a reference to Original Letters To and from Miss Blandy and C- C-, London, 1752; although possibly, The **** Packet Broke-open, London, 1752); A.Crawford, A Circumstantial Account of the Conduct and Behaviour of Mr. Stirn, Now under Confinement for Killing Mr.Matthews. Wherein several Reports already published are contradicted, and an Attempt is made to arrive at his true Character, London, 1760, p.6; Particulars of the Very Singular and Remarkable Trials, Convictions, and Escapes, of John Shepherd. Together with His History from his Birth, &c. In which is included a minute Account of his unparallelled Species of Treachery to his Associate, Leonard Sullivan, who was executed at Maidstone for a Robbery committed in Shepherd's Company: London, 1786, p.37.
7. L.Radzinowciz, "Some Sources of Modern English Criminal Legislation: A preliminary report on the Blue Books and Parliamentary Debates for the period 1760-1940", Cambridge Law Journal, 8, (1942-44), pp.180-94; L.Radzinowicz, A History of the English Criminal Law and its administration from 1750, 4 vols., London, 1948-68, vol. I, foreword and passim.
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9. This thesis, Chapter 3.

10. P.Linebaugh, Tyburn: A Study of Crime and the Labouring Poor in London During the First Half of the Eighteenth Century, PhD thesis, Warwick University, 1975, pp.166-325; P.Linebaugh, "The Ordinary of Newgate and His Account" in J.S.Cockburn (ed.), Crime in England 1550-1800, London, 1977, pp.246-69; J.H.Langbein, "Shaping the Eighteenth-Century Criminal Trial: A View from the Ryder Sources", University of Chicago Law Review, 50, 1, (Winter 1983), pp.1-136; J.M.Beattie, Crime and the Courts in England 1660-1800, Oxford, 1986.
11. J.A.Sharpe, ""Last Dying Speeches": Religion, Ideology and Public Execution in Seventeenth-Century England", Past and Present, 107, pp.144-67, at p.162.
12. J.A.Sharpe, Crime in Early Modern England 1550-1750, London, 1984, p.165. For other studies on the popular literature of crime in the eighteenth century see, footnote 10 above; M.Harris, "Trials and Criminal Biographies: A Case Study in Distribution" in R.Myers & M.Harris (eds.), Sale and Distribution of Books from 1700, Oxford, 1982, pp.1-36, at pp.13-15; Richetti, Popular Fiction, pp.23-59. For the sixteenth and seventeenth centuries see, J.L.McMullan, The Canting Crew: London's Criminal Underworld 1550-1700, New Brunswick, New Jersey, 1984; T.C.Curtis & F.M.Hale, "English Thinking about Crime, 1530-1620", in L.A.Knafla (ed.), Crime and Criminal Justice in Europe and Canada, Waterloo, Canada, 1981; J.H.Langbein, Prosecuting Crime in the Renaissance: England, Germany, France, Cambridge, Mass., 1974, pp.45-54; A.Macfarlane, Witchcraft in Tudor and Stuart England: A Regional Comparative Study, London, 1970, p.85; J.H.Marshburn, Murder and Witchcraft in England, 1550-1640, as Recounted in Pamphlets, Ballads, Broadsides and Plays, Norman, Oka., 1971; P.Rogers, "Grub Street Biography: Defoe and others on Jonathan Wild" in Literature and Popular Culture in Eigtheenth Century England, Brighton, 1985, pp.151-61.
13. [D.Defoe], The Great Law of Subordination consider'd; or, the Insolence and Unsufferable Behaviour of Servants in England duly enquir'd into, London, 1724, p.288.
14. Chandler, Literature of Roguery, vol.1, p.181.
15. W.H.McBurney, A Check List of English Prose Fiction, 1700-1739, Harvard, 1960, p.ix.
16. J.L.Gaunt, "Popular Fiction and the Ballad Market in the Second Half of the Seventeenth Century", The Papers of the Bibliographical Society of America, LXII, (1978), pp.1-13, p.2.
17. J.N.Adams & G.Averley (with F.J.G.Robinson) A Bibliography of Eighteenth Century Legal Literature, Newcastle-upon-Tyne, 1982.
18. M.Spufford, Small Books and Pleasant Histories: Popular Fiction and its Readership in Seventeenth-Century

England, Cambridge, 1981, pp.48-50.

2. An Outline of the Content of the Popular Literature of Crime

1. For example, An Account of the Apprehending and Taking of John Davis, and Phillip Wake, London 1700. For a later example see, Execution of Miss Blandy, Who was Tried at the Assizes, at Oxford, and suffered at the same place April, 6th for poisoning her Father, London, [1752].
2. Stamp Act 1711, 10 Anne, c.19. The Act came into force on 1 August, 1712.
3. Lorrain unsuccessfully petitioned the House of Commons in 1712 for relief from the tax on ground that the Account came within s.102 which exempted publications that were devoted solely to "Matters of Devotion or Piety".
4. The Case and Memoirs of the Late Rev. Mr. James Hackman, And of his Acquaintance with the late Miss Martha Reay: With a Commentary on his Conviction, distinguishing between his Crime in particular, and that of others who have been condemned for Murder, and also Some condemned for Murder, and also Some Thoughts on Lunacy and Suicide, (9th edn.), London, 1779, pp.53-60. A study of crime reporting in the newspapers still awaits to be undertaken although some mention of the subject appears in M.Harris, The London Newspaper ca. 1725-1746, unpublished Ph.D. thesis, University of London, 1973, pp.293-6. For an interesting study of law reporting in newspapers see, J.Oldham, "Law Reporting in the London Newspapers, 1756-1786", American Journal of Legal History, XXXI, (1987), pp.176-206.
5. See, for example, Whitehall Evening Post, 551, 22 Aug. 1749.
6. See, for example, Daily Journal, 1192, 14 Nov. 1724, 1193, 16 Nov. 1724.
7. M.Harris, "Trials and Criminal Biographies: A Case Study in Distribution" in R.Myers & M.Harris (eds.), Sale and Distribution of Books from 1700, Oxford, 1982, pp.1-36, at pp.13-15.
8. See the collection "Manchester Police Advertisements" in the British Library at shelf-mark 1856.c.5. The Bow Street magistrates used various newspapers for similar purposes including Covent Garden Journal, Public Advertiser and The Public Hue-and-Cry.
9. "Industry and Idleness" in J.Burke & C.Caldwell (eds.), Hogarth: The Complete Engravings, London, 1974, plates 203-214.
10. See this chapter, section 3.
11. For example: The Trial (at large) of James Hill; otherwise James Hind; otherwise, James Actzen: for feloniously, wilfully, and maliciously, setting fire to

The Rope-House, in his Majesty's Dock-Yard at Portsmouth. Tried at the Assizes, at Winchester, on Thursday, March 6, 1777, London, [1777]; The Trial of John Donellan, Esq. for the Wilful Murder of Sir Theodosius Edward Allesley Boughton, Bart. at the Assize at Warwick, On Friday, March 30th. 1781, London, 1781; The Trial of John Motherhill, for committing a rape on the body of Catherine Wade. Tried at the assize Holden at East Grinstead for the County of Sussex, On Tuesday the 21st of March, 1786, London, 1786. See also this thesis, Part I, Chapter 2.

12. See, this thesis, the Bibiliography of the Works of Samuel Smith, and Part I, Chapter 4, section 4.

13. Rev.W.Wilson & Rev.Bannister, A Full, True and Genuine Account of the Uncommon Behaviour of Mr. Gill Smith, Late of Dartford, in Kent, Apothecary; From the Time of his receiving Sentence of Death, to his Execution, on Monday, April the 10th, 1738. Together with the Copy of a Letter, That was sent by his Mother to him, reproaching him with an Attempt to poison her, and his Answer. To which is added, The Genuine Confession, Behaviour, and Dying Words, Of all the seven Malefactors that were executed at Guildford, on Wednesday, April the 5th, 1738, Southwark, 1738, Wilson (of St. George's Church, Southwark) wrote on Smith, and Bannister (of "Middle-Church", Guildford) wrote the rest; Rev. Bannister, A Genuine Account of the Behaviour, Confessions, and Dying Words of the Six Malefactors, viz. William Walters, Thomas Williams, Anne Elliott, James Gunnel, Thomas Jones, James Johnson, Who were Executed at Guildford, in the County of Surrey, On Tuesday, the 13th Day of April, 1742, London, [1742]; [Rev. W.Wilson], A Full and Genuine Account of the Lives, Characters, Behaviour, last Dying Words and Confessions, of the Four Malefactors that were Executed on Friday the 6th Day of this Instant April 1739, at Kennington-Common, London, 1739; Rev. W.Wilson, A Genuine Account of the Lives, Characters, Behaviours, Confessions, and Dying Words, of the Six Malefactors, That were executed at Kennington-Common, on Friday the Fourteenth of September, 1739, London, 1739; Rev. W.Wilson, A Genuine Account of the Behaviour, Confessions, and Dying Words, of the Six Malefactors viz. James Day, Ann Hazzard, James Harris, Richard Keble, James Hunt, and Thomas Collins, Who were Executed at Kennington-Common, On Thursday the 25th of August, 1743, London [1743], Wilson is here noted as lecturer at St.John's, Southwark; Rev.J.Penrose, The Reverend Penrose's Account of the Behaviour, Confession, and Last Dying Words, of the four Malefactors who were executed at St. Michael's Hill at Bristol, on Wednesday the 15th

of April, 1741, Bristol and London, [1741].

14. Many other biographies were written by clergymen who, whilst not prison chaplains, visited condemned prisoners: see, for instance, The Behaviour and Character of Samuel M'Pherson, Malclm M'Pherson, and Farquar Shaw, The Three Highland Deserters: who were Shot at the Tower, July the 18th 1743, London, 1743, written "By the Clergyman of the Church of Scotland, who conversed with them in their own Language from the Time of their Sentence till their Execution."

15. The Life, Travels, Exploits, Frauds and Robberies, of Charles Speckman, alias Brown, Who was Executed at Tyburn, on Wednesday the 23d of November, 1763, London, 1763, pp.45-8; Ordinary of Newgate, Account, 20 July 1700. "Another advantage... that may accrue to society, from an attentive perusal of such kind of memoirs, is, that by observing and tracing the various methods, which these abandoned miscreants take, to injure and prey upon the honest and undesigning part of mankind, we are instructed how to guard against, and enabled to frustrate their wicked schemes and machinations." A True and Genuine Account of the Life, Trial and Execution of James Bolland, Late Officer to the Sheriff of Middlesex, Who was Executed at Tyburn, March 18, 1772, for Forgery (2nd. edn.), London, 1772, p.1. 16. p.10. For an attempt to imitate the style of Fielding's book see, Memoirs of A Social Monster; or, the History of Charles Price, London, 1786 (references to Fielding's book at pp.34-7).

17. Some of the pamphlets published during the Canning controversy in 1752-4 are examples of this: see the bibliography in this thesis; also two books on the affair, A.Machen, The Canning Wonder, London, 1926; L. de la Torre, "Elizabeth Is Missing" Or, Truth Triumphant: An Eighteenth Century Mystery, London, 1947.

18. For example: The Case of Mr. Bartholomew Greenwood submitted to the Publick By Hismelf. In Which The many Inconsistencies of Mr. Wheatley are plainly Demonstrated, London, 1740; The Faithful Narrative: Or an Impartial Account Of The Tryal of Bartholomew Greenwood, Gent. Rider to his Majesty's First Troop of Horse-Guards, on A Suspicion of Robbing Roger Wheatly Esq, of Camberwell, On the Highway, Before Mr. Baron Carter, at the Assizes at Kingston; on the second Day of August 1740, London, 1740; The Case of Mary Edmonson. By a Gentleman of the Law, London, 1759; The Life, Trial, and Dying Words of Mary Edmonson, Who was tried and convicted at Kingston Assizes, for the Murder of her Aunt Mrs. Susannah Walker, a Widow Gentlewoman, at Rotherhithe. And Executed at Kennington-Common, on Monday, April 2, 1759. With her solemn Declaration of her Innocence at her Place of Execution, and Copies of

some Papers she delivered after Condemnation, London, 1759; A Genuine Narrative of the Trial and Condemnation of Mary Edmonson, For the Murder of Mrs. Susannah Walker, her Aunt. At the Assizes held at Kingston upon Thames, for the County of Surry, on Saturday, March 31, 1759. Before the Honourable Sir Thomas Dennison, Knt. With An Account of her general Behaviour, last Dying Words, and Execution on Monday, April 2, 1759, London, 1759; J.Clarke, A Full Refutation of the Pretended Genuine Narrative of the Trial and Condemnation of Mary Edmonson: as published by J.Phipps, [London, 1759]; E.Inge & T.Webb (eds.), A Defence and Substance of the Trial of John Donellan, Esq; who was convicted for the Murder of Sir Theodosius Boughton, Bart. at the Assizes held at Warwick, On Friday the 30th of March 1781, London, 1781.

19. Miss Mary Blandy's own Account Of the Affair between Her and Mr. Cranstoun, London, 1752; A Candid Appeal to the Publick, Concerning the Case of the Late Miss Mary Blandy: Wherein, All the ridiculous and false Assertions contained in a Pamphlet, entitled, Miss Mary Blandy's Own Account of the affair between Her and Mr. Cranstoun, &c. are exploded, and The Whole of that Mysterious Affair set in a True Light. By a Gentleman of Oxford, London, 1752; The Case of Miss Blandy: consider'd As a Daughter, as a Gentlewoman, and as a Christian. With a Particular Reference to her own Narrative. By an Impartial Hand, Oxford, 1752; Memoirs of the Life of William-Henry Cranstoun, Esq, London, 1752.

20. The criticism of the lawyers appears in, The Life of John Donellan, Esquire; (formerly an Officer in the 39th Regiment of Foot) who was executed at Warwick, April 2, 1781, for the Murder of Sir Theodosius Boughton, Baronet, London, [1781], p.35.

21. Ordinary of Newgate, Account, 31 July, 1741, advertisement [p.20].

22. Bannister, Genuine Account, p.2; The Genuine and Authentic Account of the Murder of Daniel Clarke, Shoemaker, On the 8th of February, 1744-5. Also the material part of the Arraignment and Tryal of Richard Houseman, Henry Terry, and Eugene Aram, for the said Murder: York, [1759], p.7. See also, The Genuine Memoirs of Joshua Crompton; Written by Himself in the Cells of Guildford, After his unhappy Conviction for Forgery on the Bank of England; Who was executed on Gangley Common near Guildford, on Thursday the 20th of August, 1778. They contain some useful and interesting Cautions to Mankind in general, but more particularly to the Credulous and unwary, who, like himself, might fall sacrifices to Art and deception. The Whole authenticated by the Rev. Mr. Dyer, London, 1778, p.4.

23. C.D., A Letter to a Member of Parliament, Upon the Subject of the present reigning Enormities of Murders and Robberies, Bath, 1754, [p.1].
24. On Branch: The Cruel Mistress; Being, The Genuine Trial of Elizabeth Branch, and Her own Daughter; for the Murder of Jane Butterworth, Their Servant Maid: Who were executed on Saturday, May 3. 1740 at Ivelchester in the County of Somerset, London, 1740; Inhumanity and Barbarity Not to be Equal'd: Being an impartial Relation of the Barbarous Murder Committed by Mrs. Elizabeth Branch and her Daughter, on the Body of Jane Buttersworth, their Servant, at their Farm at High - Church near Philips-Norton, in the County of Somerset, London, [1740]; The Trial of Mrs. Branch, and Her Daughter, For the Murder of Jane Butterworth, before the Hon. Mr. Justice Chapple, at Somerset Assizes, March 31, 1740. On Brownrigg: An Appeal to Humanity, in An Account of the Life and Cruel Actions of Elizabeth Brownrigg, London, 1767; Genuine and Authentic Account of the Life, Trial and Execution, of Elizabeth Brownrigg, London, 1767; J.Wingrave, A Narrative Of the many Horrid Cruelties Inflicted by Elizabeth Brownrigg Upon the Body of Mary Clifford, Deceased; And for which the said Elizabeth received Sentence of Death, On Saturday the 12th of September 1767. Together with An Account of the Sufferings of Mary Mitchell and Mary Jones, London, 1767; J.Moore, The Ordinary's Account of the Behaviour, Confession and Dying Words, of Elizabeth Brownrigg, Who was executed at Tyburn, On Monday, Sept. the 14th, 1767, London, [1767]. See also, The Trials of James Brownrigg, and John Brownrigg, his Son, For Confining and inhumanly Scourging Mary Mitchell, Spinster; at the General Quarter Sessions of the Peace, Held at the Guildhall, On Monday, October 19, 1767, London, [1767].
25. A Genuine Narrative of all the Street Robberies Committed since October last, by James Dalton. And his Accomplices, Who are now in Newgate, to be try'd next Sessions, and against whom, Dalton (call'd their Captain) is admitted an Evidence, London, 1728, title-page.
26. Title-page.
27. p.3. See also, The Female Amazon, or a Genuine Account , of the most Remarkable Adventures, and Complicated Intrigues, displayed in the life of the Celebrated and Notorious Miss Fanny Davies, the Borough Beauty. Who received Sentence of Death at the last Chelmsford Assizes, by Mr. Justice A htrst, for stealing above 1250L. in Money and Notes, from Mr. Wrigglesworth, a Country Grazier, London, 1786, p.3-4: "A tale may catch, where sober wisdom fails,/ For sermons are less read than tales." (p.4)

3. The Book Trade in the Literature of Crime and the Readers

1. For some of the recent work on the controversial subject of literacy: L.Stone, "Literacy and Education in England 1640-1900", Past and Present, 42, (1969), pp.69-139. See also, D.Cressy, Literacy and the Social Order: Reading and Writing in Tudor and Stuart England, Cambridge, 1980, especially chapter 6; M.Spufford, Small Books and Pleasant Histories: Popular Fiction and its Readership in Seventeenth-Century England, Cambridge, 1981; R.M.Wiles, "Middle-class Literacy in Eighteenth-century England: Fresh Evidence" in R.F.Brinsden (ed.), Studies in the Eighteenth Century: Papers Presented at the David Nichol Smith Memorial Seminar, Canberra, 1966, Canberra 1968, pp.49-65; R.M.Wiles, "The Relish for Reading in Provincial England Two Centuries Ago" in P.J.Korshin (ed.), The Widening Circle: Essays on the Circulation of Literature in Eighteenth-Century Europe, Philadelphia, 1976, pp.85-116; R.A.Houston, "The Development of Literacy: Northern England, 1640-1750", Economic History Review, (2nd series), XXXV, (1982), pp.199-216.
2. D.Defoe, The Complete English Tradesman, in Familiar Letters: Directing him in all the several Parts and Progressions of Trade (2nd. edn.), 2 vols., London, 1727, vol I, p.17.
3. T.C.Duncan Eaves & B.D.Kimpel, Samuel Richardson: A Bigoraphy, Oxford, 1971, p.19.
4. K.M.Lynch, Jacob Tonson Kit-Cat Publisher, Knoxville, 1971, pp.30-2.
5. Ned Ward, The London Spy, London, 1955 (1703; first appeared in serial form in 1698-90), p.13.
6. Quoted in S.Parks, John Dunton and the English Book Trade: A Study of His Career with a Checklist of His Publications, London, 1976, pp.182-3.
7. J.Dunton, The Life and Errors of John Dunton Late Citizen of London, London, 1705, pp.70-1. But see Dunton's remarks about Shirley, "an indefatigable Press-mauler at pp.244-5.
8. On the nineteenth-century broadsheet and ballad printers see, L.Shepard, John Pitts Ballad Printer of Seven Dials, London 1765-1844, London, 1969; C.Hindley, The History of the Catnatch Press, 2 volumes, London, 1887; C.Hindley, Curiosities of Street Literature, 2 volumes, London, 1966.
9. Dunton, Life and Errors, p.87.
10. T.Gent, The Life of Mr. Thomas Gent, Printer, of York, London, 1832, pp.140-1; Parks, op. cit., p.45.
11. Whitehall Evening Post, 1252, 21 Feb. 1754.
12. W.S.Lewis, The Yale Edition of Horace Walpole's Correspondence, 48 volumes, London, 1937-83, vol. 20,

p.199.

13. See the bibliography in this thesis.
14. C.C.Mish, "Early Eighteenth-Century Best Sellers in English Prose Fiction", The Papers of the Bibliographical Society of America, 75, (1981), pp.413-8.
15. The Life and Adventures of Bampfylde-Moore Carew, the noted Devonshire Stroler and Dog-Stealer; As related by Himself, during his Passage to the Plantations in America. Containing, A great Variety of remarkable Transactions in a vagrant Course of Life, which he followed for the Space of Thirty Years and upwards; Exeter, 1745; F.W.Chandler, The Literature of Roguery, 2 vols., London, 1907, vol. I, p.168; J.Janeway, A Warning to Youth. The Life and Death of Thomas Savage; Who was twice Executed at Ratcliff, for the Murder of his Master's Maid-Servant (22nd. edn.), London, 1720. Janeway was also involved in writing an earlier biography of Savage which reached 13 editions between 1668 and 1671: R.Franklin, T.Vincent, T.Doolitel, J.Janeway, H.Baker, A Murder Punished, and Pardoned. Or A True Relationof the Wicked Life, and shameful-happy Death of Thomas Savage, Imprisoned, justly Condemned, and twice Executed at Ratcliff, for his Bloody Fact in Killing his Fellow-Servant, on Wednesday, Octob. 28. 1668 (13th edn.), London, 1671. J.Poulter, The Discoveries of John Poulter, alias Baxter; who was apprehended for robbing Dr. Hancock, of Salisbury, on Clarken Down, near Bath; and who has since been admitted King's Evidence, and discovered a most numerous gang of Villains; many of which have been already taken (9th edn.), London, 1754. [D.Defoe], A Narrative Of all the Robberies, Escapes, &c. of John Sheppard, London, 1724. R.Wilson, A Full and Impartial Account Of all the Robberies Committed by John Hawkins, George Sympson, (lately Executed for Robbing the Bristol Mails) and their Companions (2nd edn.), London, [1722].
16. Gentleman's Magazine, III, (1733), p.137.
17. O.B.S.P., 2-7 July 1735, p.44, advertisement; London Evening Post, 4248, 1 Feb. 1755, the book had been published in January (ibid, 4244, 23 Jan. 1755). Each issue of the Canning trial consisted of six folio sheets, although the series complete was 50 sheets.
18. O.B.S.P., 4-6 Dec. 1729, p.2.
19. At the beginning of the eighteenth-century the price of the O.B.S.P. was 2d., this was reduced to 1d. by the bookseller Bradford in 1704 because he was losing sales through purchasers hiring it our for 1d. (O.B.S.P., 1-2 June 1704, p.4). The price then rose to 2d. under Phillips and Baldwin (O.B.S.P., 7 Dec. 1711) and later to 6d. at which point the City authorities stepped in to

peg the price in 1729 "even when a Sessions happens to be larger than Ordinary" [O.B.S.P., 4-6 Dec. 1729, p.2. However, the practice of spreading the report for one session over two issues soon emerged (O.B.S.P., 8-13 Dec. 1731, p.54; 6-11 Sept. 1732). Similarly, it was announced in O.B.S.P., 6-11 Sept. 1738, that during the mayoralty of Sir John Barnard the price would be held at 3d. without a reduction in size and without splitting a sessionsinto two parts. This was not followed in later years, for instance O.B.S.P., 6-9 Dec. 1738, was priced at 6d., and O.B.S.P., 15-18 Oct. 1739, was published in two parts at 6d. each. For other price freezes see, O.B.S.P. 7-12 Dec. 1737; 25-28 Feb. 1741; 7-12 Dec. 1748; 25-30 April 1750.

20. The Ladies Magazine, 7 April 1750 (this also includes the dying speeches of those hanged at Tyburn on 26 March, 1750). See also, the Ordinary of Newgate's Account for 9 Oct. 1732 which included only part of the account of Shelton, the rest being published in the following issue of Applebee's newspaper (Applebee also published the Account at this time).
21. A Particular Account of the Tryal of Richard Towne, Tallow-Chandler, for Felony, In Defrauding his Creditors, by conveying away his Goods, Money, and Books of Accounts, and refusing to surrender them to the Commissioners in a Statute of Bankrupt, London, 1712; A True Copy of a Paper left by Mr. Richard Towne the Tallow-Chandler, December the 23d, 1712. Written with his own Hand, and by him desir'd to be Published after his Execution, London, 1712.
22. P.Linebaugh, "The Ordinary of Newgate and His Account" in J.S.Cockburn (ed.), Crime in England 1550-1800, London, 1977, pp.246-69, p.256. See also, M.Foucault, Discipline and Punish: The Birth of the Prison (tr. A.Sheridan), London, 1977, pp.65-9; J.A.Sharpe, ""Last Dying Speeches": Religion, Ideology and Public Execution in Seventeenth-Century England", Past and Present, 107, pp.144-67, at p.162.
23. Spufford, Small Books and Pleasant Histories, pp.7, 3 & 4, and generally chapters I to III. See also J.Bunyan, A Few Sighs from Hell (1658), (ed. T.Underwood & R.Sharrock), Oxford, 1980, pp.332-3;
24. E.Robinson (ed.), John Clare's Autobiographical Writings, Oxford, 1986, p.2.
25. Robinson (ed.), Clare's Autobiographical Writings, p.5.
26. J.G.Rule, The Labouring Classes in Early Industrial England, 1750-1850, London, 1986, p.135.
27. Stone, "Literacy and Education in England".
28. B.Simon, Education in Leicestershire, 1540-1940, Leicester, 1968, pp.88-9.
29. Robinson, Clare's Autobiographical Writings, p.5.

30. J.E.Thorold Rogers, Eight Chapters on the History of Work and Wages (4th edn.), London, 1893, chap.5.
31. J.Arbuckle, A Collection of Letters and Essays (1729), quoted in A.D.McKillop, The Early Masters of English Fiction, Lawrence, Kansas, 1956, p.44.
32. J.J.Richetti, Popular Fiction Before Richardson, Oxford, 1969, p.9.
33. George Chalmers, The Life of Daniel Defoe (1785), quoted in I.A.Bell, Defoe's Fiction, London, 1985, p.43.
34. F.A.Pottle, Boswell's London Journal 1762-1763, London, 1950, p.252. See also, The London Magazine, LXVIII, (May 1783), reprinted in M.Bailey, Boswell's Column, London, 1951, pp.343-8; G.B.Hill & L.F.Powell (eds.), Boswell's Life of Johnson, 6 volumes, London, 1934, vol. II, p.93, vol. III, p.532, vol. IV, p.328. For a report of Boswell and Sir Joshua Reynolds leading the condemned onto the scaffold outside Newgate see, Public Advertiser, 15950, 7 July 1785. For a seventeenth-century example see, M.Bright (ed.), The Diary of Samuel Pepys, 3 volumes, London, 1953, vol. III, p.293.
35. See above, footnote 11.
36. Walpole owned the following pamphlets, amongst others: An Account of John Wescote (1765) (for reference to Wescote in Walpole's letters see, Lewis, Walpole's Correspondence, vol. 30, p.490); pamphlets on Elizabeth Canning by Fielding, Hill and Ramsay; Dr. Allen, An Account of the Behaviour of Mr. James Maclaine (1750); [Richard Bentley], Petition to the Right Hon. Mr. Pelham, in favour of Mr. Maclean (1750) (a poem on the Maclaine case, see Lewis, vol. 35, p.643); A True and Exact Copy of a Genuine Letter, written by a Rev. Clergyman in Holland, on the commitment of James Maclean for a robbery (1750) (for letters see, Lewis, vol. 13, p.23, 20, pp.99, 101, 106, 168-9, 188, 199, vol. 40, pp.63-5 - Walpole was one of Maclaine's victims); An Authentic Account of the Life and Memoirs of Mr. William Smith (1750) (see, Lewis, vol. 20, p.199n.); Mr. Daniel Perreau's Narrative of his unhappy case (1775); The Female Forgery (1775); Mrs. Rudd's Genuine Letter to Lord Weymouth (1775); A Letter from Mrs. Christian Hart, to Mrs. Margaret Caroline Rudd (1776) (see, Lewis, vol. 11, p.208n., vol. 24, p.152-4, vol. 28, p.192); Rev. John Villette, A Genuine Account of the Behaviour and Dying Words of William Dodd (1777) ; [Dr. Samuel Johnson], The Convict's Address (1777) (see, Lewis, vol. 2, pp.34-5, vol. 2, pp.34-5, vol. 28, p.288, 289, vol. 32, pp.360-1); The Life of that Extraordinary Character, Mr. Charles Price (1786). For Walpole's library see, A.T.Hazen, A Catalogue of Horace Walpole's Library, 3 volumes, New Haven 1969. On Walpole and Vailliant: Lewis, vol. 9, p.400. Walpole also owned William

Hogarth's portrait of Sarah Malcom, who was hanged for murder in 1732: [H.Walpole], A Description of the Villa of Mr. Horace Wapole, youngest son of Sir Robert Walpole Earl of Orford, at Strawberry-Hill near Twickenham, Middx. With an Inventory of the Furniture, Pictures, Curiosities, &c, London, 1784, p.23; the painting is now in the National Gallery of Scotland, Edinburgh.

37. J.Fergus, "Eighteenth-Century Readers in Provincial England: The Customers of Samuel Clay's Circulating Library and Bookshop in Warwick, 1770-72", The Papers of the Bibliographical Society of America, 78, (1984), pp.155-213; V.E.Neuburg, "The Diceys and the Chapbook Trade", The Library (5th Series), XXIV, pp.219-31.

38. The Champion, 10 August 1742; W.Shenstone, The Works in Verse and Prose of William Shenstone, Esq, 2 volumes, London, 1768-9, vol. III, p.12, letter dated February 1741; The Case Between the Proprietors of Newspapers and the Subscribing Coffee-Men Fairly Stated, London, 1729; The Case Between the Projectors of News-Papers, and the Subscribing Coffee-Men fairly Stated, London, 1729; [D.Defoe], A Trip through London (3rd edn), London, 1728, pp.6-7. See generally, H.M.Hamlyn, "Eighteenth-Century Circulating Libraries in England", The Library (5th series), 1, (1946-47), pp.197-222; A.D.McKilliom "English Circulating Libraries, 1725-50", The Library, XIV, (1934), pp.477-85. Hamlyn argues that circulating libraries originated with booksellers, whilst McKillop thought they were the creation of both coffee houses and booksellers. But now see, M.Harris, The London Newspaper ca. 1725-1746, unpublished Ph.D. thesis, University of London, 1973, pp.60-1, in which it is argued that newspapers could be read or hired in inns, taverns, barber shops, chandlers shops etc. For the catalogue of a circulating library see, J.Fergus, "Eighteenth-Century Readers in Provincial England". On book clubs, organised by the middle and upper classes, of which there were about 1100 in the late eighteenth-century see, P.Kaufman, "English Book Clubs and their Role in Social History", Libri, XIV, (1964), pp.1-31; D.H.Knott, "An Eighteenth-Century Book Club at Clapham", The Library (5th Series), XXIV, (1969), pp.243-6.

39. See footnote 17 above.

40. Miss Mary Blandy's own Account Of the Affair between Her and Mr. Cranstoun, London, 1752, shelved at G.14288(1); Memoirs of the Life of William-Henry Cranstoun, Esq, London, 1752, shelved at G.14288(2); Original Letters To and from Miss Blandy and C- C-. In which is contain'd The artful Evasions he used to prevent his clearing his Character to her father, and the whole History of that Parricide, London, 1752, shelved at G.14288(3).

41. The Life and Penitent death of John Mawgridge, Gent. Who

was Executed for the Murder of Captain Cope. Penn'd from his own Account of himself, and approv'd of by him, before his Death, London, 1708, p.2.

42. New News; great and wonderful News from London in an Uproar; or a How and Cry after the great Turpin, with his Escape into Ireland, n.d., n.p., [1737].

43. An advertisement for a print of John Sheppard published in 1724 by Bowles and Bowles (see this thesis, Part I, Chapter 5, section 1) indicates that such items, priced at 6d., were aimed at the middle and gentry buyers: the publishers complained about the circulation of "some base and scandalous Copies" of their prints and add, "but that the Publick may not be impos'd on, when servants are sent for them, let them ask for those which have engrav'd on them Printed and Sold by Thomas Bowles... and John Bowles": Daily Post, 1594, 4 Nov. 1724.

CHAPTER 2: CHANGES IN THE LITERATURE OF CRIME DURING THE EIGHTEENTH CENTURY

1. F.W.Chandler, The Literature of Roguery, 2 volumes, Boston, 1907, vol. I, p.164. See also, J.J.Richetti, Popular Fiction Before Richardson: Narrative Patterns 1700-1739, Oxford, 1969, pp.29-30.
2. P.Linebaugh, "The Ordinary of Newgate and his Account" in J.S.Cockburn (ed.), Crime in England 1550-1800, London, 1977, pp.246-69, at p.250.
3. Later Ordinaries of Newgate did write individual biographies, but not general accounts of all those hanged on a particular day: see below.
4. Memoirs of A Social Monster; or, the History of Charles Price, London, 1786. The author of this book also wrote another long biography of Price titled, A New Edition. Being a more minute and particular Account of that consumate Adept in Deception, Charles Price, otherwise Patch, many years a Stock-Broker and Lottery-Office-Keeper in London and Westminster, London, 1786 (see Memoirs of A Social Monster, p.v).
5. Tyburn's Worthies, or, the Robberies and Enterprizes of John Hawkins, and George Simpson, lately executed for Robbing the Bristol-Mail, London, [1722], p.24.
6. For an example see, Philo-Patriae, A Full and Genuine Account of the Murder of Mrs. Robinson, by Elton Lewis, On Monday Night, April 21, 1735, London, [1735]. Thomas de Veil, who was the principal magistrate for Middlesex up until his death in 1746 (he was succeeded first by Poulson and then in 1748 by Henry Fielding), did feature in some of the literature, but his methods were not given the sort of prominence that those of the Fieldings enjoyed see, for instance, Account of the Life, Adventures and Transactions of Robert Ramsey, alias Sir Robert Gray, From his Birth to his Execution at Tyburn, on Wednesday, the Thirteenth of January 1741-2, London, 1742, p.14. De Veil did write, Observations on the Practice of a Justice of the Peace: Intended For such Gentlemen As Design to Act For Middlesex or Westminster, London, 1747, but this did not include the sort of techniques for detection of crime that the Fieldings developed. The best contemporary view of de Veil's work appears in brief passages in the Old Bailey Sessions Papers and in the only significant biography of him, Memoirs of the Life and Times, of Sir Thomas Deveil, Knight, one of His Majesty's Justices of the Peace, For the Counties of Middlesex, Essex, Surry and Hertfordshire, The City and Liberty of Westminster, The Tower of London, and the Liberties thereof &c., London, 1748.
7. See also, The Life of Theodore Gardelle, Linner and

Enameller: with A particular Description of the Murder of Anne King; and the inhumane Means taken to conceal the same. The Whole interspersed with Many curious particulars, among which a beautiful Anecdote concerning M. de. Voltaire, (2nd. edn.), London, 1761; The Case and Memoirs of the Late Rev. Mr. James Hackman, And of his Acquaintance with the late Miss Martha Reay: With a Commentary on his Conviction, distinguishing between his Crime in particular, and that of others who have been condemned for Murder, and also Some Thoughts on Lunacy and Suicide (9th edn.), London, 1779; A Genuine Account of the Life, Robberies, Trial and Execution, of William Hawke, call'd the Flying Highwayman. Who was Executed at Tyburn, July the First, 1774, London, 1774; An Account of John Rann, Commonly called Sixteen String Jack. Being A circumstantial Narrative of his Principal Transactions, and His Amours to the Celebrated Miss La Roache, London, [1774]; The Life of Patrick Madan; Exhibiting a Series of the most extraordinary Transactions, notorious Villanies, and wonderful Escapes, that ever happened to one Man. Comprizing a Series of Events equally calculated to astonish the Mind, and lead the Heart of Virtue, by exhibiting the Deformity of Vice. With Reflections naturally arising from the Subject; and Hints, which if attended to, will tend greatly to the Suppression of every Species of Theft, London, [1781]; Particulars of the Very Singular and Remarkable Trials, Convictions, and Escapes, of John Shepherd. Together with His History from his Birth, &c. In which is included a minute Account of his unparallelled Species of Treachery to his Associate, Leonard Sullivan, who was executed at Maidstone for a Robbery committed in Shepherd's Company, London, 1786, dedication to Sampson Wright, the Bow Street magistrate, pp.iii-iv & passim; Rev.W.Love, The Ability of Jesus Christ to save Sinners. A Sermon preached in the Chapel of Newgate, On Sunday November 21st, 1790, At the Request of the Friends of Francis Fonton, (Who was executed on the Wednesday following, in the Old Bailey, for Forgery:) And published for the Benefit of his distressed Widow and Family (2nd edn.), London, 1790, p.42; The Trial of William Lewin alias William Henry Clarke, alias William Brown, alias Wiliam Hutchinson, alias William Maule, alias William Hope, before the Honourable Edward Bearcroft, His Majesty's Chief Justice of Chester, and Francis Burton, Esq His Majesty's other Justice of and for the said County, On Monday the 18th of April, 1791, for robbing the Boy who carried the Mail between Warrington and Northwich, in the County of Chester, of his Horse, and the bag which contained the Letters from Warrington to Northwich, On Tuesday the

11th of March, 1788. As taken in Court, Chester, [1791]; L.H.Gordon, An Apology for the Conduct of the Gordons; containing the whole of their Correspondence, Conversation, &c. with Mrs. Lee: To which is annexed An Accurate Account of their Examination at Bow Street, and their Trial at Oxford (4th edn.), London, 1804.

8. An Authentic Narrative of the Methods by which the Robbery... was detected (Westcote), p.3.

9. An Account of John Westcote, Late Porter To the Right Honourable The Earl of Harrington. In which is laid down An Effectual Method For preventing Theft and Robbery, London, [1765], p.21.

10. At p.27 & passim.

11. Sir S.Romilly, The Life of Sir Samuel Romilly, written by himself. With a selection from his Correspondence, (ed. by his sons), (3rd. edn.), 2 vols., London, 1842, vol. I, p.66.

12. On Richard Coleman see, [Rev.W.Wilson], The Solemn Declaration of Richard Coleman, Who was Executed at Kennington-Common, in the County of Surry, on Wednesday, April 12, 1749, for the Murder of Sarah Green, Widow, with the Behaviour, Confession, and Dying Words, of the Four other Malefactors, Who were Executed at the same Time and Place, London, [1749]. On Macdaniel or M'daniel see, J.Cox, A faithful Narrative Of the most wicked and inhuman Transactions of that Bloody-Minded Gang of Thief-makers Macdaniel, Berry, Salmon, Eagan alias Gohagan; With a curious Print of Macdaniel As also of that notorious Accomplice of theirs, Mary Jones, and Others, London, [1756].

13. Rev.J.Villette, A Genuine Account of the Behaviour, Confession, and Dying-Words of William Hawke and William Jones, Who were Executed at Tyburn on the 1st of July, 1774, London, [1774], pp.12-3.

14. For example, Ordinary of Newgate, Account, 23 May 1701. See also, this thesis, Part I, chapter 4.

15. At p.24.

16. See also, A Letter from a Clergyman to Miss Mary Blandy, Now a Prisoner in Oxford Castle; with Her Answer thereto. As also Miss Blandy's own Narrative of the Crime for which She is Condemn'd to Die, London, 1752: Blandy had declared her innocence of any intention to kill her father, the author tells her that if she is innocent then she has nothing to fear from death and urges "Patience, under your Sufferings, and Resignation to the Decrees of Heaven" (p.4). William Paley told those innocent people who faced hanging "to reflect, that he who falls by a mistaken sentence, may be considered as falling for his country; whilst he suffers under the operation of those rules, by the general effect and tendency of which the welfare of the

community is maintained and upholden." However, even Paley is acknowledging the possibility of "a mistaken sentence" which marks a change: W.Paley, "Moral and Political Philosophy" (1785) in W.Paley, The Works of William Paley, D.D. Archdeacon of Carlisle. With a Life of the Author. In One Volume, London, 1833, p.168. Also, [Dr.R.Bolton], The Deity's Delay In Punishing the Guilty, Considered, on the Principles of Reason, London, 1751, p.8.

17. At p.24.

18. J.Oliphant, The Case of Mr. James Oliphant, Surgeon, respecting a Prosecution Which He together with his Wife and Maid Servant, underwent in the Year 1764, for the Supposed Murder of a Female Domestic, Newcastle-upon-Tyne, 1768.

19. Apologies for the Perreaus included: Mr. Daniel Perreau's Narrative of his unhappy case; wherein Every particular Transaction between Mrs. Rudd, his Brother, and himself, from the commencement of Daniel Perreau's connexion with Mrs. Rudd, until the time of his trial, is most truly and candidly laid before the Public; together with his Defence. Published by Himself, London, 1775; Observations on the Trial of Mr. Robt. Perreau. With Mr. Perreau's Defence, as spoken on his Trial, in which Many unaccounted for Omissions in the Sessions-Paper are supplied, From a Copy sent to the Author by Mrs. R.Perreau: An Address to the Jury on Mr.R.Perreau's Trial, and Such Remarks on Mrs. Rudd's Narrative as tend to confirm the Justness of these Observations. The whole prefaced with Correspondence between the Author & Mrs.R.Perreau, London, 1775; A Solemn Declaration of Mr. Daniel Perreau. Addressed to the Public. Written by Himself, and Delivered to a Friend in the Cells of Newgate, on Sunday, Jan. 14, 1776. Published at his Dying Request, London, 1776.

20. Case and Memoirs of the Late Rev. Mr. James Hackman, pp.14-5.

21. For other examples compare, J.Bather, A Full and Faithful Account of the Life of James Bather, late Boatswain of the Nightingale Brig, Thomas Benson, Esq: Owner, Written by Himself, London, [1754], with J.Lancey, A Genuine Account of the Burning the Nightingale Brig, Lately belonging to Thomas Benson, Esq; a Member of the last British Parliament. Written by John Lancey, the Commander (Now under Sentence of Death) since his Commitment. Published Word for Word from the Author's Manuscripts, London, 1754. The latter was published as "a full Refutation of a spurious and inaccurate Pamphlet lately published" (title-page). See also, The Affecting Case of the unfortunate Thomas Daniels, who was Tried at the Sessions held at the Old

Bailey, September 1761, for the Supposed Murder of his Wife; By casting her out of a Chamber Window: And for which he was sentenced to die, but received his Majesty's most Gracious and Free Pardon, London, 1761; Gordon, An Apology for the Conduct of the Gordons; J.Hudson, The Case and Appeal of John Hudson, One of the Officers of His Majesty's Revenue of Excise: Who was tried at the Old Bailey, in December, 1779, upon a Charge of committing a Robbery in the Shop of Robert Davies, Grocer, (no. 164) in Fenchurch-Street, London, 1781; J.Hudson, A Supplement to the Case and Appeal of John Hudson, One of the Officers of His Majesty's Revenue of Excise, London, 1782.

22. But see, The Case of John Donellan, Esquire, impartially considered, Abstractedly from the Man or Crime; but only as to the Law, in regard to the Judge's Charge of the Grand Jury; the Evidence of Anatomists, Physicians, Surgeons, and Apothecaries, respecting the Body of the late Sir Theodosius Edward Allesley Boughton being poisoned; and to the Judge's Charge to the Petit Jury, on the Disagreement of the Faculty, as to that fact: with Observations, Notes, and References. By A Lawyer, London, 1781, p.38, in which the author refers to Buller. J's charge to the grand jury as "to the last degree unjust", adding, "I am of opinion, that this judge, by this charge, empoisoned the minds of the Petit, as well as of the Grand Jury of the county of Warwick, against the UNTRIED prisoner." (also pp.38-57 passim). Also, The Case of Mary Edmonson. By a Gentleman of the Law, London, 1759.

23. For an example of a single trial report which included part of the examination of a suspect before a justice see, The Trial (at large) of James Hill; otherwise James Hind; otherwise, James Actzen: for feloniously, wilfully, and maliciously, setting fire to The Rope-House, in his Majesty's Dock-Yard at Portsmouth. Tried at the Assizes, at Winchester, on Thursday, March 6, 1777, London, [1777].

24. For a cheap single trial report see, The Trial at Large of Thomas Clarke, Thomas Carty, and John Deane. Who were Tried, Convicted, and received Sentence of Death, for Robbing Thomas Marsh, on the King's Highway, at Yoxford, of 187 Dollars. At the Summer Assize for the County of Suffolk, Bury St. Edmund's, [1779], "Taken in Short-Hand, as delivered in Court" (title-page) and priced at 2d. This may well have been aimed at a purely local interest in the case.

25. For an early example of a Gurney single trial report see, The Trial of Timothy Murphy, At the Sessions-House in the Old Bailey, for Felony and Forgery, On Saturday, January 13, 1753, London, 1753.

26. Langbein, "Shaping the Eighteenth-Century Criminal Trial", pp.12-14.

27. The Whole Trials of Mr. Robert Powell, a 64 page report published by T.Evans, does not include a note of the shorthand writer, but one was evidently employed; The Tral At Large of Mrs. Margaret Rudd is by a Mr. Bailey "Barrister at Law", but is a much shorter version than the trial published by Gurney in the Old Bailey Sessions Paper for 6 February, 1775 at pp.3-31; The Trials of Robert and Daniel Perreau was published by T.Bell.

28. For example: The Tryal of Mary Blandy, Spinster; for The Murder of her Father, Francis Blandy, Gent. At the Assizes held at Oxford For the County of Oxford, On Saturday the 29th of February, 1752, London, 1752, a 46 page (folio) report published "by Permission of the Judges" by J. & J.Rivington, no note of shorthand writer; The Trial of William Wemms, James Hartegan, William M'Cauley, Hugh White, Matthew Killroy, William Warren, John Carrol, and Hugh Montgomery, Soldiers, in his Majesty's 29th Regiment of Foot, For the Murder of Crispus Attucks, Samuel Gray, Samuel Maverick, James Caldwell, and Patrick Carr, On Monday Evening, the 5th of March, 1770, Boston (Lincs.) & London, [1770], published by T.Evans; The Genuine Trial of John Motherhill, (more generally known by the name of the Brighthelmstone Taylor;) for a Rape of the Body of Miss Catherine Wade, Daughter of Mr. Wade, master of the Ceremonies at Brighthelmstone; At the Assizes held at East Grimstead, London, [1786], the shorthand writer was a Mr. Wilkinson; The Trial of John Motherhill, for committing a rape on the body of Catherine Wade. Tried at the assize Holden at East Grinstead for the County of Sussex, On Tuesday the 21st of March, 1786, London, 1786, shorthand writer Joseph Gurney. See also footnote 31 below.

29. The Trial of John Donellan, Esq. for the wilful Murder of Sir Theodosius Edward Allesley Boughton, Bart. at the Assize at Warwick, On Friday, March 30th. 1781, London, 1781, shorthand writer probably Joseph Gurney; The Proceedings at Large on the Trial of John Donellan, Esq. for the wilful murder (by poison) of Sir The. Edward Allesley Boughton, Bart. Late of Lawford-Hall, in the County of Warwick, London, [1781], shorthand writer W.Blanchard, "by Permission of the Judge" (Blanchard cooperated with Gurney on the shorthand report The Trial of Jane Butterfield For the Wilful Murder of William Scawen, Esq; At the Assizes held at Croydon for the County of Surry On Saturday the 19th of August, 1775, London, 1775); The Trial of John Donellan, Esq. (Late Master of the Ceremonies at the Pantheon in Oxford-Street) at the Assizes holden at Warwick, On Tuesday the

27th of March, 1781, before Frances Buller, Esq. One of the Judges of the Court of King's Bench, for the Wilful Murder of Sir Theodosius Boughton, Bart., London, [1781], "Taken in Short-hand by a Barrister at Law attending the Midland Circuit."

30. J.H.Langbein, "The Criminal Trial before the Lawyers", University of Chicago Law Review, 45, 2, (Winter 1978), pp.263-316 passim; J.M.Beattie, Crime and the Courts in England 1660-1800, Oxford, 1986, pp.353-62 & 373-5, quote at p.356.
31. Ordinary of Newgate, Account, 31 July 1741, [p.20].
32. Another cheap pamphlet in which the opening speech is emphasised is, The Trial of Thomas Jackson, for Robbing the Mail, Between Stoke and Brandon, on the 8th day of January 1790. Before Sir William Henry Ashhurst, Knt. At the Lent Assizes held at Thetford, March 16, 1790. Taken in Court, n.p., n.d. On Roberts and other "trade publishers" see, M.Treadwell, "London Trade Publishers 1675-1750", The Library (6th series), IV, 2, (June 1982), pp.99-134.
33. Case of Mary Edmonson, p.19; The Trial of Captain John Kimber, for the supposed murder of an African girl, at the Admiralty Sessions, before the Hon. Sir James Marriott, Knt. (Judge Advocate) and Sir William Ashurst, Knt. &c. On Thursday, June 7, 1792. Of which he was most honourably acquitted, and the Two Evidences for the Prosecution committed to Newgate to take their Trials for Wilful and Corrupt Perjury, London, [1792], p.43. But see, The Trial (at large) of James Hill.
34. See this thesis, below.
35. John Lord Campbell, Lives of the Chief Justices. From the Norman Conquest till the Death of Lord Mansfield, 2 vols., London, 1849, vol. II, p.329; Sir W. Holdsworth, A History of English Law, 16 vols., London, 1903-66, vol. XII, pp.85-6.
36. An Impartial Account of the Malicious Prosecution of John Comyn, and Chadwick Chambers. By Robert Deans of Maidstone, and his Accomplices, on Pretence of their Robbing the said Deans on the Highway. With An Abstract of their Trial, and being fairly clear'd at the Assizes at Maidstone, March 18. 1707, London, 1709; Account ofthe Life, Adventures and Transactions of Robert Ramsey. For pamphlets going back to the Tudor period, see this thesis, Part I, Chapter 1, section 1, footnote 12.
37. Impartial Account of the Malicious Prosecution of John Comyn; Some Observations on the Tryal of Spencer Cowper, J.Marson, E.Stevens, W.Rogers, That were Tried at Hertford, about the Murder of Sarah Stout. Together With other Things relating thereunto, London, 1702; The Case of Mr. Bartholomew Greenwood submitted to the Publick By Himself. In Which The many Inconsistencies of Mr.

Wheatley are plainly Demonstrated, London, 1740.

38. Rev.J.Villette wrote The Annals of Newgate; or, Malefactors Register, 4 volumes, London 1776, a work based on the Accounts of his predecessors. He also wrote: A Genuine Account of the Behaviour of... William Hawke and William Jones; A Genuine Account of the Behaviour and Dying Words of William Dodd, LL.D. Who was Executed at Tyburn for Forgery, on Friday the 27th of June, 1777 (4th edn.), London, 1777; and also an account of the Perreau brothers (1775) which I have been unable to trace.

39. Genuine Account of... William Dodd, p.43, see also pp.44-8. Interestingly a similar criticism was made of Villette's pamphlet on Dodd: Thoughts of a Citizen of London on the Conduct of Dr. Dodd, In his Life and Death. With Remarks on the several Petitions presented in his favour; the Arguments of the Court of Common Council of the City of London on the Occasion considered; And some Queries addressed to the Right Hon. the Lord Mayor and the Court on the Subject. With Reflexions on some Passages of the Ordinary of Newgate's Account of Dr. Dodd's Conversation in Newgate, And going to Execution. Shewing that the dangerous, and hurtful Doctrine, of Christians who have past their whole Lives in Wickedness being saved at the last Hour by applying to Christ, has no Foundation either in the Nature of Things, or the Scriptures, London, 1777.

40. Rev.L.Howard, A True and Impartial Account of the Behaviour, Confession, and Dying Words of the four Malefactors, Who were executed at Kennington-Common, on Friday, September 6, 1751. Published with the Approbation and Consent of the Revered Leonard Howard, D.D. Rector of St. George the Martyr, in Southwark, who attended them whilst under the Sentence of Death, and in their last Moments, London, [1751] p.8. See also, Place Collection, British Museum Add. Mss. 27,826-9.

CHAPTER 3: THE ASSIZE SERMON

1. John Laurence, Christian Religion the Best Friend to Civil Government. A Sermon Preach'd at Stafford, Before Mr. Justice Blencow and Mr. Baron Price, at the Assizes held there Aug. 21, 1717, London, 1717, pp.20-1.
2. Thomas Cattell, Human Laws obligatory upon the Conscience. A Sermon Preach'd at the Assizes Held at Lancaster By the Right Honourable Lord Chief Justice Eyre, And the Honourable Mr. Justice Reeve; On Saturday, August 25, 1733, London, 1734, pp.23-4.
3. Baron Price, in his charge to the Grand Jury of Somerset, apparently spoke approvingly of the assize sermon which had been delivered by Arthur Bedford: Arthur Bedford, The Doctrine of Obedience and Non-Resistance due to the Higher Powers explained, stated, and vindicated; with proper Inferences from the same: In A Sermon Preach'd at the Assizes held at Taunton in the County of Somerset, On Tuesday the nineteenth Day of March, in the Year of our Lord, 1716/7, before Baron Price and Judge Eyre, being His Majesty's Judges for the said Circuit, London, 1717, p.v. On the other hand, the Grand Jury did not attend Seward's sermon, although the judges were present: The Folly, Danger, and Wickedness of Disaffection to the Government: An Assize Sermon preach'd at Stafford On Sunday, August 19, 1750. Before the Lord Chief Baron Parker, and Mr. Justice Burnet, On occasion of the late Seditious Riots in that County, London, 1750, dedication. See also, B.White, Assize Sermons 1660-1720, unpublished Ph.D. thesis, C.N.A.A., Newcastle-upon-Tyne Polytechnic 1980, pp.29-30.
4. William Coxe, A Sermon on The Excellence of British Jurisprudence: preached on the tenth of March, 1799, in the Cathedral Church of Salisbury, before the Judges of Assize, Salisbury, 1799, p.7.
5. Richard Newcome, A Sermon Preach'd in the Cathedral Church of Winchester, before the Hon. Mr. Justice Page and Mr. Baron Comyns; at the Assizes held there, On Wednesday, March 13, 1727/8, London, 1728, pp.2-3 & passim. See also, George Cardale, Peace, Good-Will, and Forgiveness of Injuries recommended, in an Assize Sermon, Preached at St. Martin's in Leicester, On Thursday, July 24, 1755, London & Leicester, [1755], pp.3-4; Samuel Berdmore, A Sermon Preach'd at St. Mary's Nottingham, On Friday the 28th of July 1710. Before the Honourable Sir Littleton Powys, and Sir Salathiel Lovel, Knights, Her Majesty's Justices of Assize for the County of Nottingham, &c., London, 1710, p.8.
6. Seward, Folly, Danger, and Wickedness of Disaffection to the Government (1750), dedication.
7. See, for example, John Savage, Security of the

Establish'd Religion, the Wisdom of the Nation. A Sermon Preach'd at the Assizes Held at Hertford, August 7. 1704. Before the Right Honourable The Lord Chief Justice Holt and Mr. Justice Gould, Cambridge, 1704, dedication; Hugh James, A Sermon Preach'd at the Assizes Held at Norwich, August the Fourth, 1707; F.Squire, Wickedness, High-Treason: or, All vicious Subjects Enemies to their Governors. Prov'd in a Sermon Preach'd at the Assizes held at Taunton in the County of Somerset, March 18, 1717, London, 1718.

8. Thomas Randolph, The Certainty of a Future State Asserted and Vindicated against the Exceptions of the late Lord Bolingbroke: in a Sermon Preached at St. Mary's in Oxford at the Assizes Held there by the Honourable Mr. Justice Birch, and Mr. Baron Adams, On Thursday, March 6, 1755, Oxford, 1755; Joseph Trapp, The Practice of Confounding the Distinction between Good and Evil Consider'd, and Expos'd. In . A Sermon preached at St. Mary's in Oxford, before Mr. Justice Powell, and Mr. Justice Gould; And Before the University of Oxford: at the Assizes Held There, Mar. 4. 1707/8, Oxford, 1708; George Horne, The Influence of Christianity on Civil Society. A Sermon preached at St. Mary's in Oxford, at the Assizes: before the Honourable Justice Nares and Mr. Baron Eyre; and Before the University; On Thursday, March 4, 1773, Oxford, 1773, pp.19-22. For probable references to Mandeville see, George Osborne, Righteousness the Exhaltation of a Nation. A Sermon Preach'd at Guildford, March the 24th, 1732. At the Assizes held there, Before the Right Honourable the Lord Chief Justice Eyre, And the Honourable Baron Thompson, London, 1732.

9. Henry Sacheverell, The Nature and Mischief of Prejudice and Partiality Stated in a Sermon Preach'd at St. Mary's in Oxford, at the Assizes Held There, March 9th, 1703/4, (2nd edn.), Oxford & London, 1704; Henry Sacheverell, The Nature, Obligation, and Measures of Conscience, Deliver'd In A Sermon Preach'd At Leicester, at the Assizes Held There, July 25th, 1706, Oxford and London, 1706; Henry Sacheverell, The Communication of Sin: A Sermon Preach'd at the Assizes held at Derby, August 15th 1709, London, 1709; William Reeves, A Sermon Preach'd at the Assizes Holden at Abingdon, In the County of Berks, July 14, 1713. Before the Honourable Sir Littleton Powis and Sir Robert Eyre, Knts. Justices of the Court of Queen's Bench at Westminster, Oxford, Reading & London, 1713; Samuel Berdmore, Sermon Preach'd at St. Mary's Nottingham (1710), pp.9-15; Conyers Place, A Sermon Preach'd at Dorchester During the Time of the Assizes, March the 18th 1705, London, 1705; Luke Beaulieu, The Reciprocal Duty betwixt Kings and

Subjects, Imparitally stated, in a Sermon on Romanus xiii. 1. Preach'd in the Cathedral Church of Gloucester, at the Assizes, Sunday, July the 14th, 1706, London, 1706, advertisement & passim.

10. Anon., The Rights of Government not incompatible with the Rights of Man. A Sermon preached at the Assize held at Chelmsford, in the County of Essex, before Hon. Mr. Justice Gould, and Mr. Justice Wilson, August 1, 1791, London, [1791], [p.3].
11. Beaulieu, Reciprocal Duty betwixt Kings and Subjects (1706); Bedford, Doctrine of Obedience and Non-Resistance (1717); Thomas White, The Happiness and Duty of British Subjects. A Sermon Preach'd at the Assizes at Hertford, March 11. 1716/7, Before The Honourable Mr. Justice Dormer, London, 1717; Robert Burrow, A Sermon Preach'd in the Metropolitical Church of St. Peter in York, On Sunday, July 20, 1729. At the Assizes held at York Before the Honourable Mr. Justice Page, and Mr. Baron Hale, London, 1729, p.27; Edmund Tew, The Queen of Sheba's Notions of Government, considered, in a Sermon preached at Carlisle Assizes, On Wednesday, September 22, 1750. In the Cathedral Church of that City, before the Honourable Mr. Baron Clive and Mr. Baron Stafford-Smyth, Newcastle-upon-Tyne and London, [1750].
12. Laurence, Christian Religion the best Friend to Civil Government (1717), p.8.
13. John Pennington, "St. Paul's Spiritual Charge to Civil Magistrates. Showing Their Duty in Defence of Christianity. A Sermon Preach'd at the Lent-Assizes Held at Huntingdon, before Mr. Baron Hale; On Sunday, March the 24th, 1727-8", in John Pennington, King Jehoshaphat's Charge to his Judges, and St. Paul's Spiritual Charge to Civil Magistrates. Two Sermons Preach'd At Huntingdon-Assizes, London, 1728, at p.54. See also, Ri. Bynns, Conscience void of Offence. A Sermon Preach'd at the Assizes Held at Stafford, August the 9th. 1710. Before Mr. Justice Blencoe, and Mr. Justice Dormer, London, 1710, p.18; Lewis Debord's, The Duty of Praying for Kings, or Governors. In a Sermon Preach'd at the Assizes Holden at Brentwood in Essex, March 21. 1723, London, 1723.
14. George Raymond, Christian Loyalty; with the Duty of Ministers relating thereunto. A Sermon Preach'd at the Assizes, at Bury St. Edmonds in Suffolk, March 26, 1716. Before the Right Honourable Sir Peter King, Lord Chief Justice of His Majesty's Court of Common Pleas, London, 1716, p.4.
15. William Gardner, Principles of Religion Recommended. In a Sermon Preach'd at the Assizes held at Kingston Upon Thames. On Thursday, August 4. 1726. By the Right Honourable the Lord Chief-Justice Raymond, And the

Honourable Mr. Justice Reynolds, London, 1726, p.16. See also, J.Leng, The Advantages of Government, and the Duty of preserving it. A Sermon Preach'd at the Assizes Held At Kingston upon Thames, March 22. 1715. Before the Right Honourable Thomas Lord Parker, Lord Chief-Justice of the King's Bench; And Mr. Justice Tracy, London, 1716, pp.1-2.

16. Henry Downes, The Necessity and Usefullness of Laws and the Excellency of our Own. A Sermon Preach'd at Northampton before Mr. Justice Powell and Mr. Baron Lovel at the Assizes held there July the 13th 1708, Oxford, 1708, p.13.

17. John Pennington, "King Jehoshaphat's Charge to his Judges; or Justice without Corruption or Partiality Recommended. In A Sermon Preach'd at the Assizes Held at Huntingdon, Before the Rt. Honourable The Ld. Chief Justice Raymond, And the Honourable Mr. Justice Tracy; On Sunday, July the 18th, 1725", in Pennington, King Jehoshaphat's Charge to his Judges (1728), at p.24. See also, J.Garnett, A Sermon preached at St. Mary's Church in Cambridge, before the University, The Right Honourable Sir William Lee, Knt. Lord Chief Justice of England, and Sir Lawrence Carter, Knt. One of the Barons of the Exchequer; At the Assizes held July 14, 1741, Cambridge, London & York, 1741; Robert Eden, The Connexion of Publick, and Private Happiness. A Sermon Preached at the Assizes held at Winchester by the Hon. Mr. Justice Burnet, and Mr. Serjeant Hussey, On Wednesday, July 13, 1743, London, Oxford & Winchester, 1743, p.9; Thomas Collins, An Assize Sermon preached in the Minster at York On Sunday, 16th March, 1794, York, 1794, pp.11-14.

18. George Marsh, A Sermon Preach'd at the Cathedral Church of St. Peter in York, Before the Right Honourable Sir Peter King, Knight, Lord Chief Justice of the Court of Common-Pleas, and the Honourable Mr. Baron Gilbert. At the Assizes Held there July the 9th, 1722, York, [1722], pp.27-8. See also, Thomas Wynne, The Evidences of an Over-ruling Providence, in Defeating the Conspiracies of Cunning and Ungodly Men, represented in A Sermon Preach'd At Ruthin, in the County of Denbigh. At the Asiszes held there, Sept. 24. 1722, London, [1722], p.22; John Stephenson, A Sermon Preach'd at Stafford, on Wednesday, March 27. 1723. At the Assizes held there, London, 1723, pp.19-20. See also the calls to avoid litigiousness: John Waugh, A Sermon against Revenge: Preach'd at the Assizes at Kingston upon Thames, in Surrey; On Tuesday August 13th, 1717. Before the Honourable Mr. Justice Powis, London, 1717, pp.15-8; Eden, Connexion of Publick, and Private Happiness (1743), pp.18-9; Edmund Law, Litigiousness Repugnant to

The Laws of Christianity. A Sermon Preached at the Cathedral Church in Carlisle, At the Assizes held there August 10. 1743, Cambridge, 1743.

19. See White, Assize Sermons 1660-1720.

20. R.Skerrett, The Wisdom and Benefit of Consideration. Set forth in a sermon Preach'd at the Lent-Assizes holden at Reading in the County of Berks, March 11. 1716/17. Before the Honourable Mr. Justice Blencoe, and Mr. Justice Montague, London, 1717. Similarly, with reference to 1745 see, Tew, Queen of Sheba's Notions of Government (1750), p.8, also p.26. Generally, Thomas Durnford, The folly of thinking the former Times better than the present. A Sermon Preach'd in the Cathedral-Church of Winchester, at the Assizes Held there August 3. 1715, London, 1715; Leng, Advantages of Government (1716), pp.16-9; Edward Jones, The Characters of a Good, and a Bad Prince: A Sermon Preach'd in the Cathedral of Salisbury, at the Assizes Held for the County of Wilts, Before Mr. Justice Pratt, and Mr. Justice Montagu. March the 11th, 1715/16, London, 1716; Raymond, Christian Loyalty (1716), especially pp.21 & 25-32; R.Skerrett, Three Sermons Preach'd in the Year 1715-16. Before the Right Honourable the Lord Mayor of the City of London, And at the Assizes holden for the County of Essex (3rd edn.), London, [1716], first sermon on Rom. xiii. 1; Laurence, Christian Religion the best Friend to Civil Government (1717), pp.18-9 & 28-9; Henry Lambe, The Duty of Living Peaceably as Men, Neighbours, Subjects, and Christians, Consider'd. A Sermon Preach'd in the Cathedral Church of Winchester; at the Assizes held there, March 7th. 1716/17. Before the Honourable Mr. Baron Price, and Mr. Justice Eyre, London, 1717, dedication; Bedford, Doctine of Obedience and Non-Resistance (1717); Robert Dannye, A Sermon Preach'd at the Assizes Held at York, March 17th, 1717/18. Before the Honourable Baron Montague, and Baron Fortescue, York, 1718, pp.21-7 & passim; Squire, Wickedness, High-Treason (1718). On the 1745 rebellion: William Smith, The Gospel an actual Friend to the Liberties of Mankind. An Assize Sermon Preach'd at Lancaster, Before the Honourable Sir Thomas Dennison, Knt. One of the Justices of the King's Bench, And the Honourable Charles Clarke, Esq. One of the Barons of the Exechequer, On Thursday the 31st Day of July, 1746, London, [1746]; Evan Eustance, The Evil and Folly of being given to change; Set forth in an Assize-Sermon Preach'd at Monmouth, On Friday, August the 7th, 1747. Before the Right Honourable the Lord Chief Baron Parker, And the Honourable Mr. Justice Aubrey, London, 1747; Seward, Folly, Danger, and Wickedness of Disaffection to the Government (1750), dedication; John Cowper, A Sermon

preached at the Assizes held at the City of Carlisle, August 5, 1752, Before Sir Thomas Birch, and Baron Legg, Newcastle-upon-Tyne, 1752, pp.15-6.

21. Edward Lovell, The Duty and Obligation of Praying for his prsent Majesty, enforc'd from Scripture, and the antient Practice of the Church. A Sermon preach'd At the Assizes held for the County of Surry, at Kingston upon Thames, on Wednesday, Aug. 6, 1718, before the Right Honourable the Lord Chief Justice Pratt, and the Honourable Mr. Justice Powis. Wherein The set Objection against Praying for his Majesty is consider'd and refuted, and the Nature and Benefit of Prayer in general is explain'd and laid open, London, [1718], pp.16-7.

22. Raymond, Christian Loyalty (1716), pp.22-3; Bedford, Doctrine of Obedience and Non-Resistance (1717), pp.25-6; Laurence, Christian Religion the best Friend to Civil Government (1717), pp.7-8.

23. On 1715: White, Happiness and Duty of British Subjects (1716); Raymond, Christian Loyalty (1716), pp.9-10; Wynne, Evidences of an Over-ruling Providence (1722), pp.19-20. On 1745: Smith, Gospel an actual Friend to the Liberties of Mankind (1746); Eustance, Evil and Folly of being given to charge (1747), pp.14-7; Glocester Ridley, The Difference and respective Use of the Moral, Civil, and Ceremonial Law. A Sermon Preach'd at the Assizes held at Norwich, On Wednesday, August 15, 1753. Before The Right Honourable Sir Thomas Parker, Knt. Chief Baron of his Majesty's Court of Exchequer; And the Honourable Sir Martin Wright, Knt. one of the Justices of his Majesty's Court of King's-Bench, London, Norwich, Cambridge & Ipswich, 1753, pp.11-2; Tew, Queen of Sheba's Notions of Government (1750), p.8. The alleged dangers of Catholicism were also a feature of some of the sermons in the turbulent years before the 1715 rising: Edm. Gibson, A Sermon Of the Growth and Mischiefs of Popery: Preach'd at the Assizes Held at Kingston in Surrey, Sept. 5th 1706, London, 1706, pp.16-24; Samuel Peploe, A Sermon Preach'd At the Assizes held at Lancaster, The 7th. Dat of April, 1710, London, 1710; John Potter, A Sermon Preach'd at the Assizes Held At Taunton, March the 25th 1712. Before Mr. Baron Bury, and Mr. Justice Eyre, London, 1712, p.21, also pp.8-9 & 28.

24. Thomas Dampier, A Sermon preached before the Honourable and Right Reverend Shute, Lord Bishop of Durham, The Right Honourable Sir Archibold MacDonald, Lord Chief Baron, and the Honourable Sir Alexander Thompson, one of the Barons of His Majesty's Exchequer, At The Assizes, Holden at Durham, the Twenty-Third of July, MCCCXCIII, Durham & London, [1793], pp9-10. See also, William Paley, A Sermon preached at the Assizes at Durham July 29th, 1795; and published at the request of The Lord Bishop,

The Honorable the Judges of Assize, And the Grand Jury, London, 1795, p.10.

25. It has been estimated that Rights of Man sold 200,000 copies in the early 1790s: A.O.Aldridge, Man of Reason: The Life of Thomas Paine, London, 1960, p.161.
26. Rights of Government not incompatible with the Rights of Man (1791), preface, p.10 & passim.
27. For example: Horne, Influence of Christianity on Civil Society (1773), refers to both Montesquieu (pp22-5 & passim) and Voltaire (p24n); Rights of Government not incompatible with the Rights of Man (1791), p.9 refers to Montesquieu; and William Coxe carries out an analysis of the constitution very much along Montesquieu's lines: Coxe, Sermon on the Excellence of British Jurisprudence (1799), pp.9-18.
28. Dampier, Sermon preached before... Shute (1793), p.15.
29. Thomas Collins, An Assize sermon preached in the Minister at York On Sunday, 16th March, 1794, York, 1794, pp.15-6.
30. Peter Pinnell, An Assize Sermon preached at Maidstone, in the County of Kent, March 20, 1749-50. Before the Hon. Sir Thomas Denison, Knt. One of the Judges of his Majesty's Court of King's Bench, London, 1750, p.9. See also, Stotherd Abdy, A Sermon preached at the Assizes holden at Chelmsford, in Essex, On Tuesday, March 16, 1773. Before the Honourable Mr. Baron Perrott, London, 1773, pp.15-17.
31. John Savage, Security of the Establish'd Religion, the Wisdom of the Nation. A Sermon Preach'd at the Assizes Held at Hertford, August 7, 1704. Before the Right Honourable The Lord Chief Justice Holt and Mr. Justice Gould, Cambridge, 1704, pp.9-10 & passim.
32. Thomas Cox, The Influence of Religion in the Administration of Justice. A Sermon Preach'd at the Assizes, at Chelmsford in Essex, July 21, 1726. Before The Right Hon. Sir Robert Raymond, Lord Chief Justice of the King's-Bench; and Mr. Justice Reynolds, London, 1726, p.25.
33. Raymond, Christian Loyalty, pp.15-6. See also, Richard Newcome, A Sermon Preach'd in the Cathedral Church of Winchester, before the Hon. Mr. Justice Page and Mr. Baron Comyns; at the Assizes held there, On Wednesday, March 13, 1727/8, London, 1728, pp.2-3 & 13-19.
34. Laurence, Christian Religion the best Friend to Civil Government, pp.5-6.
35. Ridley, Difference and respective Use of Moral, Civil, and Ceremonial Law (1753), p.9
36. Cattell, Human Laws obligatory upon the Conscience, pp.11-2.
37. Bynns, Conscience void of offence, p.18.
38. Arthur Ashley Sykes, A Sermon Preach'd at the Assizes

held at Brentwood in Essex, August 7. 1728. Before the Right Honourable The Lord Chief Justice Eyre, and Mr. Baron Hale, London, 1728, pp.12-6; George Osborne, The Civil Magistrate Right of inflicting Punishment. The End of Penal Laws, and the Necessity of a due Execution of them. A Sermon Preach'd At Kingston, August the 10th 1732, at the Assizes held there, Before the Right Honourable the Lord Chief-Justice Raymond, And the Honourable Mr. Baron Carter, London, 1733, pp.1-2 & 12-3; Robert Eden, The necessary and unchangeable Difference of Moral Good and Evil. A Sermon Preached at the Assizes held at Winchester by the Hon. Mr. Baron Reynolds and Mr. Baron Clarke, On Wednesday, March 2, 1742-3, London, 1743, p.21. See also, Waugh, Sermon against Revenge, pp.22-3; Laurence Sterne, The Abuses of Conscience: set forth in a Sermon, preached in the Cathedral Church of St. Peter's, York, at the Summer Assizes, before the Hon. Mr. Baron Clive, and the Hon. Mr. Baron Smythe, On Saturday, July 29, 1750, passim; Pennington, "King Jehoshapat's Charge", pp.10-1; Pennington, "St. Paul's Spiritual Charge to Civil Magistrates", pp.39-40; John Forster, Religion and Loyalty inseparable. A Sermon Preached at the Assizes held at Wisbeach, In the Isle of Ely; August 22, 1764. Before Mr. Serjeant Forster, Chief Justice of the said Isle, Cambridge, 1764, pp.12-3 & 17-8.

39. J.Conybeare, The Penal Sanctions of the Law Consider'd. A Sermon Preach'd at St. Mary's in Oxford. At the Assizes, Before the Honourable Mr. Justice Reynolds; and Before the University; On Thursday, July 20th. 1727, Oxford, 1727, p.13, also pp.17-20.
40. Downes, Necessity and Usefullness of Laws (1708), p.16.
41. Gardner, Principles of Religion Recommended (1726).
42. Ibid, p.20.
43. Ibid, p.21.
44. Although see, Squire, Wickedness, High-Treason (1718), p.19.
45. Savage, Security of the Establish'd Religion, pp.25-7. Curwen Hudlestone, The advantage of an impartial administration of justice. A Sermon Preach'd at the Cathedral Church in Carlisle, At the Assizes held there August 29, 1753. Before The Hon. Mr. Baron Legge, and Mr. Serjeant Eyre, London, 1754, p.6.
46. See also, for instance, John Boldero, The Nature and Duty of Justice, in relation to the Chief Magistrate and the People. A Sermon Preach'd at the Assizes held at Northampton, March 13, 1722/3 Before Mr. Baron Gilbert, Northampton, [1723]; Richard Coleire, Kings and Judges the Viceregents of God. A Sermon Preach'd July 31, 1729. At the Assizes Holden at Kingston upon Thames in the County of Surrey, Before the Right Honourable The Lord

Chief Justice Eyre, London, 1729.

47 See also: Charles Jones, Against Indifference in Religion. A Sermon Preach'd in the Cathedral Church of Wells, Before the Right Honourable the Lord Chief Baron Ward, and the Honourable Mr. Baron Price, At the Assizes held there, August 15. 1705, p.13; John Fursman, A Sermon Preach'd at the Assizes Held At Lanceston for the County of Cornwall, On Thursday August 18. 1715. By the Honourable Mr. Justice Powis and Mr. Justice Eyre, p.16; Thomas Dod, The Rule of Equity. A Sermon Preach'd at the Assizes held at Oxford, March 14. 1716/17. By the Right Honourable Mr. Justice Blencow, and Mr. Baron Montague, Oxford, 1717, p.7; Bennet Sherard, The Advantages of Righteousness in a Nation. A Sermon Preach'd at the Assizes held at Leicester, August 11. 1720. Before the Right Honourable Mr. Justice Tracy, and Mr. Baron Price, London, 1720, pp.24-5; Joseph Slade, Gallionism truly Stated: Or, The Duty of the Magistrate with respect to Religion. A Sermon Preach'd at the Assizes held at Reading, in the County of Berks, July 18. 1721. Before the Right Honourable The Lord Chief Baron Bury, and Mr. Baron Montague, London & Reading, 1721, pp.25-7 & passim; Cox, Influence of Religion in the Administration of Justice (1726), pp.23-5; David Scurlock, The Office of Governors described; and the Duty of Subjects recommended. In A Sermon Preached at the Assizes held at Abingdon in Berks, On Tuesday March 7, 1726-7. Before the Honourable Mr. Justice Fortescue, and Mr. Justice Denton, London, 1727, pp.16-21; John Conybeare, The Penal Sanctions of Laws Consider'd. A Sermon preach'd at St. Mary's in Oxford, At the Assizes, Before the Honourable Mr. Justice Reynolds; and Before The University; On Thursday, July 20th. 1727, Oxford, 1727; Sykes, Sermon Preach'd at the Assizes held at Brentwood (1728), p.17; Samuel Baker, A Sermon Preach'd at the Cathedral Church of St. Peter in York, Before the Right Honourable the Lord Chief Baron Pengelly, at the Assizes Held there March 15. 1728, London, 1729, pp.24-5; John Clayton, The Necessity of duly Executing the Laws against Immorality and Profaneness, Set forth in a Sermon Preach'd at the Assizes Held At Lancaster, before the Honourable Sir Lawrence Carter, Knt. One of the Barons of his Majesty's Court of Exchequer, London, 1736, passim; R.Bridges, A Sermon Preach'd at the Assizes held at Chelmsford in Essex, Before the Right Honourable the Lord Chief-Justice Willes and Mr. Justice Probyn, July the 20th, 1738, London, 1738, pp.10-1; Pennington, "St. Paul's Spiritual Charge to Civil Magistrates", pp.41-2 & 46-51; John Cott, A Sermon preached at the Parish Church of Chelmsford, On March 1, 1769, at the Lent Assizes, before The Hon. Sir S.S.Smythe, Knt. One of the Barons

of the Court of Exchequer, London, 1769.

48. Pennington, "King Jehoshaphat's Charge" p.22.

49. Hudlestone, The advantage of an impartial administration of justice, p.14.

50. Tew, Queen of Sheba's Notions of Government, pp.15-6, also pp.16-18. But see, William Dodwell, The equal and impartial Discharge of Justice, with Respect both to the Guilty and the Innocent recommended, A Sermon Preached at St. Mary's in Oxford, at the Assizes, Before the Honourable Mr. Justice Foster, and Baron Smythe, On Wednesday, July 16. 1755, Oxford, 1755, pp.19-21.

51. Burrow, Sermon Preach'd in... Church of St. Peter (1729), p.25.

52. William Ashburnham, A Sermon Preached in the Cathedral Church of Chichester, At a Special Assize held there January 16 1748-9, By The Honourable Mr. Baron Clive; and The Honourable Mr. Justice Birch, London, [1749], p.24.

53. Pinnell, Assize Sermon preached at Maidstone (1750), p.10. See also, Cowper, Sermon Preached at... Carlisle (1752), pp.25-6.

54. Richard Hurd, The Mischiefs of Enthusiasm and Bigotry: A Sermon Preached in The Cathedral Church of Norwich, at the Assizes, On Wednesday, 29 July, 1752, Before the Honourable Sir Thomas Parker, Knt. Lord Chief Baron of the Exchequer. And Sir Martin Wright, Knt. One of the Justices of the Court of King's Bench, London, Cambridge, Ipswich & Yarmouth, 1752, p.16.

55. Cowper, Sermon Preached at... Carlisle (1752), pp.16-7 & 18.

56. John Fisher, The Guilt and danger of Perjury. A Sermon Preached at the Assizes held at Northampton by the Right Hon. Lord Chief Justice Willes, and The Hon. Lord Mr. Justice Clive, On Thursday, August 2, 1753, London, 1753, p.7. In the same month, Hudlestone, The advantage of an impartial administration of justice (1754), pp.13-4.

57. Thomas Turner, The Sacred Nature of an Oath, and the great Sin of Perjury. An Assize Sermon Preached at Guildford in Surrey, August 23, 1754. Before the Right Honourable Sir Dudley Rider, Knt. Lord Chief Justice of all England; And the Honourable Mr. Justice Foster, London, 1755, p.9. Foster, J. had been the judge at the trial of Kidden, who was hanged on the evidence of the M'daniel gang, and was again presiding at the Kent summer assizes in 1754 when another plot by the gang was uncovered by Joseph Cox; Thomas Alcock, The Nature and Obligations of Oaths. An Assise Sermon Preached in the Cathedral Church of St. Peter, Exon, On Wednesday, Aug. 7. 1754, London, 1755, especially pp.20-1 which specifically refers to those who shed blood through perjury (this the gang had been accused of doing in the

case of Joshua Kidden); John Forster, Two Sermons Preached at Huntingdon Assizes, March 16 and July 13, 1755. Before The Hon. Mr. Justice Foster, The Hon. Mr. Justice Birch, The Hon. Mr. Justice Clive. Wherein is shewn, That a Nation's Happiness depends on the Support of Government by Religion, and of Religion by Government, Cambridge, 1755, pp.43-4, note that Foster, J. was once again at this assize; William Forster, A Sermon preached in the cathedral Church of Durham Before the Honorable Sr. Richard Adams, Knight, One of the Barons of His Majesty's Court of Exchequer. At the Assizes Held there July 24, 1755, Durham, Newcastle, Sunderland, Stockton, Darlington, London, 1755, pp.16-8; Dodwell, the equal and impartial Discharge of Justice (1755), p.25, once again Foster, J. was present at this assize. On the M'daniel case see: J.Cox, A faithful Narrative Of the most wicked and inhuman Transactions of that Bloody-Minded Gang of Thief-makers Macdaniel, Berry, Salmon, Eagan alias Gohagan; With a curious Print of Macdaniel As also of that notorious Accomplice of theirs, Mary Jones, and Others, London, [1756]; also, this thesis below.

58 .L White, Assize Sermons 1660-1720, p.xi, also p.262.

CHAPTER 4: THE POPULAR LITERATURE OF CRIME: QUESTIONS OF AUTHENTICITY AND ACCURACY

1. Some Problems with the Trial Reports

1. J.H.Langbein, "The Criminal Trial before the Lawyers", University of Chicago Law Review, 45, 2, (Winter 1978), pp.263-316, at p.271.
2. J.H.Langbein, "Shaping the Eighteenth-Century Criminal Trial: A View from the Ryder Sources", University of Chicago Law Review, 50, 1 (Winter 1983), pp.1-136, at p.25.
3. M.Harris, "Trials and Criminal Biographies: A Case Study in Distribution", in R.Myers & M.Harris (eds.), Sale and Distribution of Books from 1700, Oxford, 1982, pp.1-36, at p.11; The Trial of Capt. Edward Clark, Commander of His Majesty's Ship the Canterbury, for the Murder of Capt. Tho. Innes, Commander of His Majesty's Ship the Warwick; In a Duel in Hyde-Park, March 12. 1749. At Justice-Hall in the Old Bailey; On Thursday the 26th of April 1750. Being the Fourth Sessions in the Mayoralty of the Rt Hon. Sir Samuel Pennant, Knt. Lord-Mayor of the City of London: M.Cooper, London, 1750, advertisement [p.19].
4. Whitehall Evening Post, 1253 [1293], 1 June 1754.
5. Langbein, "Shaping the Eighteenth-Century Criminal Trial", pp.16-18.
6. Whitehall Evening Post, 1255 [1295], 1 June 1754. The O.B.S.P. which included Canning's trial had been published the previous week: ibid, 1253 [1293], 25 May 1754.
7. Observations on the Trial of Mr. Robt. Perreau. With Mr. Perreau's Defence, as spoken on his Trial, in which Many unaccounted-for Omissions in the Sessions-Paper are supplied, From a Copy sent to the Author by Mrs. R.Perreau: An Address to the Jury on Mr.R.Perreau's Trial and Such Remarks on Mrs. Rudd's Narrative as tend to confirm the Justness of these Observations. The whole prefaced with Correspondence between the Author & Mrs.R.Perreau, London, 1775.
8. Select Trials at the Sessions-House in the Old-Bailey, for Murder, Robberies, Rapes, Sodomy, Coining, Frauds, Bigamy, and other Offences. To which are added, Genuine Accounts of the Lives, Behaviour, Confessions and Dying Speeches of the most eminent Convicts, 4 volumes, London, 1742, vol. I, preface. See also, Langbein, "Shaping the Eighteenth-Century Criminal Trial", pp.25-6.
9. Wm.Fletcher & Wm.Milton, The Whole Proceedings of the Special Commission of Oyer and Terminer and Gaol Delivery, for the County of Sussex, held at Chichester,

the 16th, 17th, and 18th of January last; before the Hon. Mr. Justice Foster, Mr. Baron Clive, and Mr. Justice Birch, London, 1749, frontispiece.

10. Select Trials, vol. I, preface. See also, Proceedings of the Surrey Assizes, 28 March- 3 April, 1759, p.8; The Trial at Large, Behaviour and Dying Declaration, of Mary Edmonson, Who was try'd and Convicted at the Assizes held at Kingston upon thames, in Surry, on Saturday, the Thirty-First Day of March, 1759. For the Murder of Mrs. Susannah Walker, Widow, her Aunt, At Rotherhith, on the 23d Day of February last, London, [1759], p.7.
11. The Trial of Mrs. Branch, and Her Daughter, For the Murder of Jane Buttersworth, before the Hon. Mr. Justice Chapple, at Somerset Assizes, March 31, 1740 (2nd edn.), London, [1740], p.20.
12. The Trial Of the Notorious Highwayman Richard Turpin, At York Assizes, on the 22d Day of March, 1739, before the Hon. Sir William Chapple, Knt. Judge of Assize, and one of his Majesty's Justices of the Court of King's Bench (4th edn.), York & London, 1739. See also D.Barlow, Dick Turpin and the Gregory Gang, Chichester, 1973, p415-7.
13. F.Hoffman, Secret Transactions During the Hundred Days Mr.William Gregg Lay in Newgate under Sentence of Death for High Treason, from the Day of the Sentence, to the Day of his Execution, London, 1711, pp.13-15. For evidence of censorship in other parts of the literaturre of crime see, The Trial of William Spiggot, alias Spickett, John Spiggot, alias Spickett, Wm. Morris, Wm. Thomas, alias Blink, David Morgan, alias Lacy, Wm. Walter Evan, Cha. David Morgan, Wm. Charles, and David Llewellin, for the Murder of Will. Powell, Esq; of Glanareth, In the Parish of Langaddock in the County of Carmarthen; at the Assizes held at Hereford, On Wednesday the 28the of March, 1770; before Sir Joseph Yates, Knt., Gloucester, [1770]; T.Gent, The Life of Mr. Thomas Gent, Printer, of York, London, 1832, pp.56-65.
14. The Case of Mr. Bartholomew Greenwood submitted to the Publick By Himself. In Which The many Inconsistencies of Mr. Wheatley are plainly Demonstrated, London, 1740.

2. The Authenticity of the Biographies of Crime

1. See Chapter 1, Section 1. On Grub Street see, P.Rogers, Grub Street: Studies in a Subculture, London, 1972.
2. W.K.Wimsatt & F.A.Pottle (eds.), Boswell for the Defence 1769-1774, London, 1960, pp.306, 318 & passim.
3. Ibid, p.310.
4. A full and true Discovery of all the Robberies, Pyracies, and other Notorious Actions of that famous English Pyrate, Capt. James Kelly, who was Executed on Fryday the 12th of July 1700, London, 1700.
5. A Compleat and True Account Of all the Robberies Committed by James Carrick, John Malhoni, and their Accomplices, In Dublin, Cork, Limerick, Waterford, and other Places in Ireland. As also on the Highway in England, and in the Streets of London and Westminster, and Places adjacent, London, 1722.
6. The Life, Travels, Exploits, Frauds and Robberies, of Charles Speckman, alias Brown, Who was Executed at Tyburn, on Wednesday the 23d of November, 1763, London, 1763, title-page. See also, The Life of Thomas Munn, Alias, The Gentleman Brick-maker, alias, Tom the Smuggler, who was executed with John Hall, alias Rich, on Friday the 6th of April, 1750, at Chelmsford, and hung in Chains near Rumford Gallows, for robbing the Yarmouth Mail on the 20th of July last, London, 1750.
7. On Applebee see M.Shugrue, The Newberry Library Bulletin, VI, (1964), 4.
8. A Genuine Narrative Of the Memorable Life and Actions of John Dyer, (Who was Executed at Tyburn, on Friday the 21st Day of November, 1729.), London, 1729, title-page, p.2. See also, Ordinary of Newgate, Account, 16 Sept. 1741, p.11.
9. A Full, True and Particular Account of the Behaviour, Confession and last Words of Thomas Athoe, late Mayor of Tenby in Pembrokeshire, and Thomas Athoe his Son, who were Executed on Fryday July 5th, 1723, at St. Thomas's watering in the County of Surrey, for a barbarous murther by them committed, upon the Body of Mr. George Marchant their Kinsman, in Pembrokeshire, Anno. 1722. The whole Faithfully Publish'd by Thomas Dyche Chaplain to the King's Bench Prison To which is added The case of the Two Athoes concerning this barbarous Murther, London, 1723, p.13.
10. Ordinary of Newgate, Account, 14 Sept. 1741, pp.7-15. Other booksellers used this technique: Miss Mary Blandy's own Account of the Affair between Her and Mr. Cranstoun, London, 1752, in which the publisher, A.Millar, noted that the original account was available at his shop; Rev.W.Wilson, A Full and Genuine Account of the Lives, Characters, Behaviour, last Dying Words and

Confessions, of the Four Malefactors, that were executed on Friday the 6th Day of this Instant April 1739, at Kennington-Common, London, 1739, the title-page notes that the originals of the letters and other documents reproduced in the pamphlet could be inspected at the shop of the bookseller, W.Rayner.

11. A Genuine Account of the Life and Actions of William Cannicott, Who was Executed at Tyburn, on Monday, September 20, 1756, For the Murder of his Wife, on Tuesday the 20th of July, 1756. Written by Himself, while Confined in Newgate, London, 1756, p.11.

12. A True Copy of the Papers wrote by James Maben, Who was Executed Saturday, August 11, 1744, without The West Gate, Newcastle upon Tyne, for counterfeiting the current Coin of Great Britain, as delivered by him the Night before his Execution, in the Presence of several Spectators, signed by himself, and attested by Fourteen creditable Persons, Newcastle, 1744, p.15. See also, The Affecting Case of the Unfortunate Thomas Daniels, who was Tried at the Sessions held at the Old Bailey, September, 1761, for the supposed Murder of his Wife; By casting her out of a Chamber Window; And for which he was sentenced to die, but received his Majesty's most Gracious and Free Pardon. In which is contained, A circumstantial Account of the Behaviour of that unhappy Woman, from her Husband's first Acquaintance with her, to the Day of her Death. Drawn up and authenticated by the said Daniels himself; And faithfully prepared for the Press, by An Impartial Hand, London, 1761, facing title-page; A Sketch of the Life of that notorious House-Breaker, Horse-Stealer, and Highway-Robber, John Kirby; who was convicted, At the Old Castle, Canterbury, On Tuesday the 13th of January, 1789, for stealing four geese, And sentenced to be Transported for Seven Years. Together with An authentic and circumstantial Account of every Robbery he hath committed, From the year 1782 to the present Time, As Related by Himself, And attested as True, before two respectable Witnesses, Canterbury, 1789; A True Copy of a Paper left by Mr. Richard Towne, the Tallow-Chandler, December the 23d, 1712. Written with his own Hand, and by him desir'd to be Published after his Execution, London, 1712; Memoirs of the Life of John Matthieson, Executed for a Forgery on the Bank of England, on Wednesday the 28th of July, 1779, London, [1779], title-page & p.v. See also, Some Observations on the Trial of Mr. Thomas Carr, who was Executed at Tyburn, January 18, 1737. With Some Remarks on the Partial and Contradictory Account given of him by the Ordinary of Newgate, London, 1737, p.2; The Genuine Case of John Donellan, Esquire, (At Large) As Written by Himself; And in Pursuance of his Dying Request, Now

Published by Mr. Thos. Webb, his Solicitor, London, [1781], p.3; The Life of John Donellan, Esquire; (Formerly an Officer in the 39th Regiment of Foot) who was executed at Warwick, April 2, 1781, for the Murder of Sir Theodosius Boughton, Baronet. Written by Captain Murphy, London, [1781], p.33.

13. For example see, The Genuine Memoirs of Joshua Crompton; Written by Himself in the Cells of Guildford, After his unhappy Conviction for Forgery on the Bank of England; Who was executed on Gangley Common near Guildford, on Thursday the 20th of August, 1778. They contain some useful and interesting Cautions to Mankind in general, but more particularly to the Credulous and unwary, who, like himself, might fall sacrifices to Art and deception. The Whole authenticated by the Rev. Mr. Dyer, London, 1778; The Right Dying Speech and Confession of Mr. Richard Noble, and the other Five Criminals, viz. Nich. Wells, Will. Thorne, Robert Wells, Will. Stanton and Jacob Skinner; who were Executed at Kingston on Saturday last, the 28th of March, 1713. Also a true Copy of a Paper which Mr.Noble left with the Sheriff at the Place of execution, London, [1713]; Rev. S.Smith], A True Account of the Behaviour of Mr. Francis Newland, Who was Executed at Tyburn, on Friday the 19th of April, 1695, for the Murder of Francis Thomas, Esq, London, 1695; [Rev. J.Allen], A True Copy of the Papers That were Delivered by Mr. William Cress, and Edward Robinson, to the Reverend Mr. Allen, Ordinary; at their Execution, on Friday the 22d. Instant Decemb. 1699, London, [1699]. The Ordinary of Newgate, Accounts commonly included an "autobiography", as did the pamphlets produced by chaplains at other prisons: A Genuine Account of the Behaviour, Confessions, and Dying Words, of the Six Malefactors, viz. William Walters, Thomas Williams, Anne Elliott, James Gunnel, Thomas Jones, James Johnson, Who were Executed at Guildford, in the County of Surrey, On Tuesday, the 13th Day of April, 1742, London, [1742], p.4.

14. The True Copy Of the Original Paper signed by Mr. Richard Noble, Which he designed for his Last Speech, deliver'd to Mr. Cooke Curate of Kingston and Ordinary of Surry; Another to Mr. Broughton Vicar of Kingston; and a Third to the reverend Mr. L'Herondel: with A particular Account of his Behaviour some Days before his Execution, by all the aforesaid Clergy-men, London, 1713. Occasionally newspapers reported the handing over of such letters: T.Purland, Alsasian Eccentricities, 1700-1780, 2 vols. of newspaper cuttings in the British Library, item 483, dated 1762.

15. This thesis, below.

16. The Life of Nicolas Mooney. Wherein is contained, His

Parentage and Education (2nd edn.), Bristol, [1752], p.48.

17. Some Observations on the Trial of Mr. Thomas Carr.
18. Ibid.
19. Ordinary of Newgate, Account, 24 Sept. 1722. See also, Rev.J.Penrose, The Reverend Penrose's Account of the Behaviour, Confession, and Last Dying Words, of the four Malefactors who were executed at St. Michael's Hill at Bristol, on Wednesday the 15th of April, 1741, Bristol & London, [1741], p.11; A Candid Appeal to the Publick, Concerning the Case of the Late Miss Mary Blandy: wherein, All the ridiculous and false Assertions contained in a pamphlet, entitled, Miss Mary Blandy's Own Account of the Affair between Her and Mr. Cranstoun, &c. are exploded, and The Whole of that Mysterious Affair set in a True Light. By a Gentleman of Oxford, London, 1752, p.24.
20. A True Copy of the Paper, Delivered the Night before her Execution, by Sarah Malcom, to the Rev. Mr. Piddington, Lecturer of St. Bartholomew the Great. March 6th, 1732-3, London, 1732, pp.3-5. See also, Meditations and Letters wrote by the late William Alexander, During his Confinement in Newgate; Who was convicted of Forgery, at the last Assizes at Newcastle, and executed the 17th Nov. 1783: Published from his own Manuscripts. To which are added His Last Dying Speech, Some Account of his Behaviour, &c., Newcastle, [1783], pp.iv & 15: in prison Alexander gave the sheriff a copy of the last speech which he later read at the gallows; this was witnessed by the "Officiating Ordinary", a Mr. Brown.
21. Ordinary of Newgate, Account, 4 May 1741. See also, for a few of the many examples of this, Account, 12 June 1741, John Lupton at pp.8-10 and pp.11-15; Account, 14 Sept. 1741, James Hall, pp.4-5 and pp.7-13; Account, 16 Sept. 1741, John Stephens, also known as Henry Cook, at pp.4-5 and pp.11-19. The practice continued after Guthrie's period in office, see, for instance, Account, 20 Feb. 1749, Usher Gahagan's memoir at pp.17-24.
22. M.Harris, The London Newspaper ca. 1725-1746, unpublished Ph.D. thesis, University of London, 1973, pp.294.
23. Ordinary of Newgate, Account, 23 Dec. 1712.
24. See also Ordinary of Newgate, Account, 23 Oct. 1689; P.Lorrain, A Narrative; or, the Ordinary of Newgate's Account Of what passed between Him and James Shepperd; Who was Try'd, and Convicted, and receiv'd Sentence of Death, for High-Treason, at Justice-Hall in the Old-Baily, on Thursday the 6th, and Executed at Tyburn on Monday last, being the 17th instant, London, 1718/9, p.6; Ordinary of Newgate, Account, 14-16 Sept. 1741, p.6 and see pp.7-15, also p.11; Ordinary of Newgate,

Account, 14 Feb. 1741, p.4, James Hall "had no more to add to his Confessions, having done that fully already to Mr.Applebee".

25. Ordinary of Newgate's Account, 23 Feb. 1718/9, London [1719], p.4.

26. Mr. Bird's Case. The nature and circumstances of this prosecution, will appear from the malice as well as character, of my prosecutors, London, [1719]. See also, Ordinary of Newgate, Account, 18 May 1743 in which it is noted that whilst in Maidstone gaol Gilbert Langley wrote, The Life and Adventures of Gilbert Langley, formerly of Serle-street, near Lincoln's Inn, Goldsmith, London, 1743.

27. Whitehall Evening Post, 1246, 7 Feb. 1754, 1258 [1298], 5 June 1754; Memoirs of the Life and remarkable Exploits of the noted Dennis Neale, alias John Clarke, otherwise call'd the Second Turpin, who was executed at Tyburn on Monday the 4th of February, 1754, for robbing on the Highway. Containing a full Account of all his extraordinary Adventures, and most daring Robberies, during a Course of Years, from his first Arrival in this Kingdom; together with those of the famous Hornblow, M'Shane, Whiffon, &c. &c. Including particularly, the Manner of Neale's committing that audacious Robbery on his Excellency Price Czernichew, the Russian Ambassador, on Finchley Common. The Whole written by Himself, while under Sentence of Death in Newgate, London, 1754.

28. The Plain Dealer, LXXX, 25 Dec. 1724, quoted in W.R.Irwin, The Making of Jonathan Wild: A Study in the Literary Method of Henry Fielding, New York, 1941, p.81.

29. James Bather, A Full and Faithful Account of the Life of James Bather, late Boatswain of the Nightingale Brig, Thomas Benson, Esq; Owner, Written by Himself, London, [1754]

30. Affecting Case of the Unfortunate Thomas Daniels, p.5. Rev. Howard persuaded Thomas Jones to confess in 1751 and then he wrote the biography and got Jones to sign it: A True and Impartial Account of the Behaviour, Confession, and Dying Words of the four Malefactors, Who were executed at Kennington-Common, on Friday, September 6, 1751. Published with the Approbation and Consent of the Reverend Leonard Howard, D.D. Rector of St. George the Martyr, in Southwark, who attended them whilst under the Sentence of Death, and in their last Moments, London, [1751], p.9.

31. Ordinary of Newgate, Account, 4 May 1741.

32. St. Legar claimed to have actually written criminal biographies before turning to smuggling; Welch had been apprenticed to an attorney "but for a few years past would not stick to his business but now and then us'd to

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do a little hackney writing": Ordinary of Newgate, Account, 26 July 1745; The true and Genuine Account of the Confession (Whilst under Sentence of death) of Thomas Jones, and James Welch, For the barbarous Rape and Murder of Sarah Green, as Taken from the Mouth of Nicholls (the Evidence against them) and by them attested to be the Truth: London, 1751, p.10.

33. The Birth, Life, Education and Transactions of Captn. William Owen the noted Smuggler Who was executed for the murder of James Lilly at Carmarthen on Saturday the 2nd. day of May 1747. Written by his own hand when under Confinement, and delivered to Mr Daniel James of Carmarthen aforesaid in the presence of Mr John Davies, the Clergyman which attended him, a few Days before his execution. The shelf number in National Library of Wales, Mss 21834B.

34. See footnote 2 above.

35. Ibid. pp.331 & 310.

3. **Why did the Condemned "Cooperate"?**

1. P.Lorrain, The Ordinary of Newgate his Account of the Behaviour, Confessions, and Dying-Words of Captain William Kidd, and other Pirates, that were executed at the Execution-Dock in Wapping, on Friday May 23. 1701, London 1701. Similar in Ordinary of Newgate, Account, 21 July, 1703.
2. F.Hoffman, Secret Transactions During the Hundred days Mr. William Gregg Lay in Newgate under Sentence of death for High treason, from the Day of the Sentence, to the Day of his Execution, London 1711, p.7.
3. Rev.L.Howard, A True and Impartial Account of the Behaviour, Confession, and Dying Words of the four Malefactors, Who were executed at Kennington-Common, on Friday, September 6, 1751. Published with the Approbation and Consent of the Revered Leonard Howard, D.D. Rector of St. George the Martyr, in Southwark, who attended them whilst under the Sentence of Death, and in their last Moments, London [1751] p.8, also p.7.
4. Ordinary of Newgate, Account, 23 October, 1689.
5. S.Rossell, The Prisoner's Director: compiled For the Instruction and Comfort of Persons under Confinement. Whether for Debt, for Capital, or other Crimes; more especially for Those under Sentence of Death, London 1752, p.236 & p.243.
6. An Essay Concerning the Original of Society, Government, Religion and Laws, Especially those of the Penal Kind, London 1727, p.17.
7. Ordinary of Newgate, Account, 1707.
the mutilations are indicated by square brackets.
8. Ordinary of Newgate, Account, 18 March 1740.
9. The Trial of William Morgan, for the Murder of Miss Mary Jones, Daughter of William Jones, Esq; of Nass, in the County of Glocester, at the Assizes held at Glocester, On Wednesday the 11th of March, 1772; before the Hon. Sir George Nares, Knt., Gloucester & London [1772], p.16. See similarly: R.Fowler, The Copy of a Letter sent to Matthew Henderson, While under Sentence of Death in Newgate, for the barbarous Murder of his Mistress, the Lady Dalrymple, London [1745], p.7. The passage is from Isiah 1.18. See also, Ordinary of Newgate, Account, 17 December, 1707; Prayers for Prisoners under the Sentence of Death, London 1712, pp.5-6.
10. G. de Gols, Consolations against the fears of Death. A Sermon Preach'd on Sunday, Nov. 4. 1711. At St. Peter's at Sandwich, in Kent. To Richard Partidge, of deal, London 1711, p.19.
11. A Plain and Serious Exhortation to Prisoners, both Debtors and Criminals, London 1775, p.29.
12. The Reward of Murder. A Faithful Narrative of the Lives

of Daniel Looney, and Robert Greenstreet; Who were executed for Murder, at Tyburn, on Monday, December 14, 1751, London [1751], p.22.

13. P.Lorrain, The Dying Man's Assistant: or Short Instructions How to Prepare Sick Persons for death: Which are no less Worthy the Consideration of all Good Christians in time of health. As shewing the Importance of an Early Preparation for their Latter End. Set forth for the Benefit of the Publick, London 1702, pp.10-11.
14. Rev.W.Wilson, A Genuine Account of the Behaviour, Confessions, and Dying Words, of the Malefactors viz. James Day, Ann Hazzard, James Harris, Richard Keble, James Hunt, and Thomas Collins. Who were Executed at Kennington-Common, On Thursday the 25th of August, 1743. To which is added, The Solemn Declaration of James Day and Ann Hazzard, relating to the Murder of Simon Pottell, which they deliver'd to the Rev. Mr. Wilson, Lecturer of St. John, Southwark, London 1751, p.18.
15. Ordinary of Newgate, Account, 27 October, 1708.
16. W.Smith, The Gospel an actual Friend to the Liberties of Mankind. An Assizes Sermon Preach'd at Lancaster, Before the Honourable Sir Thomas Dennison, Knt. One of the Justices of the King's Bench, And the Honourable Charles Clarke, Esq. One of the Barons of the Exchequer, On Thursday the 31st Day of July, 1746, London, [1746], p.12.
17. Rossell, Prisoner's Director, p.239.
18. Prayers for Prisoners under the Sentence of Death, p.5.
19. Rossell, Prisoner's Director, p.241.
20. Ibid, p.122n.
21. Ordinary of Newgate, Account, 20 July 1700.
22. Ibid, 3 Oct. 1750, p.102.
23. Memoirs Of the Right Villainous John Hall, The Late Famous and Notorious Robber. Penn'd from his own Mouth sometime before his Death (4th edn.), London 1714, p.27;
24. Ibid.
25. Ordinary of Newgate, Account, 16 Dec., 1709. See also, Ordinary of Newgate, Account, 26 Jan., 1690, and 28 Feb., 1694.
26. Ordinary of Newgate, Account, 22 Dec., 1711.
27. The Life, Travels, Exploits, Frauds and Robberies, of Charles Speckman, alias Brown, Who was Executed at Tyburn, on Wednesday, the 23d of November, 1763, London 1763, p.49. In 1738 at Guildford George Greenwood gave his account to a young man in exchange for a promise that he would see to Greenwood's burial; however, according to the chaplain, the man later sold the body to the surgeons: [Rev.Wilson & Rev.Bannister], A Full, True and Genuine Account Of the Uncommon Behaviour of Mr. Gill Smith, Late of Dartford, in Kent, Apothecary; From the Time of his receiving Sentence of Death, to his

Execution, on Monday, April the 10th, 1738. Together with the Copy of a Letter, That was sent by his Mother to him, reproaching him with an Attempt to poison her, and his Answer. To which is added, The Genuine Confession, Behaviour, and Dying Words, Of all the seven Malefactors that were executed at Guildford, on Wednesday, April the 5th, 1738, Southwark, 1783, p.16.

28. Ordinary of Newgate, Account, 24 June, 1709.
29. Ordinary of Newgate, Account, 24 September, 1708. See also, Poulter, Discoveries of John Poulter.
30. Ordinary of Newgate, Account, 26 January, 1690 (see also the report of John Benlose). Similarly, Account, 28 September, 1694.
31. Ordinary of Newgate, Account, 16 Sept. 1709.
32. Ordinary of Newgate, Account, 28 Sept., 1694. Similarly, Account, 18 May, 1709.
33. Rev. J.Villette, A Genuine Account of the Behaviour, Confession, and Dying-Words of William Hawke and William Jones, Who were Executed at Tyburn on the 1st of July, 1774, pp.20-1. But see, The Life, Trial, &c. of William Hawke, The notorious Highwaymen containing an Account of all the remarkable Robberies he committed before and since his Return from Transportation; with the Manner in which he was apprehended, and his Behaviour during the Time he was under Sentence of Death, London 1774, p.24.
34. [D.Defoe], An Essay Upon Literature or an Inquiry into Antiquity and Original Letters, London 1726, p.43.
35. Preface. The story of Ralph Wilson was published in A Full and Impartial Account Of all the Robberies Committed by John Hawkins, George Sympson, (lately Executed for Robbing the Bristol Mails) and their Companions (2nd edn.), London [1722].
36. [D.Defoe], A Narrative Of all the Robberies, Escapes, &c. of John Sheppard, London 1724, p.3. Similarly, A Genuine Account of the Life and Actions of William Cannicott, Who was Executed at Tyburn, on Monday, September 20, 1756, For the Murder of his Wife, on Tuesday the 20th of July, 1756. Written by Himself, while Confined in Newgate, London 1756, p.3.2 11
37. Ordinary of Newgate, Account, 14 Sept. 1741. See this thesis, Bibliography of the Literature of Crime, under Hall, James.
38. J.Bather, A Full and Faithful Account of the Life of James Bather, late Boatswain of the Nightingale Brig, Thomas Benson, esq; Owner. Written by Himself, London, [1754]. Such accounts were fairly common, see also, The Genuine Memoirs of Joshua Crompton; Written by Himself in the Cells of Guildford, After his unhappy Conviction for Forgery on the Bank of England; Who was executed on Gangley Common near Guildford, on Thursday the 20th of August, 1778. They containsome useful and interesting

Cautions ot Mankind in general, but more particularly to the Credulous and Unwary, who, like himself, might fall Sacrifices to Art and Deception. The Whole Authenticated by the Rev. Mr. Dyer, London, 1778, p.4; Forgery Unmasked; or, Genuine Memoirs of the Two Unfortunate Brothers, Rob. and Daniel Perreau, and Mrs. Rudd, London, [1775], p.5.

39. The Trial at Large, Behaviour and Dying Declaration, of Mary Edmonson, Who was Try'd and Convicted at the Assizes held at Kingston upon Thames, in Surry, on Saturday, the Thirty-First Day of March, 1759. For the Murder of Mrs. Susannah Walker, Widow, her Aunt, At Rotherith, on the 23d day of February last, London [1759], pp.11-12.

40. Ibid, pp.12-13.

41. Ibid, p.13. Although the loading of chains onto prisoners was part of the method by which money was extracted from prisoners, Edmonson's treatment bears closer resemblance to the peine forte et dure and its preliminaries: see, Villette, Annals of Newgate, vol. 1, pp.59-60, & vol.2, pp.16-18 & p.23; see also, this thesis, Chapter 9.

42. Ordinary of Newgate, Account, 7 Feb. 1704/5.

4. Biographies and the Prison Chaplains: A View of the Contemporary Critics

1. See this thesis, Bibliography of the Works of Samuel Smith.
2. T.Brown, "An Elegy on that most Orthodox and Painstaking Divine, Mr. Sam. Smith, Ordinary of Newgate, who dy'd of a Quinsey, on St. Bartholomew's Day, the 24th of August, 1698.", in T.Brown, The Works of Mr. Thomas Brown (5th edn.), 5 vols., London, 1720/1, vol. IV, pp.41-3, at p.42; T.Brown, "An Epitaph upon that profound and learned Casuist, the late Ordinary of Newgate.", in Brown, Works, vol. IV, pp.43-5, at p.44.
3. P.Linebaugh, "The Ordinary of Newgate and His Account" in J.S.Cockburn (ed.), Crime in England 1550-1800, London, 1977, pp.246-69, at p.258.
4. [D.Defoe], The History of the Press-Yard, London, 1717, pp.49-52, quote at p.49. For what may well be the earliest criticism of Smith, see Sir Edmundbury Godfrys Ghost; Or, An Answer to Nat. Thompsons Scandalous Letter from Cambridge, to Mr. Miles Prance, in Relation to the Murder of Sir Edmundbury Godfrey, London, 1682, p.4.
5. P.Linebaugh, Tyburn: A Study of Crime and the Labouring Poor in London During the First Half of the Eighteenth Century, PhD thesis, Warwick University, 1975, pp.180-1.
6. Dr. J.Allen, A full and true Account, of the Behaviour, Confessions, and Dying Speeches of the Condemn'd Criminals, that were executed at Tyburn, on Friday the 24th of May, 1700, London, [1700]. He was also involved in the publication of, A True Copy of the Papers That were Delivered by Mr. William Cress, and Edward Robinson, to the Reverend Mr. Allen, Ordinary; at their Execution, on Friday the 22d. Instant Decemb. 1699, London, [1699].
7. An Account of the Confessions, Behaviours, and Dying Words of the eight Criminals That were Executed at Tyburn on Friday the 24th of May, 1700. (viz,) John Davis, alias Shirley, and Phillip Wake, for Firing Dr. Sloan's House in Bloomsbury-Square, Joseph Fisher, John Hatchman, John Cooper, John Titt, Thomas Nixon, and James Walters for Fellony and Burglary, London, 1700.
8. An Account of the Confessions; Allen, A full and true Account. For a report of the crime charged against Davis and Wake see, An Account of the Apprehending and Taking of John Davis, and Phillip Wake, London, 1700.
9. An Account of a New and Strange Discovery; That was made by John Sheirly, alias Davis, & Joseph Fisher, The same Day of their Execution, Relating to the Ordinary of Newgate: With a True Copy of the Petition, that was Presented to the Lord Mayor, by the Prisoners of Newgate, concerning the same, with many other remarkable

Particulars, London, 1700. This and the other pamphlets which provide this account were formerly in the collection of the seventeenth-century bibliophile Narcissus Luttrell who fortunately collected what the Dictionary of National Biography calls "fugitive" tracts. Luttrell dated this pamphlet as being published on 31 May, 1700, seven days after the hanging.

10. Capt. Charles Newy's Case, Impartially Laid Open: Or, a True and Full Narrative Of the Clandestine Proceedings aginst Him, As it was Hatched, Contirved, and Maliciously Carried on by Mrs. Margaret Newey, Widdow, London, 1700.
11. An Account of a New and Strange Discovery.
12. A.B. [probably Dr.J.Allen], Mr. Allen's Vindication; or; Remarks upon a late Scandalous pamphlet, Entituled; A strange and New Discovery, &c., London, 1700. For attribution of authorship to Allen see, The Life and Conversation Of the Pretended Captain Charles Newey; Together with some Remarks upon A Scurrilous and Scandalous Pamphlet, called Newey's Case, London, 1700. In Mr. Allen's Vindication reference is made to a further allegation in "another paper" (which I have been unable to trace) that he accepted a bribe from a man called Brabazon. This charge Allen rejects.
13. Capt. Charles Newy's Case, p.3.
14. Mr. Allen's Vindication.
15. The Life and Conversation, p.16.
16. The Proceedings of the Court of Admiralty, by a special Commission, being The Tryals of all the French Pirates at the Old-Baily, being the 21st, 22d, 24th, 25th Days of October, 1700, and in the 12th Year of His Majesty's Reign, London, 1700.
17. P.Linebaugh, "The Ordinary of Newgate and His Account" in J.S.Cockburn (ed.), Crime in England 1550-1800, London, 1977, pp.246-69, at p.248 and passim. Although Lorrain is the only Ordinary of Newgate to appear in the D.N.B. other prison chaplains are included: see, for instance, Leonard Howard, although his role as chaplain of Southwark prison is not noted. One other Ordinary, Thomas Purney (Ordinary 1719-1727), has received some attention in the twentieth century because of his literary abilities: see, H.O.White, "Thomas Purney, A Forgotten Poet and Critic of the Eighteenth Century", Essays and Studies of the English Association, XV, (1929), pp.67-97; H.O.White (ed.), The Works of Thomas Purney, Oxford, 1933.
18. Royal Commission on Historical Manuscripts, Eighth Report, Appendix Part III, London, 1881, p.7, no.61.
19. Lorrain was calling himself a gentleman and giving French lessons in 1682: M.Minucius Felix, His Octavius; or, a Vindication of Christianity against Paganism

(trans. P.Lorrain), London, 1682, title-page and final page.

20. P.Muret, Rites of Funeral Ancient and Modern In Use Through the Known World, (tr. P.Lorrain), London, 1683.

21. Pepysian Mss. 2881, Mornamont. See also, A.Bryant, Samuel Pepys: The Years of Peril, London, 1952, p.257, also pp.228-38 passim and p.241.

22. Other early religious works by Lorrain were: P. Allix, A Preparation for the Lord's Supper. To which are Added, Maxims of true Christianity (trans. P.Lorrain), London, 1688; de Gombaud, A Discourse of Christianity: Laying Open The Abuses thereof in the Anti-Christian Lives and Worship of many of its Professors; Especially, the Romanists; and Shewing the Way to a Holy Life in the Character of a True Christian (trans. P.Lorrain), London, 1693. Lorrain also published several religious works after being appointed as Ordinary of Newgate (other than his Accounts), aside from the sermon on Cook (see below), there was: P.Lorrain, Harman Stradtman's Last Legacy to the World: being his Divine Meditations and Prayers, written in High-Dutch, during his Confinement in Newgate, for the Murther of his Fellow-Prentice, Peter Wolter. Together with His last Speech and Prayers at the Place of Execution, June 18, 1701, London, 1701; The Dying Man's Assistant: or Short Instructions How to Prepare Sick Persons for death: Which are no less Worthy the Consideration of all Good Christians in time of health. As shewing the Importance of an Early Preparation for their Latter End. Set forth for the Benefit of the Publick, London, 1702; Popery near a-kin to Paganisim and Atheism, or Which is the Purer Religion, the Romish, or the reformed; Set forth in a Sermon, Preach'd in the Chapel of Newgate, upon an Extraordinary Occasion, viz. that of the Abjuration and Renunciation of the Errors of the Church of Rome, and of all Atheistical Principles; Solemnly made by A Roman-Catholick, Prisoner, there for Blasphemy; On Sunday, July 6, 1712, London, 1712. Listed in Ordinary of Newgate, Account, 15 May 1706, are also, The Last Words of the Lady Margerit de la Musse; Moral and Divine Maxims; A Guide to Salvation. In Ordinary of Newgate, Account, 25 Sept. 1713, p.6, is also listed, A Sermon preached on a very special occasion and dedicated to the Lord High-Treasurer.

Linebaugh (Linebaugh, "The Ordinary of Newgate and His Account", n.9 at p.349; see also, P.Linebaugh, Tyburn: A Study of Crime and the Labouring Poor in London During the First Half of the Eighteenth Century, 2 volumes, unpublished PhD. thesis, University of Warwick, 1975, pp.191-3), without explanation, attributes Secret Transactions During the Hundred days

Mr. William Gregg Lay in Newgate under Sentence of death for High treason, from the Day of the Sentence, to the Day of his Execution, London, 1711, to Lorrain, although according to the text it was written by Francis Hoffman. He also lists as being by Lorrain: The Whole Life and Conversation, Birth, Parentage, and Education of John Sutton (1711) and The Memoirs Of the Right Villainous John Hall (1707). Whilst I have been unable to examine a copy of the former its title would seem to place it in a long list of apparent fake accounts (see below); the Hall pamphlet is clearly not by Lorrain, indeed he comes in for some fairly strong criticism in the pamphlet.

23. P.Lorrain, Walking with God: Shewn in a Sermon Preach'd at the Funeral of Mr. Thomas Cook, In the Parish-Church of St. James Clerkenwell, Aug. 13, 1703, London, 1703, pp.14-15. For more on Cook and for a sermon for John Cooper, the man he killed: The Tryals of John Peter Dromett, the French-man, for the murther of his Wife, and Thomas Cook, the Prize-player, called the Butcher of Gloucester, for the Murder of a Constable at May-Fair, at Justice-Hall in the Old-Baily, on the 7th and 8th of July. 1703, London, 1703; J.Woodward, A Sermon Preach'd at the Parish-Church of St.James's, Westminster, On the 21st of May, 1702. At the Funeral of Mr. John Cooper. A Constable, who was barbarously Murther'd at May-Fair, in the Execution of his Office, in Suppressing the publick Didsorders there, London, 1702.
24. Lorrain, Walking with God, p.15. This was consistent with what he had written the previous year in Dying Man's Assistant, p.11.
25. [D.Defoe], A Hymn to the Funeral Sermon, [London, 1703], pp.2-3. According to a manuscript note on the British Library copy this was published on 2 October, 1703.
26. [P.Lorrain], Remarks On the Author of the Hymn to the Pillory. With an Answer to the Hymn to the Funeral Sermon, London, 1703, p.3. According to a manuscript note on the British Library copy this was published on 9 October, 1703.
27. [D.Defoe], The History of the Press-Yard, London, 1717, pp.49, 52-3; quotes at pp.49, 52.
28. [Defoe], History of the Press-Yard, p.49. See also, [D.Defoe], A Trip through the Town. Containing Observations on the Humours and Manners of the Age (4th edn.), London, 1735, p.24.
29. [Defoe], History of the Press-Yard, p.47.
30. Ordinary of Newgate, Account, 23 Mar. 1708/9.
31. Ordinary of Newgate, Account, 5 Dec. 1715.
32. [Defoe], Hymn to Funeral Sermon, p.1.
33. [Defoe], History of the Press-Yard, p.52.
34. Ibid, p.46; although see p.50. See also [Defoe], Trip through the Town, p.27.

35. [D.Defoe], A Trip through London: containing Observations on Men and Things (8th edn.), London 1728, pp.50-1. See also, [D.Defoe], The History Of the remarkable Life of John Sheppard, containing A particular Account of his many Robberies and Escapes, London, 1724, p.49.
36. [Defoe], Trip through London, and [Defoe], Trip through the Town. Defoe also criticised Lorrain in the newspaper, Mercurius Politicus, March 1718, p.159, referring to his "needless Flourishes, not to say Cant" in writing the Account of James Sheppard.
37. See, R.R.Singleton, "Defoe, Moll Flanders, and the Ordinary of Newgate", Harvard Library Bulletin, 24, (1976), pp.407-13, at p.409.
38. [Lorrain], Remarks, p.4.
39. Memoirs Of the Right Villainous John Hall, The Late Famous and Notorious Robber Penn'd from his own Mouth sometime before his Death (4th edn.), London, 1714, p.16. See also, G.Sherburn (ed.), The Correspondence of Alexander Pope, Oxford, 1956, vol. II, P.350, letter 14 December, 1725 from Pope and Bolingbroke. See also, The Case or Declaration of Nathaniel Parkhurst, London, 1715; An Answer to a Narrative or the Ordinary of Newgate's Account, London 1718; A Collection of Dying of Speeches, London, 1718, pp.4-5; A Complete Collection of Remarkable Trials, 3 vols., London, 1718-21, vol. III, pp.36-7.
40. Ordinary of Newgate, Account, 4 May 1705. Also, Account, 24 June 1709. See also, A Copy of William Gregg's Paper Delivered by him, to the Sheriffs of London and Middlesex, and Paul Lorrain Ordinary of Newgate, at Tyburn, the Place he was executed for High Treason, on Wednesday the 28th of April 1708. Printed from the Original, and Published by Authority, London, 1708.
41. Ordinary of Newgate, Account, 5 Dec. 1715.
42. Some Observations on the Trial of Mr. Thomas Carr, who was Executed at Tyburn, January 18, 1737. With Some Remarks on the Partial and Contradictory Account given of him by the Ordinary of Newgate, London, 1737, pp.1-2.
43. Life, Travels... of Charles Speckman, p.53.
44. Select Trials, vol. I, pp.312-9, see also vol. I, p.81 and J.Ramsey, Account of the Life, Adventures and Transactions of Robert Ramsey, alias Sir Robert Gray, From his Birth to his Execution at Tyburn, on Wednesady, the Thirteenth of January 1741-2, London 1742, p.30.
45. B.Swift, Tyburn to the Marine Society. A Poem, London, 1759, p.27.
46. Parker's Weekly Journal, Sept. 1732, quoted in Ordinary of Newgate, Account, 9 Oct. 1732, p.18; Ramsey, Account of the Life... of Robert Ramsey, p.30.
47. The Matchless Rogue. Or, An Account of the Life of Tom

Merriman, London, 1725, p.86.

48. Select Trials at the Sessions-House in the Old-Bailey, for Murder, Robberies, Rapes, Sodomy, Coining, Frauds, Bigamy, and other Offences. To which are added, Genuine Accounts of the Lives, Behaviour, Confessions and Dying Speeches of the most eminent Convicts, 4 vols., London, 1742, vol. I, p.325. For other criticisms see, Manuscripts of the Earl of Egmont: Diary of Viscount Percival Afterwards First Earl of Egmont, 3 vols., H.M.C., London, 1920-3, vol. I, p.11; W.Hawkins, A Full, True and Impartial Account Of all the Robberies Committed in City, Town, and Country, For several Years past by William Hawkins, In Company with Wilson, Butler Fox, and others not yet Taken, London, 1722, p.42; J.Carrick, A Compleat and True Account Of all the Robberies Committed by James Carrick, John Malhoni, and their Accomplices, In Dublin, Cork, Limerick, Waterford, and other Places in Ireland. As also on the Highway in England, and in the Streets of London and Westminister, and Places adjacent, London, 1722, pp.1 & 24; Some Observations on the Trial of Mr. Thomas Carr, pp.8, 8-9, 10; Philo-Patria, A Letter to Henry Fielding, Esq, Occasioned by his Enquiry into the Causes of the late Increase of Robberies, &c., London, [1751], pp.12-14; C.Jones, Some Methods Proposed Towards putting a Stop to the Flagrant Crimes of Murder, Robbery, and Perjury, London, 1752, p.9; The Life, Travels, Exploits, Frauds and Robberies of Charles Speckman, alias Brown, Who was Executed at Tyburn, on Wednesday the 23d of November, 1763, London, 1763, p.50; Memoirs Of the Life of John Matthieson, Executed for a Forgery on the Bank of England, on Wednesday the 28th of July, 1779, London, [1779], pp.40-1; Daily Journal, 1133, 7 Sept. 1724; W.S.Lewis (ed.), The Yale Edition of Horace Walpole's Correspondence, London, vol. 10, pp.5-6, 2 Feb. 1762; ibid, vol. 10, p.113.

Other clergymen who attended condemned prisoners also came under fire, see below, also Wingrave's criticism of "a certain clergyman" in A Narrative Of the many Horrid Cruelties Inflicted by Elizabeth Brownrigg Upon the Body of Mary Clifford, Deceased; And for which the said Elizabeth received Sentence of Death, On Saturday the 12th of September 1767. Together with An Account of the Sufferings of Mary Mitchell and Mary Jones, London, 1767, p.31. Rev. Moore, the Ordinary of Newgate, denied that he was the clergyman referred to: Ordinary of Newgate, Account, 14 Sept. 1767, p.16. See also, criticism of the chaplain of Dorchester prison in T.Molland, Special Grace Uninterrupted, in its Egress, To the Chief of Sinners. Or, Some Remarks on the Happy Exit of Samuel Drayton, alias D------, who was Executed

at Dorchester, on Saturday April 8, 1775, n.p., 1775, pp.10, 11 & 15.

49. An Answer to a Narrative or the Ordinary of Newgate's Account, London, 1718, quoted in Linebaugh, "The Ordinary of Newgate and his Account", p.255.

50. R.Fowler, The Copy of a Letter sent to Matthew Henderson, While under Sentence of Death in Newgate, for the barbarous Murder of his Mistress, the Lady Dalrymple, London, [1745], p.11n. & passim. See also, W.Cudworth, A Copy of a Letter sent to the Revd. Mr. K***. Concerning Repentance, London, 1752, pp.3-4 & 6.

51. Some Account of the Life and Death of Matthew Lee, executed at Tyburn, October 11, 1752, In the 20th Year of his Age (2nd edn.), London, 1752, pp.12-13. For similar criticisms of the chaplain of Dorchester prison see footnote 65 above. For an attack on the Methodists and their "conversions" of condemned prisoners see, J.Lackington, Memoirs of the Forty-Five First Years of The Life of James Lackington, The present Bookseller in Chiswell-street, Finsbury-square, (7th edn.), London, 1794, pp.170-1: Lackington, himself a former Methodist, claimed that the publication of such "conversions" was for "the private emolument of the editor, and doubtless to the great edification of all sinners" (p.170), and by them "the good and pious of every denomination have been scandalized, and notorious offenders encouraged to persevere, trusting sooner or later, to be honoured with a similar degree of notice; and thus by a kind of hocus pocus, be suddenly transformed into saints." (p.171) See also, Monthly Review, 1788, p.26.

52. Ordinary of Newgate, Account, 31 Jan. 1712/13.

53. Ordinary of Newgate, Account, 24 May 1684. See also this thesis, Bibliography of the Works of Samuel Smith.

54. A Compleat and True Account Of... Carrick, p.24.

55. The Real, Genuine, and Authentic Narrative of the Proceedings of Capt. James Lowrey, Before and after he was appointed Commander of the Ship Molly. Taken from his own Mouth, as well as the Log-Book, by his own Desire, the Day before his Execution. With Letters wrote by Himself to the Consul at Lisbon, London, 1752.

56. Rev. J.Taylor, The Only Genuine and Authentic Narrative of the Proceedings Of the Late Capt. James Lowrey, Both Before and after he became Commander of the Ship Molly: As the same was delivered by Himself, in Manuscript, into the Hands of the Revd. Mr. Taylor, Ordinary of Newgate, some short Time before his Execution, London, [1752].

57. Ibid, p.2.

58. Life, Travels, Exploits, Frauds and Robberies, of Charles Speckman, pp.49-51.

59. See, [Rev. W.Wilson], The Solemn Declaration of Richard

Coleman, Who was Executed at Kennington-Common, in the County of Surry, on Wednesday, April 12, 1749, for the Murder of Sarah Green, Widow, with the Behaviour, Confession, and Dying Words, of the Four other Malefactors, Who were Executed at the same Time and Place, London, [1749].

60. The True and Genuine Confession (Whilst under Sentence of Death) of Thomas Jones, and James Welch, For the barbarous Rape and Murder of Sarah Green, as Taken from the Mouth of Nicholls (the Evidence against them) and by them attested to be the Truth, London, [1751], p.3. Nicholson was the publisher of the account by Rev. Leonard Howard: A True and Impartial Account of the Behaviour, confession, and dying Words of the four Malefactors, Who were executed at Kennington-Common, on Friday, September 6, 1751. Published with the Approbation and Consent of the Reverend Leonard Howard, D.D. Rector of St. George the Martyr, in Southwark, who attended them whilst under the Sentence of death, and in their last Moments, London, [1751].

61. O.B.S.P., 13-14 Oct. 1703, p.4. Similar notices appeared in the Ordinary of Newgate, Accounts, 21 June 1704, 22 Sept. 1704, 25 Oct. 1704, 7 Feb. 1704/5 and 4 May, 1705.

62. Ordinary of Newgate, Account, 22 Sept. 1704; 25 Oct. 1704; 4 May 1705; 2 May 1707. The notice in the last of these says that publication will be at 9 a.m. on the morning after the hanging day.

63. J.Guthrie, A Sermon Preach'd in the Chapel of Newgate, Upon the particular Desire of Robert Hallam, Under Sentence of death, for the Murder of his Wife Jane, Then being Big with Child, Upon Sunday, the 6th of February, 1732, London, [1732].

64. London Daily Post, & General Advertiser, 1485, 1 Aug. 1739; also 1486, 2 Aug. 1739; 1487, 3 Aug. 1739.

65. Ordinary of Newgate, Account, 23 May 1701.

66. Ordinary of Newgate, Account, 23 May 1701 announced that publication would be at noon on that day, and this was confirmed in London Daily Post, 1488, 4 Aug. 1739. This publication time seems to have been regularly adopted: see London Daily Post, 1609, 21 Dec. 1739 and 1610, 22 Dec. 1739. For an attack on a specific rival see Ordinary of Newgate, Account, 20-22 Dec. 1738, p.20, and Daily Advertiser, 20 Sept. 1738.

67. Ordinary of Newgate, Account, 23 Oct. 1689, Charles Brooks.

68. See, for example, [D.Defoe], The History of the Remarkable Life of John Sheppard, London, 1724. Although Sheppard had been condemned at the time of publication he was at large: see this thesis, Part I, Chapter 5. See also, A Genuine Narrative of all the Street Robberies Committed since October last, by James Dalton, And his

Accomplices, Who are now in Newgate, to be try'd next Sessions, and against whom, Dalton (call'd their Captain) is admitted an Evidence, London, 1728.

CHAPTER 5: A CASE STUDY OF THE HISTORY

1. John Sheppard "the famous gaolbreaker"

1. J.R.Moore, A Checklist of the Writings of Daniel Defoe (2nd edn.), Hamden, Connecticut, 1971, (hereafter, Moore), 468, pp.194-5 and Moore 466, p.193. Moore also ascribes a satire to Defoe called, An Epistle from Jack Sheppard to the late L---D C-----LL-R of E-----D [1725]: Moore 470, p.196, although there seems no substantial ground for such an attribution. Moore dates A Narrative as the earlier of the two biographies, but this is wrong. First, A Narrative describes how Sheppard managed his final escape and also his subsequent recapture, whereas The History provides none of the detail of the escape and was written whilst Sheppard was still free. Second, A Narrative includes the date 10 November, 1724 on its penultimate page, whereas from internal evidence The History clearly dates from the middle of October (see p.55). Third, A Narrative, at page 6, seeks to correct an error in what is referred to as "the History of my Life", and no other pamphlet, apart from The History, bears a title like this. Fourth, whereas A Narrative went through eight editions before the end of 1724, The History seems to have only reached three editions (Moore only notes two editions).

From contemporary newspapers the following appears to be the publishing history of the two biographies:
(i) The History, 1st edition published 19 October 1724, see Daily Journal, 1168, 17 Oct. 1724, 1169, 19 Oct. 1724; 2nd edition published 24 October, see Daily Journal, 1175, 26 Oct. 1724; 3rd edition published before 2 November, see Daily Journal, 1181, 2 Nov. 1724. The last advertisement for this work appears in Daily Journal, 1191, 13 Nov. 1724, the day before A Narrative is announced as about to be published.
(ii) A Narrative is first mentioned in a letter supposedly by Sheppard and witnessed by his cell-mate Lewis Houssart (condemned for uxoricide) which purports to authenticate the biography; the publication date is given as 16 November, see Daily Journal, 1192, 14 Nov. 1724; 1st edition published 16 November, the day of Sheppard's hanging, see Daily Journal, 1193, 16 Nov. 1724 (at the gallows Sheppard supposedly endorsed this biography, see Daily Journal, 1194, 17 Nov. 1724 - not confirmed in the accounts in Daily Post, 1605, 17 Nov. 1724, or Evening Post, 2389, 17 Nov. 1724); 2nd edition published 17 November, see Daily Journal, 1194, 17 Nov. 1724; 3rd edition not traced; 4th edition published 19 November, see Daily Journal, 1196, 19 Nov. 1724; 5th edition published 20 November, see Daily Journal, 1197, 20 Nov. 1724; 6th edition published 23 November, see Daily Journal, 1199, 23 Nov. 1724; 7th edition published

2 December, see Daily Journal, 1207, 2 Dec. 1724.

2. R.Williams, The Long Revolution, Harmondsworth, 1965, pp.57-88.

3. C.R.Kopf, "The Sale of Defoe's Library", The Papers of the Bibliographical Society of America, LXV, (1971), pp.122-133, p.132.

4. Daily Post, 1542, 4 Sept. 1724; Daily Journal, 1132, 4 Sept. 1724; Evening Post, 2360, 10 Sept. 1724; Daily Courant, 7141, 4 Sept. 1724, 7180, 20 Oct. 1724.

5. Daily Journal, 1183, 4 Nov. 1724. The brief fame and the deaths of these exotic creatures curiously mirrors the end of Sheppard's life in the Autumn of 1724. The two lions had been born in the Tower of London in October 1724, and were soon afterwards presented to George II. They died late in October 1724: Daily Journal, 1171, 21 Oct. 1724, 1172, 22 Oct., 1175, 26 Oct., 1180, 31 Oct.; Daily Post, 1585, 24 Oct. (Although see, Gentleman's Magazine, I, (1731), p.352.) There had been two ostriches, unlike Sheppard they were tall, reportedly 27 hands high; however, rather like Sheppard, "They will eat Iron, of which they are very fond": Daily Journal, 1145, 21 Sept. 1724. One of them died in October: Daily Post, 1585, 24 Oct. 1724.

6. A reproduction of an engraving of Thornhill's painting appears in H.Bleackley & S.M.Ellis, Jack Sheppard, Edinburgh, 1933, facing p.44. Thornhill was reported as having sketched Sheppard in Daily Journal, 1188, 10 Nov. 1724. He was referred to as George II's "History Painter" (ibid) and may have painted Sheppard on the instructions of the King who had earlier ordered two commercial prints of Sheppard (see, Daily Journal, 1182, 3 Nov. 1724; Parker's London News, 4 Nov. 1724). The prints were almost certainly those published by Thomas Bowles and John Bowles (see below, footnote 11).

7. Quoted in C.Hibbert, Road to Tyburn, London, 1969, p.128. See also, Daily Journal, 1196, 18 Nov. 1724.

8. All the newspapers included pieces on Sheppard, but see particularly, Daily Journal, Daily Post, and Applebee's Original Weekly Journal.

9. One commentator remarked some years later: "I have seen six or seven different Histories of his Life", Select Trials, at the Sessions-House in the Old-Bailey, for Murder, Robberies, Rapes, Sodomy, Coining, Frauds, Bigamy, and other Offences. To which are added Genuine Accounts of the Lives, Behaviour, Confessions and Dying Speeches of the most eminent Convicts, 4 volumes, London, 1742, vol. I, p.146; see this thesis, Bibliography; also Bleackley & Ellis, pp.127-30. In 1724, apart from those by Defoe, there were two other major biographies: Authentic Memoirs of the Life and Surprising Adventures of John Sheppard; Who was Executed

at Tyburn, November the 16th, 1724. By way of Familiar Letters from a Gentleman in Town, to his Friend and Correspondent in the Country: J.Marshall, London, 1724. This is reproduced in Beackley & Ellis, Trial of Jack Sheppard, pp. 170-95. Also announced as published, but not listed in Bleackley & Ellis, nor have I located a copy was, A Narrative of the Life and Robberies, and further Surprising Escapes of John Sheppard. To which is prefix'd, exact Draughts of the several Locks he broke, and the Breaches he made in the Rooms through which he pass'd, when he made his Escape out of Newgate; with a particular account of his being Retaken, and an exact Draught of the Manner he is now fetter'd down in the Stone Room in Newgate: T.Turner, London, 1724, see Evening Post, 2388, 14 Nov. 1724.

10. Among the major theatrical works on Sheppard was: The Prison Breaker, or the Adventures of John Sheppard, London, 1725 (which was performed at the Theatre Royal, Lincoln's Inn Fields), this was rewritten by Thomas Walker and titled The Quaker's Opera (performed at the St. Bartholomew Fair with Walker as Sheppard); J.Thurmond, Harlequin Sheppard, A Night Scene in Grotesque Characters as it is performed at the Theatre Royal in Drury Lane, London, 1724, this theatre was very close to where Sheppard lived and the piece featured scenery "painted from the real places of Action": Select Trials, vol. I, p.147.

11. For example, An Epistle from Jack Sheppard to the Late L---D C-----LL-R of E-----D.

12. In 1724 the following prints appeared: "A Print of John Sheppard, with his Fetlocks and Handcuffs on, chain'd to the Floor In the Castle, in the exact Manner the Keeper left him two Hours before his Escape; wherein is seen the Situation of the said Room, out of which he made his Escape. Drawn by a Painter who went to see him. Another Print exactly describing the wonderful Manner John Sheppard made his Escape the 15th of October in the Night; wherein is justly represented the strong Room in the Castel, in which he was confined, the Fetters and Handcuffs which were fasteen'd on him, the Hole he made in the Chimney in the Castle, to take out the Bars, and another out of the same Chimney into the Red-Room, the several Doors, Locks, Bolts, &c. which he forc'd open to make his Escape, and likewise the Form of the Wall upon Newgate, and the Manner of conveying himself from thence upon the Inner House by two Blankets: The whole drawn with great Care upon the spot. Price 6d. each. Sold by Tho. Bowles, Printseller, in St. Paul's Church-Yard, and John Bowles, Printseller, over-against Stock's Market." Published "This Day", Daily Post, 1588, 28 Oct. 1724 (although Daily Journal, 1175, 26 Oct. 1724

also claims published "This Day".) These were probably the prints requested by George II (above, footnote 5). In November Bowles and Bowles complained that "base scandalous Copies" of the prints were in circulation: Daily Post, 1594, 4 Nov. 1724. The two men published another print following his recapture after his last escape, "A Print of John Sheppard, in the manner he is now chain'd, since he was taken last." Published "This Day", Daily Journal, 1185, 6 Nov. 1724.

13. Select Trials, vol. I, p.146.
14. British Museum, Add. Mss. 27,827.
15. W.H.Ainsworth, Jack Sheppard: A Romance, 3 volumes, London, 1839.
16. Daily Journal, 1145, 21 Sept. 1724; Ordinary of Newgate, Account, (Nov. 1724?), untraced see, Select Trials, vol. I, p.139. I have not located a copy of the Ordinary of Newgate's Account which was published after Sheppard was hanged in November, nor is it listed by Linebaugh (P.Linebaugh, Tyburn: a study of crime and the labouring poor in London during the first half of the eighteenth century, Ph.D. thesis, University of Warwick, 1975), but it is mentioned in Daily Post, 1607, 19 Nov. 1724.
17. For a recent study of part of Defoe's crime fiction see, I.A.Bell, Defoe's Fiction, London, 1985, especially pp.115-52.
18. Moore, Checklist, p.196.
19. She had been arrested on 1st September, 1724 by Jonathan Wild for assisting in Sheppard's first escape from Newgate the day before: Daily Post, 1541, 3 Sept. 1724; Daily Journal, 1128, 1 Sept. 1724, 1129, 2 Sept. 1724, 1172, 22 Oct. 1724, 1214, 10 Dec. 1724; The History, p.23.
20. Applebee carefully puffed the publications, particularly the more successful A Narrative: Daily Journal, 1192, 14 Nov. 1724, 1194, 17 Nov. 1724, and see footnote 1 above.

2. Sheppard's Early Life and his Meeting with Elizabeth Lyon

1. The phrase recalls Janeway's reference, in a biography which enjoyed great popularity at the time Defoe was writing The History, to Thomas Savage: "He was a young Man, but an old Sinner." J.Janeway, A Warning to Youth. The Life and Death of Thomas Savage; Who was twice Executed at Ratcliff, for the Murder of his Master's Maid-Servant (21st edn.), London, 1720, p.15.
2. [D.Defoe], The History of the Devil, London, 1726, p.489-90.

4. The Sheep and the Lyon

1. Daily Journal, 1132, 4 Sept. 1724.
2. Daily Journal, 1139, 14 Sept. 1724.
3. Daily Journal, 1142, 17 Sept. 1724; Evening Post, 2362, 17 Sept. 1724; Daily Post, 1553, 17 Sept. 1724.
4. Evening Post, 2376, 17 Oct. 1724.
5. Daily Journal, 1176, 27 Oct. 1724, 1178, 29 Oct. 1724, 1181, 2 Nov. 1724, 1188, 10 Nov. 1724, 1194, 17 Nov. 1724.
6. Daily Journal, 1182, 3 Nov. 1724, 1178, 29 Oct. 1724, 1188, 10 Nov. 1724.
7. See for instance, Daily Journal, 1132, 4 Sept. 1724, 1180, 3 Oct. 1724, 1193, 16 Nov. 1724.
8. Daily Post, 1592, 2 Nov. 1724.
9. Daily Journal, 1181, 2 Nov. 1724, 1182, 3 Nov. 1724; Daily Post, 1603, 14 Nov. 1724.
10. Daily Post, 1603, 14 Nov. 1724.
11. Daily Journal, 1189, 11 Nov. 1724.
12. See also, [Defoe], A Narrative Of... Sheppard, pp.26-7.
13. J.Locke, Two Treatises of Government, (P.Laslett, ed.), Cambridge, 1960, The Second Treatise, chapter III, s. 16 & 18, pp.296-7.
14. [Defoe], The History, pp.20, 21, 22 & 26. See also, [Defoe], A Narrative Of... Sheppard, in which it is said that after his second and final escape from Newgate he went out to celebrate and, in spite of being cautioned by his friends to take care, he became so drunk that, "At length my Senses were quite overcome with the Quantities and Variety of Liquors I had all the Day been drinking of, which pav'd the Way for my Fate to meet me; and when apprehended, I do protest, I was altogether incapable of resisting, and scarce knew what they were doing to me" (at p.29, and generally pp.28-9).
15. [D.Defoe], A System of Magick: or, A History of the Black Art, London, 1727, pp.75-7.
16. In his biography of Jonathan Wild Defoe wrote: "we cannot say he was Brave, as appeared in a... more particular manner in his stupid and confus'd Behaviour, during his lying in Newgate, and at his Execution", [D.Defoe], True and Genuine Account of the Life and Actions Of the Late Jonathan Wild, London, 1725, p.vii.

5. The History and the Newspapers

1. The explicit reference to the Daily Journal is in The History at p.28. Defoe refers to the confusion after Sheppard's recapture (following his first escape from Newgate) as to what was to be done with him, and Defoe alleges that ended the confusion by reporting that he would have to appear in court. Defoe fails to note that the Daily Journal had been one of the newspapers which had spread the confusion (see Daily Journal, 1137, 11 Sept. 1724, 1139, 14 Sept. 1724, 1145, 21 Sept. 1724; the correct report appeared in 1146, 22 Sept. 1724), nor does he remark that the Daily Post and Evening Post carried the same story on the same day (Daily Post, 1557, 22 Sept. 1724; Evening Post 2365, 22 Sept, 1724). He also quotes the "letter" from Sheppard to Jack Ketch which was published in the Daily Journal: The History, pp.35-6; Daily Journal, 1132, 4 Sept. 1724.
2. Daily Journal, 1161, 9 Oct. 1724; The History, p.36; Evening Post, 2373, 10 Oct. 1724. There were no reports on Sheppard in the Daily Post between 22 Sept. and 17 Oct., other than that Joseph Blake alias Blueskin had been charged as an accomplice of Sheppard: 1567, 3 Oct. 1724. On similarities see also the references to the status of Elizabeth Lyon in The History, p.29; Daily Journal, 1137, 11 Sept. 1724.
3. Daily Post, 1541, 3 Sept. 1724.
4. Daily Journal, 1129, 2 Sept. 1724. Lyon was released from the Compter in December: Daily Journal, 1214, 10 Oct. 1724.
5. The History, pp.19 & 23.
6. Daily Journal, 1172, 22 Oct. 1724.
7. Daily Journal, 1128, 1 Sept. 1724; Evening Post, 2356, 1 Sept. 1724; The History, pp.19-20.
8. Daily Journal, 1129, 2 Sept. 1724; The History, p.20. See also, Daily Journal, 1137, 11 Sept. 1724.
9. Daily Post, 1548, 11 Sept. 1724; Daily Journal, 1137, 11 Sept. 1724, 1214, 10 Dec. 1724; Evening Post, 2361, 12 Sept. 1724. 10. Daily Journal, 1137, 11 Sept. 1724; The History, p.21.
11. Daily Journal, 1137, 11 Sept. 1724; Evening Post, 2361, 12 Sept. 1724; Daily Post, 1548, 11 Sept. 1724; The History, pp.24-6.
12. Daily Post, 1553, 17 Sept. 1724; Daily Journal, 1139, 14 Sept. 1724, 1142, 17 Sept. 1724; Evening Post, 2362, 17 Sept. 1724; The History, p.30.
13. Daily Journal, 1145, 21 Sept. 1724; The History, title-page & passim.
14. The History, pp.41-6; Daily Journal, 1168, 17 Oct. 1724; Daily Post, 1579, 17 Oct. 1724.

6. Some Problems with The History as a Source for the Life of John Sheppard

1. 43 Eliz., c.2, s.5.
2. I.J.Prothero, Artisans and Politics in Early Nineteenth-Century London: John Gast and his Times, London, 1979, pp.32 & 31-2. See also, D.M.Marshall, The English Poor in the Eighteenth Century. A Study in Social and Administrative History, London, 1926, pp.184-5.
3. J.Dunton, The Life and Errors of John Dunton, Late Citizen of London, London 1705, pp.55-6.
4. [Defoe], Complete English Tradesman, pp.6-7 & 7.
5. Gentleman's Magazine, VII, (1737), p.251.
6. [Defoe], Complete English Tradesman, pp.12-3 & 13.
7. F.Place, The Autobiography of Francis Place (1771-1854), (ed. M.Thale), Cambridge, 1972.
8. [Defoe], The History, pp.2-3.
9. [Defoe], A Narrative, p.5.
10. [Defoe], A History, p.3.
11. Petition of the London Apprentices, [late C17th.].
12. R.Campbell, The London Tradesman, London, 1747.
13. Sir J.Fielding, Extracts from such of the Penal Laws, as Particularly relate to the Peace and Good Order of this Metropolis (new edn.), London 1768, p.116n.
14. For examples see, the collection of newspaper cuttings in the British Library shelved under T.Purland, Alsasian Eccentricities 1700-1782, 2 volumes, vol. I, items 104, dated 1730, and 107, dated 1731.
15. See this chapter, below.
16. Ordinary of Newgate, Account, 9 Oct. 1732, p.33.
17. Ibid, 11 Aug. 1736, p.19.
18. Ibid, 29 June 1739, p.15.
19. [Rev.W.Wilson], A Genuine Account of the Lifes, Characters, Behaviours, Confessions, Dying Words, of the Six Malefactors, That were executed at Kennington-Common, on Friday the Fourteenth of September, 1739, London, 1739, p.14. See also, Account, 24 May, 1736, p.15.
20. The Life of Nicolas Mooney. Wherein is contained, His Parentage and Education, (2nd edn.), Bristol, 1752, p.5.
21. Ordinary of Newgate, Account, 8 May 1693.
22. Ibid, 9 Nov. 1722, p.4.
23. Ibid, 3 Oct. 1750, p.103.
24. The Reward of Murder. A Faithful Narrative of the LIves of Daniel Looney, and Robert Greenstreet; Who were executed for Murder; at Tyburn, on Monday, December 14, 1751, London, [1751], pp.18-21.
25. For a full list of the pamphlets on these cases see the bibliography.
26. M.D.George, London Life in the Eighteenth Century, Harmondsworth, 1976, p.16.

27. See generally, B.Marsh (ed.), Records of the Worshipful Company of Carpenters, 7 volumes, Oxford 1913, in particular vol. I, p.ix-xii.
28. Marsh, Records of... Company of Carpenters, pp.x & xii.
29. E.B.Jupp & W.W.Pollock, An Historical Account of the Worshipful Company of Carpenters of the City of London compiled chiefly from records in their possession, (2nd edn.), London, 1887, p.554.
30. The report is printed in, Distilled Spirituous Liquors the Bane of the Nation, London, 1736, appendix.
31. This was Adam Smith's opinion, see, George, London Life, p.203.

7. The History and the "crisis in Subordination"

1. British Journal, 1723.
2. J.Swift, Directions to Servants, in Sir Walter Scott, The Works of Jonathan Swift, 19 vols., London, 1884, vol. XI.
3. [S.Richardson], The Apprentice's Vade Mecum: or, Young Man's Pocket-Companion, London, 1734, p.v.
4. [D.Defoe], The Complete English Tradesman in Familiar Letters: Directing him in all the several Parts and Progressions of Trade (2nd edn.), 2 volumes, London, 1727, vol. I, pp.15 & 156.
5. [D.Defoe], The Great Law of Subordination consider'd; or, the Insolence and Unsufferable Behaviour of Servants in England duly enquir'd into, London 1724, p.7.
6. See this thesis below, Chapter 6.
7. The Servants Calling; with some Advice to the Apprentice, London, 1725, p.71.
8. [Richardson], Apprentice's Vade Mecum, p.4.
9. Matthew 10:24.
10. [Defoe], Complete English Tradesman, vol. I, p.6.
11. [Richardson], Apprentice's Vade Mecum. The author of The Servants Calling warned the apprentice that "his Time is not his own" (p.69).
12. [Defoe], Great Law of Subordination, pp.70, 78 & 17.
13. [D.Defoe], The Family Instructor. In Three Parts (8th edn.), London, 1720, p.222.
14. [Defoe], Family Instructor, p.232.
15. [Defoe], Complete English Tradesman, vol. I, p.160.
16. [Defoe], Great Law of Subordination, p.261.
17. [Defoe], A Narrative, p.5.
18. Ordinary of Newgate, Account, 5 Oct. 1744, p.9.
19. [Defoe], Great Law of Subordination, p.288.

8. The History and other Criminal Biographies

1. Rev.W.Wilson, A Genuine Account of the Lives, Characters, Behaviours, Confessions, and Dying Words, of the Six Malefactors, That were executed at Kennington-Common, on Friday the Fourteenth of September, 1739, London, 1739, p.3.
2. Rev.W.Wilson, A Genuine Account of the Behaviour, Confessions, and Dying Words, of the Malefactors viz. James Day, Ann Hazzard, James Harris, Richard Keble, James Hunt, and Thomas Collins. Who were Executed at Kennington-Common, On Thursday the 25th of August, 1743. To which is added, The Solemn Declaration of James Day and Ann Hazzard, relating to the Murder of Simon Pottell, which they deliver'd to the Rev. Mr. Wilson, Lecturer of St.John, Southwark, London, [1743], p.19.
3. The Life of Benjamin Barker, A Notorious Highwayman, from his Youth to his Death, who was Executed at Chelmsford on Friday the 18th of May, 1750, for robbing Mr. John Blower, of Bocking, in the Bury Coach, London, 1750, p.1.
4. The Life, Trial, &c. of William Hawke, The notorious Highwayman; containing An Account of all the remarkable Robberies he committed before and since his Return from Transportation; with the Manner in which he was apprehended, and his Behaviour during the Time he was under Sentence of Death, London, 1774, p.3.
5. A Sketch of the Life of that notorious House-Breaker, Horse-Stealer, and Highway Robber, John Kirby; who was convicted, At the Old Castle, Canterbury, On Tuesday the 13th of January, 1789, for stealing four geese, And sentenced to be Transported for Seven Years. Together with An authentic and circumstantial Account of every Robbery he hath committed From the year 1782 to the present Time, As Related by Himself, And attested as true, before two respectable Witnesses, Canterbury, 1789, p.5.
6. The Life of Patrick Madan; Exhibiting a Series of the most extraordinary Transactions, notorious Villainies, and wonderful Escapes, that ever happened to one Man. Comprizing a Series of Events equally calculated to astonish the Mind, and lead the Heart to Virtue, by exhibiting the Deformity of Vice. With Reflections naturally arising from the Subject; and Hints, which if attended to, will tend greatly to the Suppression of every Species of Theft, London, [1781], p.12.

For similar comments about parents see: An Account of the Life, Birth, Death, Parentage, and Conversation, of Mr. John Addison, a most notorious Highway-man, London 1711, p.3; The Genuine Memoirs of Joshua Crompton; Written by Himself in the Cells of

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11. Ibid, 26 Jan. 1690. See also, Account, 26 July 1731, p.6, 9 Oct. 1732, p.12.
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naturally arising from the Subject; and Hints, which if attended to, will tend greatly to the Suppression of every Species of Theft, London, [1781], pp.20-1, also, pp.13 & 21-2. Similarly, Authentic Memoirs of the Life, Numerous Adventures, and remarkable Escapes, of the Celebrated Patrick Madan; Interspersed with a variety of Genuine Anecdotes of his Contemporaries, and the Character of his Fair S-, the well-known C-rt-n, the Influence of whose Charms has so often saved the Culprit, London, [1732], pp.2-3.

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CHAPTER6: DRUNKS, WHORES AND IDLE 'PRENTICES

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113 Ibid.
114 [A.Young], A Six Weeks Tour, through the Southern Counties of England and Wales, London, 1768, p.273.
115 K.Marx, "Economic and Philosophic Manuscripts of 1844" in K.Marx and F.Engels, Collected Works, vol. III, London, 1975, pp.229-346, at pp.283-4.

CHAPTER 7: CRIMINAL LITERATURE AND HISTORY

1. P.Linebaugh, "The Ordinary of Newgate and His Account" in J.S.Cockburn (ed.), Crime in England 1550-1800, London, 1977, pp.246-69, at pp.264-8.
2. J.H.Langbein, "Shaping the Eighteenth-Century Criminal Trial: A View from the Ryder Sources", University of Chicago Law Review, 50, 1 (Winter 1983), pp.1-136, at p.26.

PART II: THE SPECTACLE OF THE CRIMINAL JUSTICE SYSTEM IN THE EIGHTEENTH CENTURY WITH SPECIAL REFERENCE TO CAPITAL PUNISHMENT

CHAPTER 8: A CRITIQUE OF RECENT WRITING ON CAPITAL PUNISHMENT IN THE EIGHTEENTH CENTURY

1.Radzinowicz and the "Whig" Tradition

1. L.Radzinowicz, A History of English Criminal Law and its Administration from 1750, 4 vols., London, 1948-68, vol. I.
2. J.H.Langbein, "Albion's Fatal Flaws", Past and Present, 98, (1982), pp.96-120. For examples of the use of Radzinowicz's book by a critic see, D.Hay, "Property, Authority and the Criminal Law", in D.Hay et al, Albion's Fatal Tree: Crime and Society in Eighteenth-Century England, Harmondsworth, 1977, pp.3 & 32.
3. L.A.Knafla, "Crime and Criminal Justice: A Critical Bibliography", in J.S.Cockburn (ed.), Crime in England 1550-1800, London, 1977, pp.270-98.
4. Radzinowicz, History, vol. I, p.ix. See, H.Butterfield, The Whig Interpretation of History, London, 1963.
5. Ibid, p.268.
6. Ibid, p.248. To some extent Radzinowicz seems also to have regarded Madan's views on religion as meaning that his ideas were doomed (p.243).
7. See this Part of the thesis, below.
8. Radzinowicz, History, vol. I.
9. Ibid, p.176, quoting Arthur Griffiths.
10. Ibid, p.401.
11. Ibid, pp.351-2.
12. Ibid, pp.343-4.
13. Ibid, pp.318-9.
14. Ibid, pp.473-93.
15. See, ibid, p.137.
16. See also below.
17. See, Radzinowicz, History, vol. I, pp.15-19.
18. Ibid, pp.611-59.
19. Ibid, pp.15-19 & 41-9.
20. Ibid, pp.28-31.
21. W.S.Lewis, The Yale Edition of Horace Walpole's Correspondence, London, vol. 20, pp.312.
22. Ibid, p.35.
23. Ibid, p.77.
24. Hay, "Property, Authority and the Criminal Law", p.20.
25. Radzinowicz, History, vol. I, p.158.
26. Ibid, p.85.
27. Ibid, pp.97-103.
28. Ibid, pp.85 & 87. Generally, pp.83-91.
29. A possible explanation would be that the judges wished to retain their discretionary powers over sentencing. Although the death penalty was mandatory the judges' reports were highly influential in the pardoning process.

30. Radzinowicz, History, vol. I, pp.91-7.
31. Ibid, p.118.
32. Ibid, pp.138-64.
33. Ibid, p.163; see also, p.158.
34. See, Hay, "Property, Authority and the Criminal Law", p.23n.
35. See also, ibid, p.23. Paley took this view, although, of course, his discussion came after most of the legislation had been passed and cannot be regarded as necessarily a true indication of the thinking in Parliament at the time when the capital laws were enacted: W.Paley, "Moral and Political Philosophy" in The Works of William Paley, D.D. Archdeacon of Carlisle. With A Life of the Author in One Volume, London, 1833, pp.159-68.
36. Radzinowicz, History, vol. I, p.225.
37. Ibid, p.451. Other writers have been influenced by Radzinowicz's view, most notably, G.Howson, The Macaroni Parson: A Life of the Unfortunate Dr.Dodd, London, 1973, pp.227-9: "a turning-point in the history of crime and punishment in England." (p.227)
38. Ibid, p.525. See also similar remarks with respect to Mackintosh and Buxton, p.561.

2. The Revisionist Historians: Douglas Hay and his Critics

1. D.Hay, "Property, Authority and the Criminal Law", in D.Hay et al, Albion's Fatal Tree: Crime and Society in Eighteenth-Century England, Harmondsworth, 1977, p.24.
2. Ibid.
3. Ibid.
4. Ibid, p.26.
5. Ibid, p.62.
6. Ibid, p.24n.
7. Ibid, p.56.
8. J.Brewer & J.Styles (eds.), An Ungovernable People: the English and their law in the seventeenth and eighteenth centuries, London, 1980, introduction, p.20.
9. P.King, "Decision-Makers and Decision-Making in the English Criminal Law, 1750-1800", The Historical Journal, 27, 1, (1984), pp.25-58.
10. Ibid, p.33; see also, pp.27-34.
11. Hay, "Property, Authority and the Criminal Law", pp.43-4.
12. King, "Decision-Makers and Decision-Making", p.53.
13. Ibid, p.34.
14. J.H.Langbein, "Albion's Fatal Flaws", Past and Present, 98, (1982), pp.96-120, at p.115.
15. Ibid, p.107, citing as a source Douglas Hay's own essay, "Poaching and the Game Laws on Cannock Chase" in Hay et

al, Albion's Fatal Tree, pp.189-253.

16. Langbein, "Albion's Fatal Flaws", p.107.
17. Ibid, p.96.
18. Hay, "Property, Authority and the Criminal Law", p.52.
19. Ibid.
20. O.Goldsmith, "The Traveller" in The Collected Works of Oliver Goldsmith, (ed. A.Friedman), 5 vols., Oxford, 1966, vol. IV, pp.233-69, at p.266, line 386.
21. Langbein, "Albion's Fatal Flaws", p.114.
22. Ibid.
23. Ibid, p.114.
24. Ibid, p.97; also p.105. He does not deny that an elite existed nor that they enjoyed advantages, but he trivialises this: "I concede fully that when men of the social elite came into contact with the criminal justice system in any capacity, they were treated with special courtesy and regard, just as they were elsewhere in this stratified society. To seize upon that as the raison d'etre of the criminal justice system is, however, to mistake the barnacles for the boat." (p.120)
25. Ibid, pp.120 & 119.
26. For instance, he argues elsewhere in his work on the development of adversarial procedures in felony trials that judges allowed counsel to appear for defendants because of judicial concern over the admissibility of evidence following the M'daniel blood money scandal in 1754. Because he fails to look outside the legal system he ignores the possibility that the explanation might, for instance, lie in a political decision by the government to intervene in more prosecutions and thereby increase the number of cases in which counsel appeared for the prosecution: see, J.H.Langbein, "The Criminal Trial before the Lawyers", The University of Chicago Law Review, 45, 2 (1978), pp.263-316; J.M.Beattie, Crime and the Courts in England 1660-1800, Oxford, 1986, p353.
27. See, for instance, E.P.Thompson, "Patrician Society, Plebian Culture", Journal of Social History, 7, 4 (1974), pp.382-405; "Eighteenth-century English society: class struggle without class?", Social History, 3, 2 (1978), pp.135-65.
28. Hay, "Property, Authority and the Criminal Law", p.50.
29. Ibid, p.60.
30. Ibid, p.24.

3. Other Studies on Capital Punishment in the Eighteenth Century

1. P.Linebaugh, "The Tyburn Riot Against the Surgeons", in D.Hay et al, Albion's Fatal Tree: Crime and Society in Eighteenth-century England, Harmondsworth, 1977, pp.65-

117, p.66; see also, p.67.

2. Ibid, p.102.
3. Ibid, p.116.
4. Ibid, p.78.
5. Ibid, p.80.
6. M.Foucault, Discipline and Punish: The Birth of the Prison (trans., A.Sheridan), London, 1977.
7. Ibid, p.109.
8. Ibid, p.211.
9. Ibid, p.297.
10. Ibid, p.249.
11. Even Allen Lane, his English publishers, mistake his intention by referring to him on the dust-jacket of Discipline and Punish as "Michel Foucault, historian of ideas".
12. Foucault chose his own title, Professor of History and Systems of Thought.
13. J.M.Beattie, Crime and the Courts in England 1660-1800, Oxford, 1986, p.616.
14. Ibid, p.622.
15. Ibid, pp.543-4.
16. Ibid, pp.623-4 & 630-7.
17. Ibid, p.417.
18. Ibid, p.3.
19. Ibid, p.621.

CHAPTER 9: LEGISLATORS AND LAWYERS

1. Criminal Legislation in the Eighteenth Century

1. W.Blackstone, Commentaries on the Law of England, 4 volumes, London 1795, vol. iv, p.18; [S.Romilly], Observations on a late Publication, intituled, Thoughts on Executive Justice; To which is added, A Letter containing remarks on the same work, London, 1786, p.16; The Times, 11 Oct. 1787; Parliamentary Debates, vol. 39, col. 808; ibid, New Series, vol. 9, col. 405.
2. L.Radzinowicz, A History of English Criminal Law and its Administration from 1750, 4 vols., London, 1948-68, vol.I, pp.3-8.
3. Ibid, p.4.
4. D.Hay, "Property, Authority and the Criminal Law" in D.Hay et al (eds.), Albion's Fatal Tree: Crime and Society in Eighteenth-Century England, Harmondsworth, 1977, p.18.
5. 3 & 4 Will. & Mar., c.9, s.1; 24 Geo. II, c.45; 12 Ann., c.7, s.1; 14 Geo. II, c.6, s.1; 9 Geo. I, c.22, s.1. No good set of commercially published statutes exists for the whole of the eighteenth century. I have used T.E.Thomas & J.Raithby (ed.), The Statutes at Large of England and of Great Britain: from Magna Carta to the Union of the Kingdom of Great Britain and Ireland, 10 vols., G.Eyre & A.Strahan, London, 1811. Other editions do not always give the same references for statutes; some guidance to the differences can be obtained from Chronological Table of the Statutes Covering the Period from 1235 to the end of 1976, HMSO, London, 1977. I have not referred to the legislation by name since there is no general agreement as to what each statute was called and in any event many of the statutes which include capital offences would bear the same name, the Stamp Duty Act.
6. See, for example, 8 & 9 Will. III, c.27, s.15; 4 Geo. I, c.11, s.2; 6 Geo. I, c.23; 8 Geo. I, c.18, s.6; 2 Geo. II, c.25, s.2; 9 Geo. II, c.35, s.10; 16 Geo. II, s.15, s.1; 8 Geo.III, c.15; 24 Geo. III, sess. 2, c.56.
7. Thomas & Raithby, Statutes at Large.
8. Radzinowicz, History of English Criminal Law, vol. I, p.35.
9. Hay, "Property, Authority and the Criminal Law", p.20.
10. See, for example, Sir S.Romilly, The Speeches of Sir Samuel Romilly in the House of Commons, (ed. W.Peter), vol. I, p.343.
11. E.P.Thompson, Whigs and Hunters: The Origin of the Black Act, Harmondsworth, 1977, p.21.
12. A.N.Newman (ed.), The Parliamentary Diary of Sir Edward Knatchbull 1722-1730, Camden Society, 3rd series, XCIV, London, 1963, p.21.
13. Journals of the House of Commons, vol. XX, passim;

P.D.G.Thomas, The House of Commons in the Eighteenth Century, Oxford, 1971, p.53.

14. Commons Journals, XX, pp.198 & 223.
15. Thomas, House of Commons, pp.49-51.
16. Journals of the House of Lords, XX, pp.593, 632, 648-9, 650-1, 652, 657-8, 659, 660.
17. Radzinowicz, History of English Criminal Law, vol.I, p.51.
18. Newman, Diary of Knatchbull, pp.21-4.

2. Criminal Legislation and the Benefit of Clergy

1. L.C.Gabel, Benefit of Clergy in England In the Later Middle Ages, Smith College Studies in History, XIV, 1-4, (1928-29).
2. On early history: see, Statute of Westminster, 3 Edw. I, c.12, Trial of Earl of Castlehaven (1631) 3 State Trials 401. See generally, J.H.Baker, The Reports of John Spelman, 2 vols., London, 1978, vol. II, pp.327-34.
3. L.Radzinowicz, A History of English Criminal Law and its Administration since 1750, 4 vols., London, 1948-68, vol. I, p.4.
4. See William Spiggot in J.Villette, The Annals of Newgate; or, Malefactors Register, 4 vols., London, 1776, vol. I, pp.16-18 & 23.
5. The alternative, used probably from the mid-seventeenth century, was the tying of the prisoner's thumbs with cord and "this was said to be the constant practice at Newgate": see, Reports of Kelyng, J., pp.27-28.
6. Jeaffreson found amongst the Middlesex County records that in 10 years of the reign of James II in that area alone 32 people died in the press: J.C.Jeaffreson, Middlesex County Records, 4 vols., London, 1887-1902, vol. II, pp.xviii-xix. In 1651 John March wrote, "it be every years experience of some [men] undergoing that death": J.March, Amicus Republicae. The Common-wealths Friend. Or An Exact and Speedie Course to Justice and Right, and for Preventing and Determing of Tedious Law-Suits. With many other things very considerable for the good of the Publick. All which are fully Controverted and Debated in Law, London, 1651, p.144. In the whole of the eighteenth century I have found only 3 cases in which the press was actually used, and in none of these did the prisoner die in the press; in all I can find only nine cases in which prisoners refused to plead and were put to some sort of torture (being shown the press, being pressed, or having the thumbs tied): in 1714 at the Old Bailey a prisoner was reported to have had his thumbs tied; the press was used in Newgate on Nathaniel Hawes in 1721 and on Thomas Spigot in the same year,

while another prisoner, Thomas Phillips pleaded after being shown the press; that year Mary Andrews agreed to plead after her thumbs had been tied with cords three times; in 1726 at Kingston Edward Burnworth pleaded after being pressed for 1 3/4 hours; in 1734 John Durant pleaded after his thumbs were tied; in 1741 at the Old Bailey, Henry Cook (or Cooke) refused to plead, but changed his mind as the press was being prepared, and the same year at Cambridge a prisoner was reported to have been pressed: D.Barrington, Observations on The more Ancient Statutes from Magna Charta to The Twenty-First of James I, cap. xxvii. With An Appendix being A Proposal For New Modelling The Statutes, (4th edn.), London, 1775, p.82n.; Villette, Annals of Newgate, I, pp.16-18, 23, 378-9 & 382; Gentleman's Magazine, XI, (1741), p.441; W.Andrews, Old-Time Punishments, Hull, 1890, pp.203-10. Inexplicably in July 1774 a defendant accused of murder refused to plead until shown the press, although two years before 12 Geo. III, c.20 had made such a procedure unnecessary: T.Purland, Alsasian Eccentricities, 2 vols. of newspaper cuttings in the British Library, item 1115, 14 July 1774.

7. See above, footnote 5.
8. Kelyng, Reports, 51. Gabel, Benefit of Clergy in England; J.H.Baker, "Criminal Justice at Newgate 1616-1627: Some Manuscript Reports in the Harvard Law School", The Irish Jurist, New Series, 8 (1973), pp.307-22, at p.315.
9. Gabel, Benefit of Clergy in England.
10. In 1708 it was reported of one of those hanged at Tyburn, Mary Goddard, that she had been burnt on the cheek several times and once in the hand: Ordinary of Newgate, Account, 8 Mar. 1708.
11. J.M.Beattie, Crime and the Courts in England 1660-1800, Oxford, 1986, pp.490-1.

3. The Whigs and the Law in the Eighteenth Century

1. Generally on the disorder during this period see, M.Beloff, Public Order and Popular Disturbances 1660-1714, London, 1938; G.Holmes, "The Sacheverell Riots: The Crowd and the Church in Early Eighteenth-Century London", Past and Present, 72 (1976), pp.55-85; N.Rogers, "Popular Protest in Early Hanoverian London", Past and Present, 79, (1978), pp.70-100.
2. Journals of the House of Commons, XIX, p.227, 6 July 1715. The letter was, of course, produced in order to support the introduction of riot legislation, this does not seem to undermine its general accuracy on the mood of the Tory crowds.

3. J.Locke, Two Treatises on Government, (1st edn., 1689; ed. P.Laslett), Cambridge, 1960, Book II, sections 124-6, 134 & 3.
4. Memoirs Of the Life of John Matthieson, Executed for a Forgery on the Bank of England, on Wednesday the 28th of July, 1779, London, [1779], p.2.
5. The phrase refers to the concept described by E.J.Hobsbawm in Social Bandits, Harmondsworth, 1972.
6. J.Swift, The History of the Four Last Years of the Queen, in H.Davis (ed.), The Prose Works of Jonathan Swift, 14 vols., Oxford, 1951, vol. VII, pp.69-70. See generally, P.G.M.Dickson, The Financial Revolution in England: A Study in the Development of Public Credit 1688-1756, London, 1967; G.Mingay, English Landed Society in the Eighteenth Century, London, 1963; J.H.Plumb, The Growth of Political Stability 1675-1725, London, 1967. On the involvement of the landed gentry in, for instance, overseas trade see, P.J.Cain & A.G.Hopkins, "Gentlemanly Capitalism and British Expansion Overseas: I. The Old Colonial System, 1688-1850", Economic History Review, 2nd Series, XXXIV (1986), pp.501-25; T.Reybould, "Aristocratic Landowners and the Industrial Revolution: The Black Country Experience c. 1760-1840", Midland History, IX (1984), pp.59-86; J.P.Cooper, "In Search of Agrarian Capitalism", Past & Present, 80, (1978), pp.20-65.

4. Capital Legislation and the Government

1. Journals of the House of Commons, vol. XL, pp.422 & 449. The Eyre & Strahan edition tends to exclude legislation which had been repealed, and so there are large gaps in the revenue legislation (most obviously between 6 Geo. I and 29 Geo. II), nevertheless those statutes which are included indicate the size of this source of capital offences (35 sections in which capital offences are included from 1689-1785): 5 & 6 Will. & Mar., c.21, s.11; 8 Ann., c.9, s.41; 9 Ann., c.11, s.44; 9 Ann., c.23, s.34; 10 Ann., c.19. s. 97, 115, 158; 10 Ann., c.26, .s72; 6 Geo. I, c.11, s.50; 29 Geo. II, c.12, s.21; 29 Geo. II, c.13, s.5; 30 Geo. II, c.19. s.27; 32 Geo. II, c.35, s.8; 2 Geo. III, c.37, s.8; 5 Geo. III, c.35, s.6; 5 Geo. III, c.46, s.40; 5 Geo. III, c.47, s.8; 7 Geo. III, c.43, s.18; 7 Geo. III, c.44; 12 Geo. III, c.48, s.1; 13 Geo. III, c.56, s.5; 14 Geo. III, c.72, s.8, 10; 16 Geo. III, c.34, s.15; 17 Geo. III, c.50, s.25; 19 Geo. III, c.66, s.8; 20 Geo. III, c.28, s.6; 20 Geo. III, c.56, s.9; 23 Geo. III, c.58, s.11; 24 Geo. III, sess.2, c.30, s.5; 24 Geo. III, sess.2, c.40, s.25; 24 Geo. III, c.53, s.16; 25 Geo. III, c.50, s.19;

25 Geo. III, c.72, s.17; 25 Geo. III, c.80, s.30.

2. For instance, 8 Hen. VI, c.6 (1429) referred to the sending of letters in certain geographical areas demanding money under the threat of burning houses and goods, but it did not make the sending of the letters an offence, although the arson of a house following such a letter was high treason. The statute, 43 Eliz., c.13 (1601), was also geographically restricted; it did not mention letters specifically, but it made the demand for "blackmail" (which was in this case money to be paid to prevent border raiders from attacking property) which would doubtless have commonly come in letter form.
3. See also, 8 Geo. I, c.22, s.1; 31 Geo. II, c.22.
4. The History and Proceedings of the House of Lords, from the Restoration in 1660, to the Present Time, London, 1742 (Chandler's Debates), vol. ix, p.*236.
5. Commons Journals, XXXIX, p.738, 835-6, 853, 974; XL, pp.67-8, 249, 305, 313-4, 326, 368, 392, 424-5, 449.
6. Ibid, XXII, 10 Apr. 1735.
7. Journals of the House of Lords, XVI, p.116. Sources for biographies of members of the House of Commons are, the Dictionary of National Biography, R.Sedgwick, The History of Parliament: The House of Commons 1715-1754, 2 vols., London, 1970; Sir Lewis Namier & J.Brooke, The History of Parliament: The House of Commons 1754-1790, 3vols., London, 1964; W.Coxe, Memoirs of the Life and Administration of Sir Robert Walpole, London, 1798; Manuscripts of the Earl of Egmont. Diary of Viscount Percival Afterwards First Earl of Egmont, 3 vols., London, 1920-23.
8. The Manuscripts of the House of Lords, 1690-1691, Historical Manuscripts Commission, London, 1892, pp.283-5.
9. Calendar of State Papers, Colonial Series, America and West Indies, 1700, Historical Manuscripts Commission, London, 1910, p.132. The Board of Trade were assisted by Sir Charles Hedges of the Court of Admiralty, who was also one of the members of Parliament who introduced the bill: Commons Journals, XIII, p.57, 14 Dec. 1699.
10. D.Hay, "Property, Authority and the Criminal Law" in D.Hay et al (eds.), Albion's Fatal Tree: Crime and Society in Eighteenth-Century England, Harmondsworth, 1977, p.20.
11. Commons Journals, XXVI, pp.212, 223, 226, 232, 235, 236, 237, 238, 261, 294 & 296, 8 May to 25 June 1751.
12. Commons Journals, XXII, pp.394, 414 & 424, 27 Feb. to 20 Mar. 1735.
13. Proclamation against the Destruction of Turnpikes, July 1734, see, Gentleman's Magazine, IV, (1734), p.389. Ordinary of Newgate, Account, 26 July 1736; The History and Proceedings of the House of Lords, from the

Restoration in 1660, to the Present Time, London, 1742 (Timberland's Debates), vol. V, pp.136-58, 10 Feb. 1737.

14. See, for example, 6 Geo. I, c.11, Commons Journals, XIX, p.255, 6 Feb. 1720; 23 Geo. III, c.70, ibid, XXXIX, pp.511, 516 & 702, 26 June to 11 July 1783; 25 Geo. III, c.50, ibid, XL, pp.372 & 374, 26 June 1784.

15. For example, Act on the South Sea Company, 6 Geo. I, c.4, Commons Journals, XIX, p.248, 2 Feb. 1720; 6 Geo. I, c.18, ibid, p.356, 4 May 1720.

16. Commons Journals, XIX, p.358, 9 May 1720.

5. Policy and Capital Legislation

1. The History and Proceedings of the House of Lords, from the Restoration in 1660, to the Present Time, London, 1742 (Chandler's Debates), vol. III, pp.4-6. Generally on the coinage crisis see, W.A.Shaw, Calendar of Treasury Books: Introduction to Volumes XI-XVII (1695-1701), London, 1934, pp.cvii-cxxxiv; Sir Albert Feaveryear, The Pound Sterling: A History of English Money, (2nd edn., revised, E.V.Morgan), Oxford, 1963, pp.119-49; P.Vilar, A History of Gold and Money 1450-1920, (trans., J.White), London, 1976, pp.211-21; J.O.Appleby, Economic Thought and Ideology in Seventeenth-Century England, Princeton, 1978, pp.199-241; J.O.Appleby, "Locke, Liberalism and the Natural Law of Money", Past and Present, 71 (1976), pp.43-69. On the public disorder connected with the recoinage: M.Beloff, Public Order and Popular Disturbances 1660-1714, London, 1938, pp.98-106.

2. Calendar of State Papers, Domestic Series of the Reign of William III. 1 January - 31 December, 1697, London, 1927, p.223, 1 July 1697 (although see, p.476, 18 Nov. 1697).

3. Section 6 created a felony.

4. Chandler's Debates, pp.*230-34; Parliamentary History, vol. 7, col.975, 2 Mar. 1722; vol. IX, cols. 1225-67, 15 May 1736; Reasons humbly offer'd by the Grocers of the City of London, against Part of the Bill now depending in the Honourable House of Commons, Entituled, A Bill to prevent the bringing in the Infection, by the Clandestine running of Goods, n.p., [1737]. Generally on customs and excise see, H.Atton & H.H.Holland, The King's Customs, London, 1908; H.Hall, A History of the Custom-Revenue in England, London, 1885; E.E.Hoon, The Organization of the English Customs System 1696-1786, Newton Abbot, 1968; R.Davis, "The Rise of Protection in England, 1689-1786", Economic History Review, 2nd series, XIX (1966), pp.306-17.

5. The campaign had started before the statute was passed,

see, for example, Gentleman's Magazine, XV (1745), p.218. See also, Journals of the House of Commons, XXV, p.101. Generally on the Sussex smugglers see, C.Winslow, "Sussex Smugglers" in D.Hay et al, Albion's Fatal Tree: Crime and Society in Eighteenth-Century England, Harmondsworth, 1977, pp.119-66.

6. Commons Journals, XIX, pp.409-10, 25 Jan. 1721.
7. Ibid, XXV, p.116, 8 Apr. 1746, ibid, p.117, 9 Apr. 1746, ibid, p.156, 15 May 1746, ibid, p.163, 3 Jun. 1746.
8. See, for example, 9 Will. III, c.1, s.2, 5 & 7 (correspondence with James II); 3 & 4 Ann., c.14, s.1-4 (traitorous correspondence); 17 Geo. II, c.39, s.1-2 (correspondence with sons of the Pretender); 20 Geo. II, c.46, s.1-3 (1745 Jacobites). For examples of treason legislation protecting the succession see, 13 & 14 Will. III, c.6, s.15 (compassing the death of Anne of Denmark); 4 & 5 Ann., c.8, s.1, 10 & 16; 6 Ann., c.7, s.10; 5 Geo. III, c.27, s.14 & 21.
9. 22 Geo. II, c.38.
10. Parliamentary History, vol. 7, cols.539-43, 547, 18 Feb. 1718; also, ibid, cols. 932-3, 12 Dec. 1721.
11. E.H.East, A Treatise of the Pleas of the Crown, 2 vols., London, 1803, vol. 1, p.74.
12. Sir M.Hale, Historia Placitorum Coronae: The History of the Pleas of the Crown, 2 vols., London, 1736, pp.143*-146*.
13. Commons Journals, XVIII, p.194, 1 July 1715. The Act was passed on 20 July: ibid, XVIII, p.232, 20 July 1715.
14. E.P.Thompson, Whigs and Hunters: The Origin of the Black Act, Harmondsworth, 1977; L.Radzinowicz, A History of English Criminal Law and its Administration frm 1750, 4 vols., London, 1948-68, vol.I, pp.49-79.
15. T.J.McCann (ed.), The Correspondence of the Dukes of Richmond and Newcastle 1724-1750, Sussex Record Society, vol. 73 (1982-83), Lewes, 1984, letter from Richmond to Newcastle, p.285, 16 July 1749.
16. Journals of the House of Lords, XX, pp.648-52, passim, 11-13 Mar. 1718; ibid, pp.657-8, 19 Mar. 1718; ibid, p.660, 20 Mar. 1718.
17. Generally on anonymous letters see, E.P.Thompson, "Crime of Anonymity" in Hay, Albion's Fatal Tree, pp.255-344.
18. See below.
19. Commons Journals, XXIII, p.572, 7 Jan. 1741; ibid, p.585, 14 Jan. 1741; Royal assent, ibid, p.690, 21 Mar. 1741.
20. Rev.T.Broughton, Serious Advice and warning to Servants, More especially Those of the Nobility and Gentry, (4th edn.), London, 1763, p.10.
21. The literature on riot in the eighteenth century is now quite large, see, for example, G.Rude, The Crowd in History: A Study of Popular Disturbances in France and

England 1730-1848, New York, 1964; E.P.Thompson, "The Moral Economy of the English Crowd in the Eighteenth Century", Past & Present, 50 (1971), pp.76-136; J.H.Bohstedt, Riots and Community Politics in England and Wales 1790-1810, Cambridge, Mass., 1983; J.M.Neeson, "The Opponents of Enclosure in Eighteenth-Century Northamptonshire", Past & Present, 105 (1984), pp.114-39.

22. Commons Journals, XXII, pp.376-7, 383, 386, 388, 419, 424, 428, 431, 448, 12 Apr. to 1 May 1769. Generally on the riots in the 1760s see, W.J.Shelton, English Hunger and Industrial Disorders: A study of social conflict during the first decade of George III's reign, London, 1973; this work has been heavily criticised in P.Linebaugh, "Eighteenth-century disorders", Society for the Study of Labour History, 28 (Spring 1974), pp.57-61. See also, D.E.Williams, English Hunger Riots in 1766, unpublished Ph.D. thesis, University of Wales, 1978; D.E.Williams, "Morals, Markets and the English Crowd in 1766", Past & Present, 104 (1984); D.E.Williams, "Midland Hunger Riots in 1766", Midland History, III (1975-6), pp.256-97; A.J.Randall, "The Gloucestershire Food Riots of 1766", Midland History, X (1985), p.72.

23. Quoted in D.J.V.Jones, Before Rebecca: Popular Protests in Wales 1793-1835, London, 1973, p.215. For a broadsheet ballad which conveyed the same message: [Hannah More], The Riot; Or. Half a Loaf is better than no Bread. In a Dialogue between Jack Anvil and Tom Hod. To the Tune of "A Cobbler there was," &c., London, [1795].

24. E.J.Hobsbawm, "THe Machine Breakers" in Labouring Men: Studies in the History of Labour, London, 1968, pp.5-22.

25. Commons Journals, XXIX, p.785, 3 Feb. 1764; also, ibid, p.752, 26 Jan. 1764. A few years later further measures were taken to improve the monopoly of the Company in the statute 7 Geo. III, c.43 which restricted imports of cambrick, and which, inevitably, included a capital offence for forgery of duty stamps: s.18.

26. Naimer, Commons, p.473.

27. See also, 52 Geo. III, c.16 and 57 Geo. III, c.126 (Luddism), but see 28 Geo. III, c.55 and Parliamentary History, vol. 27, cols. 391-5.

28. 3 & 4 Will. & Mar., c.9, s.1; 10 & 11 Will. III, c.23, s.1; 22 Car. II, c.5, s.5; 18 Geo. II, c.27, s.1; 4 Geo. III, c.37, s.15.

29. This bill did have an unusual passage, but the evidence of the controversy indicates that it was aimed at extending the Black Act rather than restricting it. It originated in the Committee on Expiring Laws and was referred to a select committee. This was later discharged and the bill went to a committee of the

whole house where a series of additional clauses were added: first, a clause on deer stealing was added; then later what became s.5; and, finally, a clause for extending the s.2 of the Black Act to allow the government to proclaim people suspected of cutting river banks, hop binds and arson of coal mines. The sitting of the committee was delayed eight times - an unusual number in a bill which is eventually enacted. Finally, at the report stage a further clause was added on killing birds: Commons Journals, XXII, pp.777-8, 821, 872, 877, 895, 7 Mar. 1737 to 6 June 1737. By contrast a year later a further piece of legislation appeared, 13 Geo. II, c.21, which sought to tackle the problem of high coal prices. The blame had, in part, been laid at the door of owners who flooded neighbouring mines in order to increase the price of their own coal. The solution adopted in this case was not a capital offence, but to allow the injured owner to sue for treble damages (s.1): petition from Derby referred to a committee, Commons Journals, XXIII, p.429, 25 Jan. 1740; see also, ibid, pp.454-5, 12 Feb. 1740; ibid, p.485, 4 Mar. 1740.

30. Whitehall Evening Post, 768, 12 Jan. 1751.
31. Commons Journals, XXVI, p.67, 27 Feb. 1751 & passim. Second bill: petition at ibid, p.339, 9 Jan. 1752; committee report at ibid, pp.364-5, 15 Jan. 1752.
32. See, for example, 12 Ann., stat.2, c.18; 26 Geo. II, c.19.
33. 5 Geo. III, c.25, s.18; 7 Geo. III, c.50, s.2.
34. Commons Journals, XXII, pp.568-71, 16 Feb. 1736, quote at p.570.
35. For example see, London Evening Post, 3586, 16 Oct. 1750; ibid, 3627, 19 Jan. 1751; ibid, 3655, 26 Mar. 1751; ibid, 3659, 4 Apr. 1751; ibid, 3663, 13 Apr. 1751; ibid, 3718, 20 Aug. 1751; Philopatriae, Observations on the Buyers or Receivers of Stolen Goods, Particularly of Lead, Iron, &c. taken from Buildings, London, 1751, p.32.
36. London Evening Post, 3659, 4 Apr. 1751.
37. R. v. Waite (1743) 2 Leach 28, 2 East P.C. 570; R. v. Joseph Bazeley (1799) 2 Leach 835; R. v. Benjamin Walsh (1812) 2 Leach 1054.

6. Judges, Jurors, Textbooks and the Science of Law

1. [M.Foster], A Report of Some Proceedings on the Commission of Oyer and Terminer and Goal Delivery for the Trial of the Rebels in the Year 1746 in the County of Surry, and of other Crown Cases. To which are added Discourses upon a Few Branches of the Crown Law, Oxford, 1762, p.299.

2. Ibid, pp.299-300.
3. State Trials, XXI, col. 847. See also, [J.Hawles, The Grand-Jury-Man's Oath and Office Explained, and the Rights of English-Men Asserted. A Dialogue between a barrister at Law, and a Grand-Jury-Man, London, 1680, pp.13-14; [J.Hawles], The English-mans Right. A Dialogue between A Barrister at Law, and a Jury-Man, London, 1680, p.10 et seq..
4. Ibid, col. 923.
5. Ibid, col. 924.
6. Ibid.
7. Ibid, cols. 1039-40.
8. Ibid, col. 1040.
9. See, for instance, The Trial of Timothy Murphy, At the Sessions-House in the Old Bailey, for Felony and Forgery, On Saturday, January 13, 1753, London, 1753.
10. See this chapter, section 7.
11. pp.i-ii.
12. Ibid, p.294, and, generally, pp.293-5.
13. Ibid, title-page.
14. William Hawkins, A Treatise of the Pleas of the Crown: or a System of the Principal Matters relating to that Subject, digested under their proper Heads, 2 vos., London, 1716-21. For other practical texts see, Sir John Tremaine, Placita Coronae: or Pleas of the Crown, in Matters Criminal and Civil. Containing A Large Collection of Modern Precedents, (ed. J.Rice), London, 1728; W.Stubbs & G.Talmash, The Crown Circuit Companion. Containing The Practice of the Assizes on the Crown Side; with the Courts of the General and General Quarter Sessions of the Peace, London, 1738.
15. For instance, Spelman's reports circulated in manuscript and were well known. Indeed textbook writers had always used these sources to a limited extent, see, Hawkins, Pleas of the Crown, passim. See generally, J.H.Baker, The Reports of John Spelman, 2 vols., London, 1978, vol. II, pp.164-8.
16. preface.

7. The Judicial Interpretation of Capital Statutes

1. Sir L.Hatton, A Treatise Concerning Statutes, or Acts of Parliament; And the Exposition thereof, London, 1677, pp.73 & 76-80.
2. L.Radzinowicz, A History of the English Criminal Law and its Administration since 1750, 4 vols., London, 1948-68, vol. I, pp.85-6, quote at p.85.
3. J.Hall, Theft, Law and Society, (2nd ed.), Indianapolis, 1952, p.118, and generally pp.118-26.
4. R. v. Charles Peace, 1 Leach 527.

5. Cas. T. Hard. 291-2; also reported in, [John Gore, Baron Annaly], Cases Argued and Adjudged in the Court of King's Bench, at Westminster, In the 7th, 8th, 9th, and 10th Years of the Reign of his Late Majesty, King George the Second, London, 1770, pp.291-2.
6. 1 Leach 66n.; Foster, Crown Cases (1792 edn.), pp.415-30
7. The cases on this are: R. v. Barnes and others, 1 Leach 7, which was on 5 Eliz., c.4 (privately stealing from the person); and after Sims, also on 5 Eliz., c.4, was R. v. Mary and Bridget Rose, 1 Leach 266, in which Baron Eyre reasoned that the statute did not include principals in the second degree because privately stealing "depends almost generally upon a nice species of dexterity which does not require the assistance of a second person to perform".
8. Quoted in Radzinowicz, History of English Criminal Law, vol. I, p.54n.
9. The Coalheavers' case, 1 Leach 64.
10. 4 Burr. 2075.
11. Ibid, pp.2076-7, quote at p.2077.
12. Ibid, p.2082. See also, R. v. Hodnett, 1 T.R. 96, per Buller, J.
13. Radzinowicz, History of English Criminal Law, vol. I, p.72.
14. Hall quotes from the 1792 edition: Hall, Theft, Law and Society, p.120.
15. R. v. Hodnett, 1 T.R. 96.
16. E.H.East, Pleas of the Crown, 2 vols, London 1803, vol. II, pp.1067-8.

CHAPTER 10: SELECTING FOR THE GALLOWS

1. E.Burke, "Letters and Reflections on the Execution of the Rioters in 1780" in E.Burke, The Works of the Right Honourable Edmund Burke, 12 vols., London, 1899, vol. VI, pp.239-53, at p.247.
2. P.Colquhoun, A Treatise on the police of the Metropolisl containing a detail of the Various Crimes and Misdemeanours By which Public and private property and Security are, at present, injured and endangered; and Suggested Remedies for their Prevention (7th edn.), London, 1806, p.6.
3. W.Blackstone, Commentaries on the Laws of England, (12th edn.), 4 vols., London, 1795, vol. IV, p.12.
4. Calendar of Home Office Papers of the Reign of George III, London, vol. IV, item 39, 1 Feb. 1774.
5. Select Committee on Gaols, (575), 1819, vol.VII, p.1, at p.284.
6. A short Narrative of the Behaviour, &c. of John Barry, while under Sentence of Death, who was executed May 16th, 1746..., n.p., [1746?]; The Trials of the Sussex Smugglers, and the Other Prisoners, at the Assizes held at East-Grinsted... March, 1748-9..., London, 1749. On time and cost see, O.B.S.P., 1 Dec. 1803, p.12. See generally, D.Hay, Crime, Authority and the Criminal Law: Staffordshire 1750-1800, unpublished Ph.D. thesis, University of Warwick, 1975, pp.347-52 & 430-1; J.M.Beattie, "Judicial Records and the Measurement of Crime in Eighteenth-Century England" in L.A.Knafla (ed.), Crime and Criminal Justice in Europe and Canada, Waterloo, Ontario, 1981, pp.127-45, at pp.130-1.
7. See, for example, E.Crittall (ed.), The Justicing Notebook of William Hunt 1744-1749, Wiltshire Record Society, vol. XXXVII (1981), item 497, p.73, 21 May 1748. On Wild: G.Howson, The Thief-Taker General: The Rise and Fall of Jonathan Wild, London, 1970.
8. Composition was illegal (Blackstone, Commentaries, vol. IV, p.133), nevertheless it was common and offers from victims of crime were a major source of income for newspaper proprietors in the early eighteenth century. When Moll Flanders stole a horse, she considered waiting until it was advertised for, but decided the risk was too great: [D.Defoe], The Fortunes and Misfortunes Of the Famous Moll Flanders, (3rd edn.), London, 1722, p.68. There was constant criticism of this practice, which was believed to encourage crime: [D.Defoe], Proposals to Suppress Robberies all over England. Humbly Submitted to the Consideration of the Legislature, [London, 1728]; H.Fielding, "An Inquiry into the Causes of the Late Increase of Robbers, &c. with some proposals

for remedying the growing evil..." in The Works of Henry Fielding, complete in one volume, London, 1845, pp.778-80; Colquhoun, Treatise on the Police of the Metropolis, p.9.

9. See this thesis, below.
10. C.Emsley, Crime and Society in England 1750-1900, London, 1987, chapter 7.
11. See below. Contra, Beattie, "trial jurors had... long ceased to be self-informing", Crime and the Courts in England 1660-1800, Oxford, 1986, p.440.
12. M.Dalton, The Countrey Justice, containing the practise of the Justices of the Peace out of their Sessions, London, 1619, p.275.
13. See, for example, O.B.S.P., 22 Feb. 1693/4, p.3; ibid, 14 Jan. 1701, p.4.
14. O.B.S.P., 9 Jan. 1772, p.65; ibid, 7 Dec. 1757, p.13.
15. The Trial Of the Notorious Highwayman Richard Turpin, at York Assizes, on the 22d Day of March, 1739..., (4th edn.), York & London, 1739, p.17, see also, p.20.
16. W.Owen, The Birth, Life, Educaton and Transactions of Captn. William Owen the noted Smuggler Who was executed... the 2nd. Day of May 1747..., (1747), NLW Ms 21834B, fo.122-3. Owen tried to give his own character evidence, fo.150-1.
17. [Rev.L.Howard], A True and Impartial Account of the Behaviour, Confession, and Dying Words of the four Malefactors, Who were exected at Kennington-Common, on Friday, September 6, 1751..., London, [1751], p.6.
18. O.B.S.P., 9 Jan. 1772, p.75.
19. Memoirs of Mr. James B-----d, Late Officer to the Sheriff of Middlesex..., London, 1772, p54.
20. O.B.S.P., 28 June 1758, Part II, p.249.
21. The Trials of the Sussex Smugglers... at the Assizes held at East-Grinsted... the 13th, 14th, 15th, and 16th of March, 1748-9..., London, 1749, pp.8 & 14, see also, p.11.
22. O.B.S.P., 14 Jan. 1732, at pp.34-41, p.40.
23. An Authentic Trial of William Spiggot... on Wednesday, the 28th of March, 1770, at Hereford..., Hereford & London, 1770, p28.
24. Judges Notes, Great Sessions of Wales, Carmarthen Circuit, NLW Add. Mss. 193-210. In the notebooks the judge has underlined certain parts of the evidence, undoubtedly so that he can go through what he regarded as the most important parts of the case during the summing-up to the jury, and consistently matters relating to character are underlined: for instance, William Atkin, who had been accused of stealing a silver cup and had brought witnesses who gave him a good character, but that he underwent a personality change when drunk, the judge noted in the margin at the end of

the case: "Description of cup Drunkeness Madness Identity of Cup Character": Carmarthen Notebooks, NLW Add. Mss. 196. In this way the notebooks provide a valuable insight into the judicial mind.

25. Surrey Assize Proceedings, Summer 1738, p.8; see Beattie, Crime and the Courts in England, p.449.
26. O.B.S.P., 16 Jan. 1730, pp.17-21; ibid, 7 Dec. 1757, pp.16-18.
27. Quoted in D.J.V.Jones, Before Rebecca: Popular Protests in Wales 1793-1835, London, 1973, p.218.
28. O.B.S.P., 13 Sept. 1758, Part II, p.289.
29. Ibid, 9 Jan. 1772, Part II, p.104.
30. Carmarthen Notebooks, NLW Add. Mss. 193D, p.65, R. v. Thomas Harry; ibid, 202D, p.42.
31. O.B.S.P., 3 Dec. 1729, pp.23-4.
32. Ibid, 28 Feb. 1697, p.4.
33. Ibid, 14 Jan. 1697, pp.4-5.
34. Ibid, 22 Feb. 1693/4, p.3.
35. Ibid, 25 Feb. 1730, p.15.
36. Carmarthen Notebooks, NLW Add. Mss. 196D, R. v. Wm. Atkins.
37. O.B.S.P., 1 July 1730, pp.14-16.
38. Carmarthen Notebooks, NLW Add. Mss. 210, p.47, R. v. Margaret Francis.
39. O.B.S.P., 9 Oct. 1689, p.2; ibid, pp.3-4.
40. Ibid, 14 Jan. 1697, p.5.
41. Ibid, 6 Dec. 1693. The other charge is reported in, ibid, 15 Jan. 1691.
42. The Life of Nicolas Mooney... (2nd edn.), Bristol, [1752], p.32. Mooney had been convicted of street robbery at the Old Bailey and reprieved in 1749: Gentleman's Magazine, XIX, (1749), p.139.
43. Under s.7 of 3 Will. & Mar., c.9, court clerks were required to give a certificate that a convict had been allowed the benefit of clergy if requested to do so by a prosecutor in a later case. See also the Disorderly Houses Act, 1752 (25 Geo. II, c.36).
44. Calendar of Home Office Papers, vol. IV, item 39, at p.11.
45. O.B.S.P., 12 Sept. 1804, pp.383-4.
46. D.Defoe, Moll Flanders, London, 1965, pp.273-4. For other references to the way "old offenders" could expect to be treated by the courts see, ibid, pp.195, 210-1 & 261. On Stacey see, O.B.S.P., 15 Jan. 1691, p.4.
47. Ibid, 9 Oct. 1689, p.1.
48. Ibid, 13 Jan. 1758, Part II, pp.75-9, at p.78.
49. Ibid, 9 Oct. 1689, p.2. See also, ibid, 15 Jan. 1690, pp.2 & 1.
50. Ibid, 15 Jan. 1691, p.4; ibid, pp.4-5.
51. Ibid, 1 July 1730, pp.8-9.
52. Ibid, 13 Oct. 1731, pp.13-14, at p.14. See also, ibid, 6

Sept. 1732, pp.189-91; ibid, pp.193-4; ibid, pp.217-9.

53. The Trials of the Sussex Smugglers... at the Assizes held at East-Grinsted... the 13th, 14th, 15th, and 16th of March, 1748-9..., London, 1749, p.13. The corroboration evidence was very weak: Mr. & Mrs. Wickens owned an alehouse to which Dixon, Brown and two others had come at 10 p.m. on the night of the robbery, and Mrs. Wickens saw them dividing some money.

54. O.B.S.P., 28 Aug. 1730, pp.17-19. The problems of the Willis family did not end there, in 1735 Elizabeth Walker was imprisoned for a conspiracy to indict Robert and Michael Willis for robbery: O.B.S.P., 10 Dec. 1735, p.38. Similarly, Jeremiah Johnson and James Goss were tried in 1732 for housebreaking; since they had entered under a commission of bankruptcy, they were acquitted and granted a copy of the indictment so that they could prosecute for perjury: O.B.S.P., 6 Sept. 1732, p.194.

55. O.B.S.P., 7 Dec. 1757, Part I, p.20 to Part II, p.22, at Part II, p.22.

56. Ibid, 21 Apr. 1773, pp.188-91.

57. Carmarthen Notebooks, NLW Add. Mss. 205, R. v. William Beynon, at p.60.

58. O.B.S.P., 28 June 1758, pp.225-6, at p.226.

59. Owen, The Birth, Life, Educaton and Transactions of Captn. William Owen the noted Smuggler, fo.152-3.

60. Fielding, "An Inquiry", p.789.

61. The Genuine Life of William Cox, Who is now under Sentence of Death, in Newgate..., London, 1773, pp.22-3.

62. The Life of Patrick Madan; Exhibiting a Series of the most extraordinary Transactions..., London, [1781], pp.33-4.

63. Authentick Memoirs of the Life, Numerous Adventures, and Remarkable Escapes, of the Celebrated Patrick Madan..., London, [1782], p.32.

64. The Genuine Trial of Margery Beddingfield and Richard Ringe... at Bury St. Edmunds..., London, 1763.

65. T.Purland, Alsasian Eccentricities, 1700-1780, 2 vols. of newspaper cuttings in the British Library, item 2435, dated 1782. See also, the case of Francis Brightwell in Daily Post, 1532, 24 Aug. 1724.

66. O.B.S.P. 25 Feb. 1730, p.8. See similarly, ibid, 16 Jan. 1730, p.11; ibid, 4 Dec. 1730, p.8; ibid, 6 June 1698, pp.1-2.

67. The Trials of the Sussex Smugglers... at the Assizes held at East-Grinsted... the 13th, 14th, 15th, and 16th of March, 1748-9..., London, 1749, p.15.

68. A.Knapp & W.Baldwin, The New Newgate Calendar; being Interesting Memoirs of Notorious Characters..., 4 vols., London, [1809], vol. V, p.240.

69. Carmarthen Notebooks, NLW Add. Mss. 193.

70. See below.

71. O.B.S.P. 27 Feb. 1683/4, p.2.
72. Ibid, 14 Jan. 1697, p.5. Although the Transportation Act, 1718, meant that a conviction for petty larceny could, at the court's discretion, mean transportation for seven years, this verdict still appears to have been used as a means of avoiding a capital conviction and of registering a degree of sympathy. For other cases see, O.B.S.P., 15 Jan. 1691, p.3; ibid, 22 Feb. 1693/4, p.3; ibid, 9 Jan. 1772, pp.68-9; ibid, 12 Jan. 1803, p.118; ibid, 1 Dec. 1803, pp.18-19.
73. See, for example, O.B.S.P., 14 Feb. 1803, pp.213-4; ibid, 25 Feb. 1730, pp.2-3; ibid, 16 Feb. 1803, pp.181-4; ibid, 1 Dec. 1802, pp.25-7.
74. See, P.R.O. files, SP 35 & 36.
75. NLW Mss. Iolo Morganwg 905, 897 & 898, September to October 1813. See also, NLW Mss., Glansevern 14232, unsigned letter to "My Dearest Mary" (early nineteenth century?).
76. For a tabulation of the factors raised in petitions see generally, P.King, "Decision-makers and Decision-making in the English Criminal Law", The Historical Journal, 27, 1, (1984), pp.25-58.
77. Authentick Memoirs of the Life, Numerous Adventures, and Remarkable Escapes, of the Celebrated Patrick Madan, p.32.
78. O.B.S.P., Feb. 1743, p.115, quoted in, J.H.Langbein, "The Criminal Trial before the Lawyers", University of Chicago Law Review, 45, 2, (Winter 1978), p.278. Similarly, Thomas Nevil pleaded guilty "nor could he be persuaded to do otherwise, his reason was, because he knew it would be proved against him, and that he had no hopes of Life, &c.": O.B.S.P., 26 April 1680, p.3.
79. The Malefactors Register; or, The Newgate and Tyburn Calendar, 5 vols., London, [1779], vol. III, p.161.
80. W.Paley, "Moral and Political Philosophy" in The Works of William Paley, D.D. Archdeacon of Carlisle. With a Life of the Author, In One Volume, London, 1833, pp.163-4.
81. An authentick Account of the Life of Paul Wells, Gent., who was Eexecuted [sic.] at Oxford, Sept. 1, 1749 for Forgery..., (2nd edn.), London, 1749, p.16.
82. Observations on the Trial of Mr. Robt. Perreau..., London, 1775, pp.38-9. This view was confirmed by an author who approved of the hanging because "forgers abound more than ever": The True Genuine Lives, and Trials, &c. of the Two Unfortunate Brothers, Robert and Daniel Perreau..., London, [1775], p.4.
83. Rev. Thomas Maxfield, A Short and Authentic Account of the Particular Circumstances of the last twenty-four hours of the Life and Death of William Davies..., London, 1776, pp.18-19.

84. Knapp & Baldwin, New Newgate Calendar, vol. III, p.391.
85. Lord Campbell, The Lives of the Chief Justices of England, (2nd edn.), London, 1849, vol. III, p.320.
86. See this thesis, Appendix.
87. Campbell, Lives of Chief Justices, vol. II, pp.443-4, quote at p.444. See also, Tyburn's Worthies, or, the Robberies and Enterprizes of John Hawkins, and George Simpson..., London, [1722], p.32; Paley, "Moral and Political Philosophy", pp.163-4.
88. The Trial of Thomas Jackson, for Robbing the Mail, Between Stoke and Brandon, on the 8th day of January 1790..., n.p., 1790, p.16. See also, The Trial of William Lewin alias William Henry Clarke... On Monday the 18th of April, 1791..., London, [1791], p.14.
89. Ordinary of Newgate, Account, 20-22 Dec. 1738, p.20.
90. Rev. J.Villette, A Genuine Account of the Behaviour, Confession, and Dying-Words of William Hawke and William Jones, Who were Executed at Tyburn on the 1st of July, 1774, London, [1774], p.19.
91. Knapp & Baldwin, New Newgate Calendar, vol. I, pp.82-3; Ordinary of Newgate, Account, 17 Mar. 1709/10.

CHAPTER 11: THE CRIMINAL JUSTICE SYSTEM AS PUBLIC SPECTACLE

1. The Public Ritual of the Criminal Justice System

1. J.Boswell, Boswell's Life of Johnson, 2 vols., London, 1931, vol. II, p.473.
2. D.Defoe, A Hymn To Tyburn. Being a Sequel of the Hymn to the Pillory, London, 1703.
3. Only once a year in the Northern Circuit.
4. Daily Post, 1519, 8 August 1724.
5. M.Cottu, On the Administration of Criminal Justice in England, and the Spirit of the English Government, London, 1822, pp.103-4.
6. Daily Journal, 1113, 14 Aug. 1724.
7. Judge's Notebooks for the Court of Great Sessions held at Carmarthen, NLW Add. Mss. 193, inside back cover; see also, Add. Mss. 194, 198, 199, 204.
8. W.Owen, The Birth, Life, Education and Transactions of Captn. William Owen... [1747], unpublished manuscript, NLW, Mss 21834B, pp.157-8.
9. Genuine and Impartial Memoirs of Francis Fonton... London, 1790, p.43. Outside London the preaching of the condemned sermon was equally a spectacle which drew in spectators and many were published: for example, G. de Gols, Consolations against the Fears of Death. A Sermon Preach'd on Sunday, Nov. 4. 1711... London, 1711; W.Tutty, The Want of Religious Education, and keeping bad Company, destructive to virtuous Principles. A Sermon Preach'd the 20th of March, At Hereford, The Sunday before the Execution of the two Convicts viz. Thomas Bibby..., London, 1747; Rev.J.Parker, A Sermon Preached in St. Margaret's Church, York, On Sunday, September 7, 1783..., York, [1783].
10. A.G.Ralston, "The Tron Riot of 1812", History Today, vol. 30, 5 (1980), pp.41-5, at p.44.
11. The Genuine Life, Trial, and Dying Words of the Rev. James Hackman... London, [1779], pp.18-20; J.W.Reed & F.A.Pottle (eds.), Boswell Lord of Auchinleck, 1778-1782, London, 1977, pp.93-5. For details of the procession to Wapping Execution Dock see, The Trial, Execution, &c. &c. of J.Bruce, For Murdering a Boy in a boat, off Milford Haven... London, n.d.
12. [Rev. W.Wilson], A Genuine Account of the Behaviour, Confessions, and Dying Words, of the Malefactors... at Kennington-Common, On Thursday the 25th of August, 1743... London, [1743], pp.4, 19-20. See similarly, T.Purland, Alsasian Eccentricities 1700-1782, 2 vols. of newspaper cuttings (British Library), item 1879, 4 Sept. 1775; [Rev. W.Wilson], The Solemn Declaration of Richard Coleman... London, [1749], p.12. At Bristol: The Life of

Nicolas Mooney... (2nd edn.), Bristol, [1752], p.48. At Chelmsford: The Life of Thomas Munn, Alias, The Gentleman Brick-maker... London, 1750, p.21. At Oxford: The Authentic Trial, and Memoirs of Issac Darkin, alias Dumas... Oxford & London, [1761?], p.28. For military executions which took place in Hyde Park near Tyburn see, Ordinary of Newgate, Account, 19 Jan. 1742/3, pp.13-4.

13. Ordinary of Newgate, Account, 10 Mar. 1740, p.17.
14. An Account of the Execution of the late Laurence Earl Ferrers... London, 1760, pp.6-8.
15. Ordinary of Newgate, Account, 10 Mar. 1735, part I, p.16; Account, 7 May 1742, p.9; Calendar of Home Office Papers, 4 vols., London, vol. II, 959, p.366, 25 July 1768.
16. Purland, Alsasian Eccentricities, item 1947, Dec. 1777.
17. Ordinary of Newgate, Account, 3 Mar. 1708, p.8; Memoirs Of the Right Villainous John Hall... (4th edn.), London, 1714, p.6; A Genuine Account of the Behaviour, Confessions, and Dying Words, of the Six Malefactors... at Guildford... the 13th Day of April, 1742, London, [1742], p.12.; A True Copy of the Papers wrote by James Maben... Newcastle, 1744, p.15; The Remarkable Confession, and Last Dying Words of Thomas Colley... London, 1751; Trial at Large, Behaviour and Dying Declaration, of Mary Edmonson... London, [1759], pp.15-16; A Genuine Narrative of the Trial and Condemnation of Mary Edmondson... London, 1759, p.20. Richard Morris requested the last two stanzas of Psalm 39: Ordinary of Newgate, Account, 28 Jan. 1701. The condemned were often reported to have prayed, sung or read religious books during the procession: A Genuine Account of the Life and Actions of William Cannicott... London, 1756, p.11; Genuine Memoirs of the Lives of George and Joseph Weston... London, [1782], p.78; Rev. Thomas Maxfield, A Short and Authentic Account of the Particular Circumstances of the last twenty-four hours of the Life and Death of William Davies... London, 1776, pp.12-14.
18. A Genuine Account of the Life, Robberies, Trial, and Execution of William Cox... London, 1773, p.28. But see, Whitehall Evening Post, 1258 [1298], 8 Jun. 1754; Genuine Memoirs of the Lives of George and Joseph Weston, p.78. For York see, Trial of The Notorious Highwayman Richard Turpin, York & London, 1739, p.21. For Kennington Common in 1739 see, A Genuine Account of the Lives, Characters... of the Six Malefactors... at Kennington-Common, on Friday the Fourteenth of September, 1739, London, 1739, p.19. For Guildford in 1742 see, A Genuine Account of the Behaviour, Confessions... at Guildford... the 13th Day of April, 1742, p.12.

19. Rev.J.Guthrie, A Sermon Preach'd in the Chapel of Newgate, Upon the particular Desire of Robert Hallam, Under Sentence of Death, for the Murder of his Wife Jane, Then being Big with Child, Upon Sunday, the 6th of February, 1732, London, [1732]
20. Ordinary of Newgate, Account, 23 Dec. 1712. See similarly, Ordinary of Newgate, Account, 3 Aug. 1698; Account, 14 Aug. 1741, p.4; A Genuine Account of the Behaviour, Confessions, and Dying Words of the Six Malefactors... at Guildford... the 13th Day of April, 1742, p.12; A True and Genuine Account of the Life, Trial and Execution of James Bolland... London, 1772, p.24.
21. A Compassionate Address to Prisoners for Crimes; And more particularly to such of them as are under Sentence of death, London, 1742, p.82.
22. A Compleat Collection of Remarkable Trials of the Most Notorious Malefactors, at the Sessions-House in the Old Baily, for near Fifty years past, 4 vols., London, 1718, vol. I, p.59. See similarly, Ordinary of Newgate, Account, 28 Jan. 1701; Maxfield, A Short and Authentic Account of... William Davies, pp.15-17. More often a brief note was recorded: "He behaved very penitent, own'd the Fact, and the Justice of his Sentence, advised the Spectators to take warning by him, and after spending some time in Prayer, called on God to have Mercy on him, was then turned off": The Life of Benjamin Barker... London, 1750, p.16. In 1723 Thomas Athoe the younger stood on the gallows for murder and "shew'd the Spectators, by pointing to his own Neck in what manner he throttled him." A Full, True and Particular Account of... Thomas Athoe... London, 1723, p.12.
23. Ordinary of Newgate, Account, 31 Jan. 1712/13, p.4.
24. E.H.East, A Treatise of the Pleas of the Crown, 2 vols., London, 1803, vol. I, pp.336-8. There were certain procedural advantages in being indicted for petit treason rather than murder: Sir Matthew Hale, Historia Placitorum Coronae: The History of the Pleas of the Crown, 2 vols., London, 1736, vo. I, p.378; I Edward VI, c.11, s.22; 5 & 6 Edward VI, c.11, s.12; East, Pleas of the Crown, vol. I, p.336; W.Blackstone, Commentaries on the Law of England, 4 vols., London, 1795, vol. IV, p.203.
25. See, Gentleman's Magazine, XVIII (1747), p.488; ibid, III (1733), p.661.
26. The Malefactors Register; or, The Newgate and Tyburn Calendar, 5 vols., London, [1779?], vol. II, pp.124-5. See similarly, R.Campbell, "Sentence of Death by Burning for Women", Journal of Legal History, 5, 1 (May 1984), pp.44-59.
27. Ordinary of Newgate, Account, 14 Aug. 1741, pp.3-4;

also, Gentleman's Magazine, XI (1741), pp.441 & 498. See similarly, Gentleman's Magazine, I (1731), pp.266 & 352, John Naden; XVI (1746), pp.218 & 220, Matthew Henderson; XX (1752), pp.121-4, John Swan (also, The Authentick Tryals of John Swan and Elizabeth Jeffryes... London, 1752, pp.68-74).

28. A.Knapp & W.Baldwin, The New Newgate Calendar, being Interesting Memoirs of Notorious Characters, Who have been convicted of outrages on the Laws of England, London, [1809], vol. I, p.15.
29. Gentleman's Magazine, I (1731), p.141, William Williams.
30. Ibid, XVII (1747), p.486, John Vicars; XXII (1752), p.188, John Grace and John Davy.
31. Knapp & Baldwin, New Newgate Calendar, vol. I, pp.12-13, Michael van Berghan and Dromelius. Also used for brutal robberies not involving murder: Gentleman's Magazine, V (1735), p.638, William Blackwell (but not used in similar circumstances for Samuel Gregory, V (1735), p.274). Used for house robbers who worked in gangs: IV (1734), p.702; V, (1735), p.498, Joseph Emmerson and John James, alias Black Jake (but three other gang members not hanged in chains: V (1735), p.161.
32. Ibid, XXIII (1753), pp.293. 341 & 342, John Stockdale & Christopher Johnson.
33. Calendar of Home Office Papers, vol. III, 100, p29, 5 & 9 Apr. 1770. For other mail robbers who were hanged in chains: The Whole Life and History of Benjamin Child, Lately Executed for Robbing the Bristol Mail, London, 1722, p.29; Gentleman's Magazine I (1731), p.121, Thomas Mann; XVIII (1748), p.234, Thomas Bibby; XX (1750), p.234, Munns Hall and Gabriel Tompkins; Knapp & Baldwin, New Newgate Calendar, vol. II, pp.45-6, William Creak; The Trial of William Lewin alias William Henry Clarke... Chester, [1791].
34. Gentleman's Magazine, XVII (1747), pp.293 & 342; XVIII (1748), p.186; XIX (1749), pp.42, 185, 329 & 377; The Malefactor's Register, vol. II, pp.216-22; Knapp & Baldwin, New Newgate Calendar, vol. II, p.260. For smuggling in Sussex during this period and the reaction of the authorities see, C.Winslow, "Sussex Smugglers" in D.Hay et al, Albion's Fatal Tree: Crime and Society in Eighteenth-Century England, Harmondsworth, 1977, pp.119-167.
35. Ordinary of Newgate, Account, 18 Nov. 1742, Thomas Holman, hanged at the end of Fetter Lane, Holborn for a murder committed near there. For similar remarks see: Daily Post, 1642, 20 Dec. 1724; Daily Journal, 1232, 31 Dec. 1724, Charles Tower, a "New Minter" hanged at Wapping near to the New Mint.
36. Whitehall Evening Post, 1454, 30 Aug. 1755.
37. The Trial, Execution, &c. &c. of J. Bruce.

38. A True Account of... John Hutchins... London, 1684.
39. Knapp & Baldwin, New Newgate Calendar, vol. I, p.15; also, vol. I, p.57.
40. Ibid, vol. I, p.66.
41. Ibid, vol. I, p.58.
42. Ordinary of Newgate, Account, 1 Aug. 1712, p.5.
43. The Life of Theodore Gardelle... London, 1761, p.22.
44. Purland, Alsasian Eccentricities, item 2203, 6 Dec. 1777.
45. Ordinary of Newgate, Account, 22 Dec. 1690. Ann Yates was also condemned for the arson, but not apparently hanged: OBSP, 10-17 Dec. 1690, p.3. For other examples, see, An Account of the Condemnation... of Captain Francis Winter, London, 1693; Ordinary of Newgate, Account, 22 Sept. 1704, Thomas Sharp; Daily Post, 1623, 8 Dec. 1724; Daily Journal, 1280, 3 Dec. 1724, 1212, 8 Dec. 1724; Whitehall Evening Post, 757, 14 Mar. 1748, 760, 25 Mar. 1748.
46. A true history of the base and unnatural murther of a man by his own son near Uppingham, n.p., 1709, p.6.
47. Purland, Alsasian Eccentricities, item 2203, 6 Dec. 1777.
48. An authentic Account of the Trials... of the Five Malefactors, Who were Executed at Kennington-Common, on Monday the 23d of April, 1770, London, [1770], pp.7-8.
49. The Remarkable Confession, and Last Dying Words of Thomas Colley, pp.5 & 9.
50. Knapp & Baldwin, New Newgate Calendar, vol. I, pp.58, vol. II, pp.45 & 429; Purland, Alsasian Eccentricities, item 113, 13 Aug. 1730; Gentleman's Magazine, I (1731), p.121. On occasions both the hanging and gibbeting took place at the site of the crime: London Evening Post, 4273, 1 Apr. 1755.
51. The Genuine and Authentic Account of the Murder of Daniel Clarke... York, [1759]. See similarly, Gentleman's Magazine, IV (1734), p.450, Jacob Davies.
52. The Authentic Tryals of John Swan and Elizabeth Jeffryes, pp.73-4. Similar objections came from the local gentry about the gibbeting of Thomas Colley: Gentleman's Magazine, XXI (1751), p.378. See similarly, Purland, Alsasian Eccentricities, item 1274, 27 July 1772.
53. BM Add. Mss. 35,585, fo. 303, 27 Aug. 1735.
54. The Authentic Tryals of John Swan and Elizabeth Jeffryes, p.73. For an unexplained reason the hanging in fact took place elsewhere.
55. The Trial of Thomas Smith, and John Kennedy, for A Highway Robbery... Uxbridge, 1787, pp.22-3. For other such requests by grand juries see, London Evening Post, 1367, 21 Aug. 1736; ibid, 1373, 4 Sept. 1736; ibid, 3499, 29 Mar. 1750;

56. The Trial of William Lewin alias William Henry Clarke, p.24.
57. Knapp & Baldwin, vol. II, p.260. See similarly, Gentleman's Magazine, XIX (1749), p.42. This was part of a broader campaign organised by the Duke of Richmond against the smugglers, hence the place where smuggling occurred was chosen rather than the place of the murder.

2. "a prodigious Concourse of People"

1. An Account of John Rann... London, [1774], p.20.
2. A Genuine Account of the Life and Actions of James Maclean... London, [1750], pp.22-3.
3. The Genuine History of the Life of Richard Turpin... London, 1739, p.32; A Genuine Account of the Life and Actions of James Maclean, p.23. See similarly, J.Woodforde, The Diary of a Country Parson 1758-1802, Oxford, 1978, p.6; [Rev. Bannister], A Genuine Account of the Behaviour... of the Six Malefactors... Executed at Guildford... 13th Day of April, 1742, London, [1742], p.9.
4. An authentic Account of the Trials... of the Five Malefactors, who were executed at Kennington-Common, on Monday the 23d of April, 1770... London, [1770], p.6.
5. J.Samaha, Law and Order in Historical Perspective: The Case of Elizabethan Essex, London, 1974, p.45.
6. Daily Journal, 1189, 11 Nov. 1724.
7. Woodforde, Diary of a Country Parson, p.6.
8. Whitehall Evening Post, 460, 21 Jan. 1749. A similarly large number of the aristocracy and gentry, amongst them the Duke of Richmond, who led the campaign against the Sussex smugglers, and Henry Pelham, turned up a few months later at the Lewes assizes where more smugglers were tried: ibid, 544, 5 Aug. 1749.
9. J.S.Cockburn, A History of English Assizes 1558-1714, Cambridge, 1971, p.110.
10. A Genuine Narrative of the Trial and Condemnation of Mary Edmonson... London, 1759, p.19; also, The Life, Trial, and Dying Words of Mary Edmondson... London, 1759, p.12.
11. L.Radzinowicz, A History of the English Criminal Law and its Adminstration from 1750, 4 vols., London, 1748-68, vol. I, p.168.
12. Whitehall Evening Post, 1257 [1297], 6 Jun. 1754. See similarly, A Narrative Of the Barbarous and unheard of Murder of Mr. John Hayes, by Catherine his Wife... London, 1726, p.30; The Life of Nicolas Mooney... Bristol, [1752], p.48; A Genuine Account of the Life, Robberies, Trial and Execution of William Cox... London, 1773, p.24.

13. Genuine and Impartial Memoirs of Francis Fonton... London, 1790, p.45.
14. Daily Journal, 1139, 14 Sept. 1724. Another multiple escapee from Newgate, Daniel Malden, attracted similar crowds when he was eventually returned to prison: London Evening Post, 1387, 7 Oct. 1736.
15. An Account of the Execution of the late Laurence Earl Ferrers... London, 1760, p.7.
16. A.Knapp & W.Baldwin, The New Newgate Calendar, being Interesting Memoirs of Notorious Characters, Who have been convicted of outrages on the Laws of England, London, [1809], vol. III, p.253.
17. Ibid, vol. III, p.367.
18. The Life, Trial, &c. of William Hawke... London, 1774, p.24.
19. T.Purland, Alsasian Eccentricities 1700-1782, 2 vols. of newspaper cuttings in the British Library, item 1879, 4 Sept. 1775.
20. The Trial of Thomas Smith, and John Kennedy, for A Highway Robbery... London, 1787, p.23. See similarly, The Authentick Tryals of John Swan and Elizabeth Jeffryes... London, 1752, p.73.
21. Ibid, item 874, 26 July 1769. See similarly, ibid, item 1949, Dec. 1775; Whitehall Evening Post, 1245, 5 Feb. 1754.
22. NLW Mss. Facs. 600, p.11.
23. Gentleman's Magazine, XVII (1747), p.197; Chester Courant, 1747, p.169. The seating also collapsed at Wapping in 1759 and Tyburn in 1742, 1777 and 1786: Ordinary of Newgate, Account, 14 Mar. 1759, p.14; Gentleman's Magazine, XII, (1742), p.601; Purland, Alsasian Eccentricities, item 1969; Particulars of the Very Singular and Remarkable Trials, Convictions, and Escapes, of John Shepherd... London, 1786, p.21.
24. London Evening Post, 20 Jan. 1743. See similarly, Gentleman's Magazine, XII, (1743), p.49; A Genuine Account of the Life, Robberies, Trial and Execution of William Cox... London, 1773, p.29.
25. Daily Journal, 2388, 14 Nov. 1724.

CHAPTER 12: THE CONDEMNED

1. "all Insolence and Threats"

1. Spiggot later said that he had also been motivated by the desire not to die a convicted felon for his children's sakes and so that one Joseph Lindsey might not be able to boast that he had sent Spiggot to the gallows: J.Villette, The Annals of Newgate; or, Malefactors Register, 4 vols., London, 1776, vol. I, pp.16-18 & 23.
2. The judge peversely interpreted the legislation (3 & 4 W. & M. c.9) as meaning that the goods taken from a person suspected of highway robbery were forfeited unless he or she were acquitted: Ordinary of Newgate, Account, 13 Mar. 1712/13, p.5; 16 Sept. 1741, p.4. See similarly, The True and Remarkable Life And Extraordinary Adventures of that unfortunate young woman Sarah Chandler... Newcastle, [1796], p.4; Villette, Annals of Newgate, vol. I, p.59, Nathaniel Hawes (see below).
3. Memoirs Of the Life of John Matthieson, Executed for a Forgery on the Bank of England... London, [1779], pp.30-1. For other prisoners who made similar complaints after their convictions see, Ordinary of Newgate, Account, 6 June 1707; ibid, 13 Mar. 1712/13, p.5; The Trial at Large of Thomas Clarke, Thomas Carty and John Deane... Bury St. Edmunds, [1779], p.12; The Trial of Thomas Jackson, for Robbing the Mail, Between Stoke and Brandon... n.p., 1790, p.16.
4. J.Hewitt, The Proceedings of J.Hewitt, Alderman, And one of his Majesty's Justices of the Peace, for the City and County of Coventry, in the year 1756... Birmingham, 1783, p.148.
5. The Life and Penitent Death of John Mawgridge, Gent... London, 1708, p.12.
6. [Rev.W.Wilson & Rev. Bannister], A Full, True and Genuine Account of the Uncommon Behaviour of Mr. Gill Smith... Southwark, 1738, p.7; also, p.8, Anne Goodison; see also, this thesis, Part I.
7. An Account of John Rann, Commonly called Sixteen String Jack... London, [1774], p.23. In the early 1760s it was reported that Lieutenant Campbell of the Middlesex militia had "sent invitation cards to many of his brother officers..." Lieutenant Campbell's compliments to..., and requests the pleasure of his company to-morrow morning to take a cup of chocolate, and do him the honour to accompany him to Tyburn, to be present at his execution"": T.Purland, Alsasian Eccentricities 1700-1780, 2 vols. of newspaper cuttings in British Library, item 810, 1786.

8. Purland, Alsasian Eccentricities, item 2444b, June 1742.
9. This thesis, Part I.
10. A Compassionate Address to Prisoners for Crimes; And more particularly to such of them as are under Sentence of Death, London, 1742, pp.42-3.
11. The Genuine History of the Life of Richard Turpin... London, 1739, p.32, also pp.31-2.
12. G.Howson, The Thief-Taker General: The Rise and Fall of Jonathan Wild, London, 1970, p.107.
13. Ordinary of Newgate, Account, 7 Nov. 1744, p.6, also pp.7 & 8.
14. Purland, Alsasian Eccentricities, item 2444b, 1773.
15. A Genuine Account of the Life, Robberies, Trial and Execution of William Cox... London, 1773, p.26. The word "gammon" means nonsense: E.Partridge, The Penguin Dictionary of Historical Slang, Harmondsworth, 1982, p.360. However, Partridge dates its earliest recorded use as around 1825. Other prison chaplains received similar treatment, for example, A True and Impartial Account of the Behaviour, Confession, and Dying Words of the four Malefactors, Who were executed at Kennington-Common, on Friday, September 6, 1751. Published with the Approbation and Consent of the Reverend Leonard Howard, D.D. Rector of St. George the Martyr, in Southwark, who attended them whilst under the Sentence of Death, and in their last Moments, London, [1751], p.9. 16. A.Knapp & W.Baldwin, The New Newgate Calendar, being Interesting Memoirs of Notorious Characters, Who have been convicted of outrages on the Laws of England, London, [1809], vol. I, p.170.
17. Quoted in C.Chenevix Trench, The Poacher and the Squire: A History of Poaching and Game Preservation in England, London, 1967, p.117.
18. Ordinary of Newgate, Account, 26 July 1736.
19. Ibid, 18 Mar. 1740, p.11; C.Winslow, "Sussex Smugglers" In D.Hay et al, Albion's Fatal Tree: Crime and Society in Eighteenth-Century England, Harmondsworth, 1977, pp.119-66, at p.165.
20. [Rev. Bannister], A Genuine Account of the Behaviour... of the Six Malefactors... Executed at Guildford... 13th Day of April, 1742, London, [1742], p.12.
21. The Remarkable Confession, and Last Dying Words of Thomas Colley... London, [1751], especially pp.7-9. Not surprisingly the Jacobites in Newgate took this line with the Ordinary: "They had no Confession to make, nor no Pardon to ask for what they knew was no Sin." Ordinary of Newgate, Account, 7 Dec. 1715, p.5, also pp.5-6.
22. Ordinary of Newgate, Account, 26 Jan. 1690.
23. Ordinary of Newgate, Account, 3 Oct. 1750, p.101.
24. Authentick Memoirs Of the Wicked Life and Dying Words of

the late John Collington... London, 1750, p.9. See similarly, Ordinary of Newgate, Account, 12 Sept. 1707, William Elby "intended to die in Charity with the World; which he could not do, if he brought any into trouble". Also, Ordinary of Newgate, Account, 24 June 1709; ibid, 31 Jan. 1712/13; ibid, 7 Dec. 1715.

25. A short Narrative of the Behaviour, &c. of John Barry... n.p. [1746?]
26. This thesis, part I.
27. Purland, Alsasian Eccentricities.
28. [Rev. W.Wilson], A Genuine Account of the Behaviour, Confessions, and Dying Words, of the Malefactors... at Kennington-Common, On Thursday the 25th of August, 1743... London, [1743], p.20.
29. Knapp & Baldwin, New Newgate Calendar, vol. III, p.165.
30. Ordinary of Newgate, Account, 21 Dec. 1739, p.10. See also, P.Linebaugh, "The Ordinary of Newgate and His Account" in J.S.Cockburn, Crime in England 1550-1800, London, 1977, pp.246-69, at p.252.
31. Ordinary of Newgate, Account, 5 Dec. 1715, p.4. See similarly, Knapp & Baldwin, New Newgate Calendar, vol. III, p.165.
32. W.S.Penn, "The History of Tyburn", London Quarterly and Holborn Review, CLXXXV (1960), pp.286-91, at p.290. See also, Gentleman's Magazine, II (1732), p.722. Hogarth illustrated the division of labour between the Ordinary and the Methodists in his engraving of Tom Idle's procession to the gallows: W.Hogarth, "Industry and Idleness" in J.Burke & C.Caldwell (eds.), Hogarth: The Complete Engravings, London, 1974, plate 213.
33. M.Misson, Memoirs and Observations in his Travels over England (1719), quoted in L.Radzinowicz, A History of English Criminal Law and its Administration from 1750, 4 vols., London 1948-68, vol. 1, p.182n.
34. Whitehall Evening Post, 462, 26 Jan. 1749.
35. [Wilson & Bannister], A Full, True and Genuine Account of the Uncommon Behaviour of Mr. Gill Smith, p.5. See similarly, The Life, Travels, Exploits, Frauds and Robberies, of Charles Speckman... London, 1763, pp.43-4.
36. A Genuine Account... of the Behaviour... of the Six Malefactors... Executed at Guildford... 13th Day of April, 1742, p.12. See similarly, A Genuine Account of the Life, Robberies, Trial and Execution of William Cox, p.28; Purland, Alsasian Eccentricities, item 483, dated 1762; item 1908, 26 Oct. 1775; The Whole Proceedings of the Special Commission of Oyer and Terminer and Gaol Devlivery, for the County of Sussex, held at Chichester, the 16th, 17th, and 18th of January last... London, 1749, p.48.
37. A regulation against stopping for drink was reported as having been made by the Sheriffs of London in

1737: Some Observations on the Trial of Mr. Thomas Carr, who was Executed at Tyburn, January 18, 1737... London, 1737, p.10. In 1760 Walpole reported that Ferrers was prevented from having a drink during the procession by Sheriff Vaillant who said that this was not possible under a late regulation, made because "great indecencies had been formerly committed by the lower species of criminals getting drunk": W.S.Lewis, The Yale Edition of Horace Walpole's Correspondence London, vol. 9, p.401. In 1739 Rev. Wilson reported that the long procession from Southwark gaol to Kennington Common stopped twice: [Rev. Wilson], A Full and Genuine Account of the Lives... of the Four Malefactors that were Executed on Friday the 6th Day of this Instant April 1739... London, 1739, p.18.

38. He appears not to have obtained his drink: Ordinary of Newgate, Account, 26 July 1732. See similarly, P.Lorrain, The Ordinary of Newgate his Account of the Behaviour and last Dying Words of Edward Bird... London, 1719, p.6.
39. A True Copy of the Papers wrote by James Maben, Who was Executed Saturday, August 11, 1744... Newcastle, 1744, p.15.
40. His father, Richard Mills, was not allowed to smoke during the procession: Whitehall Evening Post, 462, 26 Jan. 1749.
41. To add weight to the story Rev. Smith reported that Selby had earlier blamed drink for the murder for whch he was condemned: Ordinary of Newgate, Account, 1-2 May 1691.
42. Ordinary of Newgate, Account, 23 May 1701. See similarly, footnote 37 above.
43. Purland, Alsasian Eccentricities, item 1209, 5 Feb. 1772. See similarly, The Reward of Murder. A Faithful Narrative of the Lives of Daniel Looney, and Robert Greenstreet... London, [1751], p.18.
44. A Trip through the Town. Containing Observations on the Humours and Manners of the Age (4th edn.), London, 1735, p.31 & pp.30-1.
45. A True Copy of the Papers wrote by James Maben, Who was Executed Saturday, August 11, 1744, p.15. See similarly, Ordinary of Newgate, Account, 24 Nov. 1740, p.11.
46. Villette, Annals of Newgate, vol. I, p.110.
47. Purland, Alsasian Eccentricities, item 1374, May 1774. See similarly, A True Account of the Behaviour... of John Hutchins, the Sollicitor... London, 1684, p.4.
48. Ordinary of Newgate, Account, 22 Sept. 1722, p.5.
49. Lorrain, The Ordinary of Newgate his Account of the Behaviour and last Dying Words of Edward Bird, p.6.
50. Ordinary of Newgate, Account, 23 March 1708/09.
51. The Discoveries of John Poulter, alias Baxter... (9th

edn.), London 1754, p.60.

52. An Authentick Account of the Life of Paul Wells, Gent. who was Executed at Oxford, Sept. 1, 1749... London, 1749, p.21.
53. Ordinary of Newgate, Account, 23 May 1684, p.3.
54. Ibid, 12 Sept. 1707. Purland, Alsasian Eccentricities, item 1209, 5 Feb. 1772. Ordinary of Newgate, Account, 10 Mar. 1735, Part III, p.24.
55. Some Observations on the Trial of Mr. Thomas Carr, p.10.
56. Purland, Alsasian Eccentricities, item 1969, 29 Jan. 1777.
57. Ibid, item 2319, April 1781. See also, A Genuine Account... of the Behaviour... of the Six Malefactors... Executed at Guildford... 13th of April, 1742, p.12.
58. The editor argued that such claims originated in the hopes of a reprieve, a continuing resentment against the prosecutor, "the natural Desire of being pitied", and "a Passion for his own Reputation, or that of his Kindred": Select Trials at the Sessions-House in the Old-Bailey..., 4 vols., London, 1742, vol. I, p.80. See similarly, Ordinary of Newgate, Account, 29 June 1737, p.11. For a curious justification for taking a hard line with those who claimed to be innocent see, The Secret History of Miss Blandy... London, [1752], p.87.
59. A True and Particular Account of the Three Most Horrid Murders, that have lately been committed in the County of York, with the Trials of the Murderers..., London, n.d., p.8. See also, [Wilson & Bannister], A Full, True and Genuine Account of the Uncommon Behaviour of Mr. Gill Smith, p.5; Ordinary of Newgate, Account, 3 Oct. 1750, p.101.
60. Purland, Alsasian Eccentricities, item 1209, 5 Feb. 1772. The hangman was probably Edward Dennis who enjoys lasting fame through his appearance in Charles Dickens' Barnaby Rudge.
61. Ordinary of Newgate, Account, 24 May 1700.

2. Shoes and Clothes: the Symbolism of Dress

1. Ordinary of Newgate, Account, 29 June 1737, p.10. See similarly, British Library, collection of broadsheets shelved at 1888c3(48), Lee; London Evening Post, 3663, 13 Apr. 1751; Gentleman's Magazine, I, (1731), p.177.
2. Annual Register, 1761, pp.89-90, 21 Mar. 1761; also, Authentic Trial, and Memoirs of Issac Darkin, alias Dumas... London & Oxford, [1761], p.28.
3. A.Knapp & W.Baldwin, The New Newgate Calendar, being Interesting Memoirs of Notorious Characters, Who have been convicted of outrages on the Laws of England,

London, [1809], vol. III, pp.166-7; London Evening Post, 1338, 22 June 1736. See similarly, Rev. Keith, An Account of the Dying Behaviour of Christopher Slaterford... London, 1709; and see, Whitehall Evening Post, 1245, 5 Feb. 1754.

4. A Genuine Account of the Life, Robberies, Trial and Execution, of William Hawke, call'd the Flying Highwayman... London, 1774, pp.30-1. See also, The Life, Trial, &c. of William Hawke, The notorious Highwayman... London, 1774, p.25.
5. See, for example, An authentic Account of the Trials... of the Five Malefactors, who were executed at Kennington-Common, on Monday the 23d of April, 1770... London, [1770], p.7.
6. An Account of John Rann, Commonly called Sixteen String Jack... London, [1774], p.15. See similarly, Purland, Alsasian Eccentricities, item 1404, June 1774.
7. Purland, Alsasian Eccentricities, item 1405, 25 May 1774.
8. An Account of John Rann, Commonly called Sixteen String Jack, p.22. See similarly, An authentic Account of the Trials of the Five Malefactors, who were executed at Kennington-Common, on Monday the 23d of April, 1770, p.5.
9. Inhumanity and Barbarity Not to be Equal'd: Being an impartial Relation of the Barbarous Murder Committed by Mrs. Elizabeth Branch... London, [1740], p.37.
10. H.Misson, Memoirs and Observations in his Travels over England, London, 1719, p.124. See similarly, Fog's Journal (1737) quoted in Gentleman's Magazine VII (1737), pp.168-9.
11. An Account of the Behaviour, Confessions, and last Dying Words, of Arundel Coke, Esq.; and John Woodburne, Labourer... London, [1722], p.5.
12. Miss Mary Blandy's own Account of the Affair between Her and Mr. Cranstoun... London, 1752, p.63. Bombazine is a black twilled material of silk and worsted or worsted and cotton or worsted alone; it was used in mourning clothes.
13. Authentic Trial, and Memoirs of Issac Darkin alias Dumas, p.28.
14. Purland, Alsasian Eccentricities, item 483, dated 1762. A queue wig was one with a long plait of hair hanging down the back.
15. The Life of Capt. John Donnellan, late Master of the Ceremonies at the Pantheon... London, 1781, p.95.
16. Genuine Memoirs of the Lives of George and Joseph Weston, Who were executed September 3d. 1782... London, [1782], p.77. See also, British Library, collection of chapbooks shelved at 1609/5905(5), p.6.
17. The Confession, and last Dying-Words of Mary Saunders...

n.p., [1764]. Camblet or camlet was a cheapish cloth made from a mixture of wool, silk, hair and sometimes cotton or linen, and it was popular as a substitute for more expensive fabrics in dressmaking.

18. A Particular Account of the Life and Actions of the Marquis Palliotti... London, 1718, pp.21-2.
19. A True Copy of the Papers wrote by James Maben... Newcastle, 1744, p.15. See similarly, The True Narrative of the Confession and Execution Of the Prisoner at Kingston-upon-Thames, On Wednesday the 16th of this Instant March, 1681, London, 1681, p.3, Margaret Osgood; Whitehall Evening Post, 497, 27 Apr. 1749.
20. The Last Dying Speech and Confession of the Unfortunate Malefactors, Executed this Day before the Debtors Door, Newgate, n.p., n.d., p.4.
21. Gentleman's Magazine, V (1735), pp.168-9.
22. Ordinary of Newgate, Account, 17 Feb. 1743, Part II, p.36.
23. Ibid, 19 Jan. 1742/3, pp.13-14. When Bryan Smith was hanged in 1725 under the Black Act for a hamfisted attempt at extortion he came to regret having worn a shroud: "there being many persons to suffer, and the executioner thereby being put into a confusion, Smith observing the hurry slipped the rope over his head, and jumped at once over the corspes in the cart amongst the mob. Had he been wise enough to have come in his clothes, and not in a shroud, it is highly probable he had made his escape; but his white dress rendering him conspicuous even at a distance, the sheriff's officers were not long before they retook him and placed him in his former situation again." A.L.Hayward (ed.), Lives of the Most Remarkable Criminals... (1735), London, 1927, p.222.
24. The True and Remarkable Life and Extraordinary Adventures of that unfortunate young woman Sarah Chandler..., Newcastle, [1796], pp.4-5.
25. J.Brewer, "The Wilkites and the law, 1763-74: a study of radical notions of governance", in J.Brewer & J.Styles (eds.), An Ungovernable People: The English and their law in the seventeenth and eighteenth centuries, London, 1980, pp.128-71, at p.170.
26. H.Walpole, Memoirs of King George II, (J.Brooke, ed.), 3 vols., London, 1985, vol. III, p.106.
27. Inhumanity and Barbarity Not to be Equal'd: Being an impartial Relation of the Barbarous Murder Committed by Mrs. Elizabeth Branch, p.35.
28. The Afflicted Parents; or The Undutiful Child Punished, n.p., [1750?], pp.3-4. See also, London Evening Post, 1360, 5 Aug. 1736: following the acquittal of a wealthy miller's son at Winchester assizes he was accompanied home by a crowd of people wearing white favours as a

sign of his innocence.

29. W.S.Lewis, vol. 38, p.490, 10 Jan. 1765. See also letters to George Selwyn from Gilly Williams and Henry St. John: A.Griffiths, The Chronicles of Newgate (1884), London, 1987, p.166.
30. Purland, Alsasian Eccentricities, item 1913, Nov. 1775.
31. A Full and True Account of the Life... of Mr. Thomas Mac-Nemera... London, [1710], pp.4-7.
32. Purland, Alsasian Eccentricities, no number, dated 1722; Ordinary of Newgate, Account, 4 May 1722; Knapp & Baldwin, New Newgate Calendar, vol. I, pp.193-4.
33. P.Linebaugh, "The Tyburn Riot Against the Surgeons", in D.Hay et al, Albion's Fatal Tree: Crime and Society in Eighteenth-century England, Harmondsworth, 1977, pp.65-117, pp.111-5.
34. The Life and Penitent Death of John Mawgridge, Gent., London, 1708, p.14.
35. The Life of Nicolas Mooney... (2nd edn.), Bristol, [1752], p.48; London Evening Post, 3596, 8 Nov. 1750.
36. Gentleman's Magazine, XXIII (1753), pp.292-3. When Richard Town told Lorrain, as they travelled in a coach to Tyburn, that it was his birthday, Lorrain launched into a parallel with Solomon's view that the day of death was better than the day of birth: Ordinary of Newgate, Account, 23 Dec. 1712.
37. S.P.Menefee, Wives for Sale: An Ethnographic Study of British Popular Divorce, Oxford, 1981, pp.184-5.
38. The Life of Nicolas Mooney (2nd edn., 1752), p.48.
39. Ali Mohammed Hadgi [Anthony Hilliar], A Brief and Merry History of Great Britain, London, [1710?], p.11.
40. J.Villette, The Annals of Newgate; or, Malefactors Register, 4 vols., London, 1776, vol. I, p.59.
41. Ibid, vol. I, p.60. See also, [Rev. Bannister], A Genuine Account of the Behaviour... of the Six Malefactors... Executed at Guildford... 13th Day of April, 1742, London, [1742], p.9.
42. General Advertiser, 5438, 24 March 1752.
43. The Genuine History of the Life of Richard Turpin... London, 1739, p.32.
44. Whitehall Evening Post, 1437, 29 July 1755. See also, An authentic Account of the Trials of the Five Malefactors, who were executed at Kennington-Common, on Monday the 23d of April, 1770, p.7; Genuine and Impartial Memoirs of Francis Fonton... London, 1790, p.47.
45. Memoirs Of the Right Villainous John Hall... (4th edn.), London, 1714, pp.26-7. It was also the general fashion at the time for people to be buried in lavish clothing: A Trip through London: containing Observations on Men and Things, (8th edn.), London, 1728, p.30.
46. [Bannister], A Genuine Account of the Behaviour... of the Six Malefactors... Executed at Guildford... 13th Day

of April, 1742, p.9.
47. Ibid, p.7.
48. For the elaborate funeral arrangements of Turpin see later.

3. Hero, Degenerate or Optimist

1. British Library, collection of broadsheets shelved at 1889d3(48).
2. The Trial Of the Notorious Highwayman Richard Turpin... York & London, 1739, p.21. See similarly, The Genuine History of the Life of Richard Turpin... London, 1739, p.31-2.
3. Memoirs of the Right Villainous John Hall... (4th edn.), London, 1714, p.6.
4. An Account of John Rann, Commonly called Sixteen String Jack... London, [1774], p.22.
5. T.Purland, Alsasian Eccentricities 1700-1780, 2 vols. of newspaper cuttings in British Library, item 1908, 26 Oct. 1775. See similarly, Ordinary of Newgate, Account, 6 June 1707.
6. Ordinary of Newgate, Account, 2 Mar. 1691/2.
7. A True Copy of the Papers wrote by James Maben, Who was Executed Saturday, August 11, 1744... Newcastle, 1744, p.16. See also, Purland, Alsasian Eccentricities, item 2203, dated 1777, Lewis Mercia.
8. An Account of John Rann, Commonly called Sixteen String Jack, p.15.
9. The Life, Travels, Exploits, Frauds and Robberies, of Charles Speckman... London, 1763, pp.43-4.
10. The Genuine History of the Life of Richard Turpin, pp.30-1.
11. Purland, Alsasian Eccentricities, item 483, dated 1762.
12. The Manner of the Execution Of Eleven Notorious Offenders Who received Sentence of Death at the Sessions-House in the Old-Bailey, On the 8th of this Instant December, n.p. [1690?], p.4.
13. A True Account of the Behaviour... of Captain William Kidd... London, 1701. Lorrain ascribed Kidd's behaviour to drink: Ordinary of Newgate, Account, 23 May 1701.
14. Gentleman's Magazine, XVIII (1748), p.425; ibid, XIX (1749), pp.330-1; Calendar of Home Office Papers, vol. I, 430, p.110. See also, Whitehall Evening Post, 541, 29 July 1749; Purland, Alsasian Eccentricities, item 2261, Mar. 1780 at Hertford.
15. A.Knapp & W.Baldwin, The New Newgate Calendar, being Interesting Memoirs of Notorious Characters, Who have been convicted of outrages on the Laws of England, London, [1809], vol. I, p.61, and generally, pp.61-2. After two other brushes with the law (for one when he

was acquitted of a felony see, The Original Weekly Journal, 4 June 1720; and for another occasion when he was arrested in 1721 see, Purland, Alsasian Eccentricites, item 48) Knapp and Baldwin wrote that they found nothing more about Smith, and they hoped that he led an honest life subsequently. In fact he appears to have been transported to North America: Petition of John Wilson in Guildhall Misc. Mss.; see, A.R.Ekirch, Bound for America: The Transportation of British Convicts to the Colonies 1718-1775, Oxford, 1987, p.64.

16. Purland, Alsasian Eccentricities, item 2073, Aug. 1777.
17. Shepherd was eventually given a conditional pardon and sent to work on the lighters on the Thames for three years; he was hanged in 1786: Particulars of the Very Singular and Remarkable Trials, Convictions, and Escapes, of John Shepherd... London, 1786, pp.22-7 & passim. Patrick Madan was respited under the gallows in 1777 when Amos Merritt admitted to the crime for which Madan was about to be hanged: Purland, Alsasian Eccentricities, item 2095, 19 Aug. 1777. For some other reprieves which arrived at the gallows - at Tyburn: Ordinary of Newgate, Account, 21 July 1703, Thomas Cook (respite arrived when the procession was at "about Bloomsbury"; later hanged); Account, 17 Dec. 1707, John Reid (later hanged, Account, 28 Jan. 1707/08); Annual Register, p.108, 8 May 1761 (reprieve on condition of enlisting) - at Hertford, Purland, Alsasian Eccentricities, item 2261, dated 1786. See also below.
18. An authentick Account of the Life of Paul Wells, Gent. who was Eexecuted [sic.] at Oxford, Sept. 1, 1749, for Forgery... London, 1749, pp.21-2. See note in bibliography.
19. London Evening Post, 3596, 8 Nov. 1750.
20. Whitehall Evening Post, 1440, 2 Sept. 1755, 1437; 19 July 1755. See also, The Life of Benjamin Barker, A Notorious Highwayman, from his Youth to his Death; who was Executed at Chelmsford on Friday the 18th of May, 1750, for robbing Mr. John Blower, of Bocking, in the Bury Coach, London, 1750, p.15; Whitehall Evening Post, 1455, 2 Sept. 1755; Purland, Alsasian Eccentricities, item 690, dated 1766, Benjamin Stafford; Public Advertiser, 10542, 12 Aug. 1768.
21. Genuine and Impartial Memoirs of Francis Fonton... London, 1790, p.45.
22. Ordinary of Newgate, Account, 16 Sept. 1741, p.8.
23. Ibid, Account, 13 Feb. 1739/40, p.19.
24. Purland, Alsasian Eccentricities, item 1755, 15 Feb. 1775.
25. See next chapter.
26. The Last Dying Speech Confession and Dying Words of William Dickson... Dublin, 1725.

27. Jeffryes was hanged sitting in a chair: The Authentick Tryals of John Swan, and Elizabeth Jeffryes... London, 1752, pp.69 & 72.
28. Ordinary of Newgate, Account, 17 Feb. 1743, Part I, p.12. See similarly, Purland, Alsasian Eccentricities, items 1879, 4 Sept. 1775, 1905, 24 Oct. 1775, 2027, 21 May 1777.
29. The Genuine Trial of Charles Drew, for the Murder of His Own Father... London, 1740, p.40.
30. Villette, Annals of Newgate, vol. I, p.49.
31. Ordinary of Newgate, Account, 10 March 1735, Part I, p.14.
32. The Remarkable Confession, and Last Dying Words of Thomas Colley, Executed on Saturday, August the 24th, 1751... London, [1751], p.5. See also, The Reward of Murder. A Faithful Narrative of the Lives of Daniel Looney, and Robert Greenstreet... London, [1751], p.21.
33. The Life and Behaviour of John Skinner... London, [1744], p.16. Skinner attempted suicide, but his wound, like that of Eugene Aram some years later, was not fatal, and both men were patched up and then hanged: see, The Genuine and Authentic Account of the Murder of Daniel Clark, Shoemaker, On the 8th of February, 1744-5 ... York, [1759], p.55.
34. London Evening-Post, 3659, 4 Apr. 1751. For other examples see, ibid, 3648, 12 March 1751; Ordinary of Newgate, Account, 6 June 1744, p.10; Knapp & Baldwin, New Newgate Calendar, vol. III, pp.378-9, vol.IV, p.58; Villette, Annals of Newgate, vol.II, p.152, vol.IV, p.134; Purland, Alsasian Eccentricities, item 234, dated 1751; Whitehall Evening Post, 1255, 28 Feb. 1754, 1249 [1289], 18 May 1754; Memoirs of A Social Monster; or, the History of Charles Price, London, 1786, p.341; A New Edition. Being a more minute and particular Account of that consumate Adept in deception, Charles Price, otherwise Patch, many years a Stock-Broker and Lottery-Office-Keeper in London and Westm:, London, 1786, p.54.
35. A Genuine Account of the... Six Malefactors, That were executed... on Friday the Fourteenth of September, 1739, London, 1739, p.19. See similarly, A Genuine Account of the Behaviour... of the Six Malefactors... Executed at Guildford... the 13th Day of April, 1742, London, [1742], p.12. On Rashford and the custom of hangmen stripping corpses see later.
36. A True Account of the Life, Trial, and Execution... of Huffey White and Robert Kendall..., Yarmouth, [1813]; The Last Dying Speech and Confessions, and the Execution of Daniel M'Crory... Norwich, n.d.

CHAPTER 13: THE CROWD

1. "a ribald, reckless, brutal mob

1. A.Griffiths, The Chronicles of Newgate (1884), London, 1987, p.167; L.Radzinowicz, A History of English Criminal Law and its Administration from 1750, London, 1948, vol. I, p.176.
2. Brittanicus, A Letter To the Honourable House of Commons, relating to The present Situation of Affairs... London, 1750, p.16. See also, B.Mandeville, An Enquiry into the Causes of the Frequent Executions at Tyburn, London, 1725; A Trip through the Town. Containing Observations on the Humours and Manners of the Age (4th edn.), London, 1735, pp.25-6.
3. Ordinary of Newgate, Account, 18 March 1740, p.17.
4. T.Purland, Alsasian Eccentricities, 2 vols. of newspaper cuttings in British Library, item 814, Jan. 1769.
5. Miss Mary Blandy's own Account Of the Affair between Her and Mr. Cranstoun.., London, 1752, p.63. See similarly, An Account of the Execution of the late Laurence Earl Ferrers... London, 1760, p.10.
6. [H.Downman?], An Elegy Wrote under a Gallows. With a Preface concerning the Nature of Elegy, London, [1770?], p.12. See also, Purland, Alsasian Eccentricities, item 1907, Oct. 1775.
7. For an example of a pickpocket at work during the procession to Tyburn, who was detected by the crowd and ducked, see, Penny London Post, 778, 22 June 1748.
8. Ali Mohammed Hadgi [Anthony Hilliar], A Brief and Merry History of Great Britain, London, [1710?], p.11.
9. Mandeville, Enquiry into the Causes of the Frequent Executions at Tyburn, pp.32 & 29. See also, Covent Garden Journal, 25, 28 March 1752.
10. A Trip through the Town, pp.26-7, also pp.28-9.
11. A.Knapp & W.Baldwin, The New Newgate Calendar, being Interesting Memoirs of Notorious Characters, Who have been convicted of outrages on the Laws of England, London, [1809], vol. I, p.170.
12. The Confession and last Dying-Words of Mary Saunders... n.p., [1764].
13. A Full and Genuine Account... of the Four Malefactors that were Executed on Friday the 6th Day of this Instant April 1739... London, 1739, p.16. See also, The True and Genuine Account of the Confession (Whilst under Sentence of Death) of Thomas Jones, and James Welch... London, [1751], p.12.
14. Authentick Memoirs Of the Wicked Life and Dying Words of the late John Collington... (2nd edn.), London, 1750, p.10. He did eventually appear and was hanged. See also, The True Genuine Account (Whilst under Sentence of Death) of Thomas Jones, and James Welch, p.12.
15. Daily Journal, 1166, 15 Oct. 1724, 1210, 5 Dec. 1724;

Daily Post, 1577, 15 Oct. 1724.

16. Capt. Alexander Smith, Memoirs of the Life and Times, Of the Famous Jonathan Wild... London, 1726, p.18.
17. G.Howson, The Thief-Taker General: The Rise and Fall of Jonathan Wild, London, 1970, p.276.
18. Smith, Memoirs of the Life and Times, Of the Famous Jonathan Wild, p.22.
19. It is worth remembering that what an employer, and the criminal law, regarded as larceny might be seen by the employee as a perquisite which formed a customary part of the wages.
20. The Original Weekly Journal, 4 June 1720. See generally on this subject the discussion in M.D.George, London Life in the Eighteenth Century, Harmondsworth, 1976, pp.213-61; M.D.George, The English Poor in The Eighteenth Century: A Study in Social and Administrative History, London, 1926, pp.182-206.
21. OBSP, Jan. 1733, June 1736, Feb. 1748; see, George, London Life, pp.228-9.
22. The Cruel Mistress; Being, The Genuine Trial of Elizabeth Branch, and Her own Daughter... London, 1740, pp.34-5.
23. The Trial of Mrs. Branch, and Her Daughter, For the Murder of Jane Buttersworth... London, [1740], p.21.
24. Inhumanity and Barbarity Not to be Equal'd... London, [1740], p.35. See also, The Trial of Mrs. Branch, and Her Daughter, For the Murder of Jane Buttersworth, p.21.
25. The Cruel Mistress; Being, The Genuine Trial of Elizabeth Branch, and her own Daughter, p.35. See also, Gentleman's Magazine, X (1740), pp.258-9; Knapp & Baldwin, New Newgate Calendar, vol. II, p.42.
26. Inhumanity and Barbarity Not to be Equal'd, p.36.
27. Gentleman's Magazine, V (1740), pp.258-9.
28. An Appeal to Humanity, in An Account of the Life and Cruel and Actions of Elizabeth Brownrigg, London, 1767, pp.14-15.
29. Ibid, p.21; Genuine and Authentic Account of the Life, Trial and Execution, of Elizabeth Brownrigg, London, 1767, p.15.
30. Her husband and son were tried with her for murder, but acquitted of murder, although they were later convicted of a misdemeanour: OBSP, 9-16 Sept. 1767; The Trials of James Brownrigg, and John Brownrigg, his Son, For Confining and inhumanly Scourging Mary Mitchell, Spinster... London, [1767].
31. Ordinary of Newgate, Account, 14 Sept. 1767, p.16. These cases form a neglected part of labour history. It seems possible that the prosecution of Brownrigg and the publicity which the case attracted were connected with the agitation, led by Hanway, about the mortality rate amongst parish pauper infants which culminated in an Act

in 1767 (on that Act see, George, London Life, pp.57-60). There is also the question which arises over the acquittal of Elizabeth Brownrigg's husband: Mary Clifford was looked upon as the apprentice of Elizabeth, even though apparently the husband was legally obliged to provide her with clothes and food.

32. Knapp & Baldwin, New Newgate Calendar, vol. III, p.253. On the strike: M.D.George, "The London Coal-Heavers: Attempts to Regulate Waterside Labour in the Eighteenth and Nineteenth Centuries", Economic History (Supp. to Economic Journal), I, (1926-1929), pp.229-48; P.Linebaugh, "Eighteenth century disorders", Society for the study of Labour History, 28 (Spring 1974), pp.57-61, at pp.59-61; P.Linebaugh, Tyburn: a study of crime and the labouring poor in London during the first half of the eighteenth century, unpublished Ph.D. thesis, University of Warwick, 1975, pp.509-65.
33. Purland, Alsasian Eccentricities, item 998, 7 Dec. 1769.
34. Ibid; Annual Register, 1769, pp.181-7; Calendar of Home Office Papers of the Reign of George III, vol. II, item 1328, 28 Sept.- 18 Dec. 1769. See generally on this strike and its background, J.Brewer, "The Wilkites and the law, 1763-74" in J.Brewer & J.Styles (eds.), An Ungovernable People: the English and their law in the seventeenth and eighteenth centuries, London, 1980, pp.128-71, pp.160 & 166; C.R.Dobson, Masters and Journeymen: A Prehistory of Industrial Relations 1717-1800, London, 1980, pp.85-7; J.L. & B.Hammond, The Skilled Labourer 1760-1832, London 1919, pp.207-8; G.Rude, Wilkes and Liberty: A Social Study of 1763-1774, Oxford, 1962, pp.98-102; Linebaugh, "Eighteenth century disorders", pp.59-61.
35. Penny London Post, 729, 8 Jan. 1748.
36. Ordinary of Newgate, Account, 24 Aug. 1763. For the details of this case see, P.Linebaugh, "The Tyburn Riot Against the Surgeons" in D.Hay et al, Albion's Fatal Tree: Crime and Society in Eighteenth-Century England, Harmondsworth, 1977, pp.65-117, at pp.106-7.
37. Petty thieves, such as pickpockets, were typically ducked in the nearest pond, trough or river and the newspapers are peppered with reports of such punishments. The following were reported in two London newspapers over an eighteen-month period in 1748-49: Penny London Post, 767, 11 Apr. 1748, 798, 22 June 1748, 810, 20 July 1748, 998, 7 Sept. 1748; Whitehall Evening Post, 466, 4 Feb. 1749, 495, 23 Apr. 1749, 515, 8 June 1749, 516, 10 June 1749, 527, 27 June 1749, 549 17 Aug. 1749.
38. London Evening-Post, 3718, 20 Aug. 1751; The Remarkable Confession, and Last Dying Words of Thomas Colley, Executed on Saturday, August the 24th, 1751... London,

[1751], p.9. See also, London Evening-Post, 3719, 22 Aug. 1751, 3721, 27 Aug. 1751; Gentleman's Magazine, vol. XXI (1751), pp.185, 327-8 & 375. See previous chapter.

39. See for some discussion of these sorts of offences: Hay et al, Albion's Fatal Tree; Brewer & Syles, An Ungovernable People. On Minters see, A.L.Hayward (ed.), Lives of the Most Remarkable Criminals Who have been Condemned and Executed for Murder, the Highway, Housebreaking, Street Robberies, Coining or other offences (1735), London, 1927, p.194-99, Charles Towers.

2. "protect my dead Body from Indecency"

1. The Authentic Trial, and Memoirs of Issac Darkin, alias Dumas... Oxford & London, [1761], p.28; A Genuine Account of the Life, Robberies, Trial and Execution of William Cox... London, 1773, pp.27-8; Ordinary of Newgate, Account, 23 May 1701; A True Account of the Behaviour, Confession and last Dying Speeches, of Captain Kidd..., London, 1701; Ordinary of Newgate, Account, 9 July 1734, p.20.
2. See, Whitehall Evening Post, 772, 22 Jan. 1751.
3. J.Gay, The Beggar's Opera. As its Acted at the Theatre-Royal in LIncolms-Inn Fields, (3rd. edn.), London, 1729, Act II, scene I.
4. Dr. Allen, An Account Of the Behaviour of Mr. James Maclaine, From the Time of his Condemnation To the Day of his Execution, October 3, 1750 (2nd edition), London, 1750, p.35.
5. A Full and Genuine Account... of the Four Malefactors that were Executed on Friday the 6th Day of this Instant April 1739... London, 1739, p.14; also, Gentleman's Magazine, IX (1739), p.213.
6. An authentick Account of the Life of Paul Wells, Gent, who was Eexectued [sci] at Oxford, Sept. 1, 1749... London, 1749, p.24; The Authentic Trial, and Memoirs of Issac Darkin, alias Dumas, p.28; also, Annual Register, 1761, pp.89-90, 21 Mar. 1761. See similarly, An Authentick Account of the Life of Paul Wells, Gent, who was Executed at Oxford, Sept. 1, 1749, for Forgery... London, 1749, p.25.
7. Whitehall Evening Post, 1266, 26 Mar. 1754.
8. Penny London Post, 1003, 19 Apr. 1748.
9. Daily Post, 1606, 18 Nov. 1724. For a slightly different account see, Daily Journal, 1196, 18 Nov. 1724.
10. Whitehall Evening Post, 1256[1296], 4 Jun. 1754, 1427, 5 July 1755, 1453, 28 Aug. 1755;
11. Ibid, 343, 21 April 1748. The grave digger of Stepney Church was whipped round the churchyard on three

days in 1736 for body snatching: London Evening Post, 1342, 24 June 1736. Uniquely a surgeon was reported to have been arrested in connection with such an offence in May 1750, but no report of a trial ever appeared: London Evening Post, 3524, 26 May 1750.

12. P.Linebaugh, "The Tyburn Riot Against the Surgeons", in D.Hay et al, Albion's Fatal Tree: Crime and Society in Eighteenth-century England, Harmondsworth, 1977, pp.65-117, p.78.

13. Whitehall Evening Post, 577, 21 Oct. 1749; T.Purland, Alsasian Eccentricities, 2 vols. of newspaper cuttings in British Library, item 1764, Feb. 1775. See also, London Evening Post, 1356, 27 July 1736. For an example from Maidstone where the unclaimed corspes of felons were buried by the gallows see, Whitehall Evening Post, 489, 9 Apr. 1749. For Chichester in Sussex, following the Special Commission for the smugglers see, The Whole Proceedings of the Special Commission... held at Chichester, the 16th,17th, and 18th of January last..., London, 1749, p.49.

14. [Rev. L.Howard], A True and Impartial Acccount of the Behaviour... of the four Malefactors... executed at Kennington-Common, on Friday, September 6, 1751... London, [1751], p.2. Howard was rector of St. George's.

15. The Last Dying Speech... of the Six Malefactors, Who were executed at Northampton, on Friday the 3d of August, 1787... n.p., [1787]. Similarly ibid, David Coe.

16. Select Trials at the Sessions-House in the Old-Bailey... 4 vols., London, 1742, vol. I, p.33; also, Rev. J.Villette, The Annals of Newgate; or, Malefactors Register, 4 vols., London, 1776, vol. I, p.27. See similarly, Ordinary of Newgate, Account, 30 May, 1759, p.16.

17. A Full, True and Particular Account of the Behaviour, Confession and last Words of Thomas Athoe..., London, 1723, [p.11].

18. Ordinary of Newgate, Account, 18 May 1743, p.11.

19. The Scoundrel's Dictionary, or an Explanation of the Cant Words Used by the Thieves, House-Breakers, Street-Robbers and Pick-Pockets about Town. To which is prefixed, Some curious Dissertations on the Art of Wheedling; And a Collection of their Flash Songs, with a proper Glossary. The Whole printed from a Copy taken on one of their Gang, in the late Scuffle between the Watchmen and a Party of them on Clerkenwell-Green; which Copy is now in the Custody of one of the Constable's of that Parish: London, 1754, p.29. The slang word "nubb'd" means hanged, whilst "tip him no Cole" means to hand no money over to him, and a "Chive" is a knife. Surprisingly although Partridge provides definitions of these words he made no use of this important

source of eighteenth-century underworld slang in his dictionary (E.Partridge, The Penguin Dictionary of Historical Slang, Harmondsworth, 1982). See also, Memoirs of the Right Villainous John Hall... (4th edn.), London, 1714, p.28.

20. A Full and Genuine Account... of the Four Malefactors that were Executed on Friday the 6th Day of this Instant April 1739... London, 1739, p.14.
21. Ordinary of Newgate, Account, 3 Oct. 1750, pp.98-9.
22. Gentleman's Magazine, V (1735), pp.168-9; The Genuine History of the Life of Richard Turpin... London, p.21; also, Gentleman's Magazine, IX (1739), p.213.
23. Allen, An Account Of the Behaviour of Mr. James Maclaine, From the Time of his Condemnation To the Day of his Execution, October 3, 1750.
24. A Genuine Account of the Behaviour, Confessions, and Dying Words, of the Six Malefactors... at Guildford... the 13th Day of April, 1742, London, [1742], p.11.
25. [Rev.W.Wilson & Rev. Bannister], A Full, True and Genuine Account of the Uncommon Behaviour of Mr. Gill Smith... Southwark, 1738, p.16.
26. The Trial Of the Notorious Highwayman Richard Turpin... (4th edn.), York & London, 1739, p.22. His body was later rescued and buried, see below.
27. A Genuine Account of the Life and Transactions of William Parsons, Esq... London, 1751, p.10. See similarly, The Trial Of the Notorious Highwayman Richard Turpin, p.22; The Genuine History of the Life of Richard Turpin, pp.32-3; Gentleman's Magazine, IX (1739), p.213.
28. The Authentic Trial and Memoirs of Issac Darkin, alias Dumas, p.28; also, Annual Register, 1761, pp.89-90, 21 Mar. 1761.
29. London Evening-Post, 1329, 25 May 1736.
30. A Genuine Account of the Lives, Characters... of the Six Malefactors... at Kennington-Common, on Friday the Fourteenth of September, 1739, London, 1739, p.19.
31. A Complete History of James Maclean... London, [1750], p.64; [Howard], A True and Impartial Acccount of the Behaviour... of the four Malefactors... executed at Kennington-Common, on Friday, September 6, 1751, p.15. See similarly, Memoirs of the Right Villainous John Hall, p.28; A Genuine Account of the Lives, Characters... of the Six Malefactors... at Kennington-Common, on Friday the Fourteenth of September, 1739, p.19; A Genuine Account of the Behaviour, Confessions, and Dying Words, of the Six Malefactors... at Guildford... the 13th Day of April, 1742, p.11; A Genuine Account of the Behaviour... of the Malefactors... Executed at Kennington-Common, On Thursday the 25th of August, 1743... London, [1743], p.20; Purland, Alsasian Eccentricities, item 408, dated

1757, 557, dated 1763; The Life, Trial, &c. of William Hawke, The notorious Highwayman... London, 1774, p.25.

32. Ordinary of Newgate, Account, 18 Mar. 1740, p.12.
33. Ibid, Account 6 Aug. 1740, see Linebaugh, "The Tyburn Riot Against the Surgeons", p.82.
34. [Wilson & Bannister], A Full, True and Genuine Account of the Uncommon Behaviour of Mr. Gill Smith, p.16.
35. A Genuine Account of the Lives, Characters... of the Six Malefactors... at Kennington-Common, on Friday the Fourteenth of September, 1739, p.19, also p.18. John Thrift was himself condemned at the Old Bailey in April 1750 for the murder of David Ferris, but was later reprieved: London Evening-Post, 3512, 28 Apr. 1750; OBSP, 25-30 Apr. 1750; Old England, 22 Sept. 1750.
36. Whitehall Evening Post, 544, 5 Aug. 1749. See similarly, London Evening-Post, 3520, 17 May 1750.
37. Ibid, 1370, 28 Aug. 1736.
38. Gentleman's Magazine, IX (1739), p.213; A Genuine Account of the Behaviour... of the Malefactors... Executed at Kennington-Common, On Thursday the 25th of August, 1743, pp.20 & 19.
39. Whitehall Evening Post, 543, 3 Aug. 1749.
40. A Genuine Account of the Behaviour, Confessions, and Dying Words, of the Six Malefactors... at Guildford... the 13th Day of April, 1742, p.11.
41. [Wilson & Bannister], A Full, True and Genuine Account of the Uncommon Behaviour of Mr. Gill Smith, p.16.
42. Ibid, p.16. Henly Park is listed in Paterson as a country seat four miles from Guildford: E.Mogg, Paterson's Roads; being an entirely original and accurate description of all the Direct and Principal Cross Roads in England and Wales, with Part of the Roads of Scotland (18th edn.), London, 1829, p.41.
43. [Wilson & Bannister], A Full, True and Genuine Account of the Uncommon Behaviour of Mr. Gill Smith, p.16.
44. London Evening-Post, 1374, 7 Sept. 1736, 1377, 14 Sept. 1736.
45. A Genuine Account of the Behaviour... of the Malefactors... Executed at Kennington-Common, On Thursday the 25th of August, 1743, p.20.
46. Purland, Alsasian Eccentricities, item 1764, dated Feb. 1775.
47. Whitehall Evening Post, 1454, 30 Aug. 1754.
48. A Trip through the Town. Containing Observations on the Humours and Manners of the Age (4th edn.), London, 1735, p.27.
49. Gentleman's Magazine, II (1732), p.976.
50. Linebaugh, "The Tyburn Riots Against the Surgeons", p.88.
51. Authentic Trial and Memoirs of Issac Darkin, alias Dumas, pp.28 & 4; also, Annual Register, 1761, pp.89-90,

21 Mar. 1761.

3. Why didn't the Crowd Rescue the Living?

1. See, for example, John Sheppard in Part I of this thesis; Daily Journal, 1084, 11 July 1724, 1085, 12 July 1724; London Evening-Post, 1329, 25 May 1736, 1338, 15 June 1736; Whitehall Evening Post, 1237, 17 Jan. 1754, 1234, 10 Jan. 1754, 1262, 16 Mar. 1754.
2. London Evening Post, 1329, 25 May 1736; Philonomos, The Right Method of Maintaining Security in Person and Property To all the Subjects of Great Britain, London, 1751, p.51; A.L.Hayward (ed.), Lives of the Most Remarkable Criminals... (1735), London, 1927, p.222; Gentleman's Magazine, III (1733), p.267.
3. Ali Mohammed Hadgi [Anthony Hillair], A Brief and Merry History of Great Britain, London, [1710?], p.12.
4. Ordianry of Newgate, Account, 11 Aug. 1736, p.12.
5. Ibid, 20-22 Dec. 1738, p.5.
6. Ibid, p.4. According to the Gentleman's Magazine, VII (1738), p.659, Buchanan was still alive, but he was later recaptured.
7. Ordinary of Newgate, Account, 10 Mar. 1735, Part I, p.16.
8. Ibid, 7 May 1742, pp.8-9.
9. London Magazine, Oct. 1749. Similarly, Whitehall Evening Post, 576, 19 Oct. 1749.
10. P.Linebaugh, "The Tyburn Riot Against the Surgeons", in D.Hay et al, Albion's Fatal Tree: Crime and Society in Eighteenth-century England, Harmondsworth, 1977, pp.65-117, p.99.
11. The other person was a woman who was married to a seaman: Ordinary of Newgate, Account, 18 Oct. 1749. See, Linebaugh, "The Tyburn Riot Against the Surgeons", pp.98.
12. Linebaugh, "The Tyburn Riot Against the Surgeons", pp.98-9.
13. For evidence of this attitude amongst food rioters see, J.H.Bohstedt, Riots and Community Politics in England and Wales 1790-1810, Cambridge, Mass., 1983, pp.202-3 & 222; E.P.Thompson, "The Moral Economy of the English Crowd in the Eighteenth Century", Past and Present, 50 (1971), pp.76-136, at pp.126-8. Similar attitudes prevailed in forms of "social banditry": see, for example, E.P.Thompson, "The Crime of Anonymity", in Hay, Albion's Fatal Tree, pp.255-344, at pp.304-8.

4. The Hangman's Perquisites

1. Public Advertiser, 14302, 11 August 1780.
2. The Genuine Life, Trial, and Dying Words of the Rev. James Hackman... London, [1779?], p.20. Boswell spoke to Dennis after the hanging: J.W.Reed & F.A.Pottle (eds.), Boswell: Lord of Auchinleck 1778-1782, New York, 1977, p.93. For another example of Dennis's "tenderness" see, T.Purland, Alsasian Eccentricities 1700-1780, 2 vols. of newspaper cuttings in the British Library, item 1905, 24 Oct. 1775.
3. J.Bland, The Common Hangman: English and Scottish hangmen before the abolition of Public Executions, Hornchurch, 1984, p.39.
4. Purland, Alsasian Eccentricities, item 869, March 1769.
5. W.Bray (ed.), Diary and Correspondence of John Evelyn, F.R.S. to which is subjoined The Private Correspondence between King Charles I. and Sir Edward Nicholas, and between Sir Edward Hyde, afterwards Earl of Clarendon, and Sir Richard Browne, 4 vols., London, 1862, vol. II, p.238, 15 July 1685.
6. London Evening-Post, 1341, 22 June 1736.
7. Ibid, 1356, 27 July 1736.
8. Purland, Alsasian Eccentricities, item 998, 7 Dec. 1769.
9. A Particular Account of the Life and Actions of the Marquis Palliotti... London, 1718, p.22.
10. A Genuine Account of the Lives, Characters... of the Six Malefactors... at Kennington-Common, on Friday the Fourteenth of September, 1739, London, 1739, p.19. For similar practices in Kent see, Authentic Memoirs Of the Wicked Life and Dying Words of the late John Collington... London, 1750, p.11.
11. Memoirs of the Right Villainous John Hall... (4th edn.), London, 1714, p.28.
12. A Genuine Account of the Life, Robberies, Trial and Execution of William Cox... London, 1773, p.27. See also, The Authentic Trial, and Memoirs of Issac Darkin... Oxford & London, [1761?], p.28.
13. James Bland, The Common Hangman: English and Scottish hangmen before the abolition of Public Executions, Hornchurch, 1984, pp.69-70.
14. The Genuine Life, Trial and Dying Words of the Rev. James Hackman, p.21; W.S.Lewis, The Yale Edition of Horace Walpole's Correspondence, London, vol. 9, p.402.
15. Lewis, Horace Walpole's Correspondence, vol. 9, p.401-2.
16. Bland, Common Hangman, p.11.
17. An authentic Account of the Trials... of the Five Malefactors, Who were Executed at Kennington-Common, On Monday the 23d of April, 1770... London, [1770], p.7. Similarly, A True Account of the Behaviour... of John Hutchins, the Sollicitor... London, 1684, p.4;

Executions! A Full and Particular Account of William Morgan, and George Siggans, who were Executed on Penenden Heath, on Thursday the 21st August, 1817... Edinburgh, [1817].

18. A Compleat Collection of Remarkable Tryals Of the Most Notorious Malefactors, at the Sessions-House in the Old Bailey, for near Fifty Years past, 4 vols., London, 1718, vol. I, p.57; Ordinary of Newgate, Account, 24 Nov. 1740.
19. A.Knapp & W.Baldwin, The New Newgate Calendar, being Interesting Memoirs of Notorious Characters, Who have been convicted of outrages on the Laws of England, London, [1809], vol. III, p.167.
20. The Life, Trial, &c. of William Hawke, The notorious Highwayman... London, 1774, p.25.
21. General Advertiser, 5468, 28 Apr. 1752.
22. Purland, Alsasian Eccentricities, item 483.
23. Ibid, item 998.

5. The Restitution of Stolen Property and the Condemned

1. Evening Post, 2383, 3 Nov. 1724.
2. A Genuine Account of the Life and Actions of James Maclaine, Highwayman... London, [1750], p.23. Putting a suspect into prison in order that victims might come forward to make an identification was a common method of commencing the prosecution process: see, for example, Whitehall Evening Post, 470, 14 Feb. 1748, 493, 18 Apr. 1748.
3. S.Rossell, The Prisoner's Directors: compiled For the Instruction and Comfort of Persons under Confinement. Whether for Debt, for Capital, or other Crimes; more especially for Those under Sentence of Death, London, 1752, p.242. Rossell was, briefly, an Ordinary of Newgate.
4. Ordinary of Newgate, 22 Dec. 1690.
5. Ibid, 25 Sept. 1713, p.4. See also, ibid, 22 Mar. 1703/4.
6. Ibid, 9 July 1734, Part III. See also, Ordinary of Newgate, Account, 13 Sept. 1707.
7. The Authentic Trial, and Memoirs of Issac Darkin, alias Dumas... Oxford & London, [1761?], p.27.
8. Ordinary of Newgate, Account, 10-14 Mar. 1735; ibid, 4 May 1741, pp.7-8
9. Ibid, 25 Oct. 1704.
10. [Rev. J.Villette], A Genuine Account of the Behaviour, Confession, and Dying-Words of William Hawke and William Jones... London, [1774], pp.14-15 & 21, also p.22. The story of Hawke returning a watch also appears in, A Genuine Account of the Life, Robberies, Trial and

Execution, of William Hawke..., London, 1774, p.29.

11. T.Purland, Alsasian Eccentricities 1700-1780, 2 vols. of newspaper cuttings in British Library, item 557, dated 1762. See also, this thesis, Part I, Chapter 2, section 3.
12. Gentleman's Magazine, I (1731), p.352.
13. A Genuine Account of the Behaviour, Confessions, and Dying Words, of the Six Malefactors... at Guildford... the 13th Day of April, 1742, London, [1742], p.4. See also, A Genuine Account of the Lives, Characters... of the Six Malefactors... at Kennington-Common, on Friday the Fourteenth of September, 1739, London, 1739, p.13. The need for money was also acute for those being transported, so, it was alleged, Thomas Ellington and William Groves, two horse thieves, offered victims information on the horses at five shillings a horse: London Evening Post, 1386, 5 Oct. 1736.
14. A Genuine Account of the Behaviour, Confessions, and Dying Words, of the Six Malefactors... at Guildford... the 13th Day of April, 1742, p.12.
15. Ordinary of Newgate, Account, 23 Oct. 1689.
16. Ibid, 4 May 1736, p.10.
17. Ibid, 7 May 1740, p.10. See similarly, Ordinary of Newgate, Account, 17 Dec. 1707.

6. Gaolers, Scientists and the Practice of Vivisection

1. The True and Genuine Account of the Confession (Whilst under Sentence of Death) of Thomas Jones, and James Welch... London, [1751], p.6. Although the author's disagreement with Rev. Leonard Howard, the chaplain at Southwark prison, described in this pamphlet may have fuelled this allegation. Access to Newgate was denied to Thomas Wilks who tried to see Catherine Lineham in 1741: "I cannot prevail with the Person who opens the Door of the Press-Yard": Ordinary of Newgate, Account, 31 July 1741, p.16. Sometimes visitors were barred: the Bank of England prevented visitors gaining access to John Matthieson: Memoirs Of the Life of John Matthieson, Executed for a Forgery on the Bank of England... London, [1779], p.40.
2. A Genuine Account of the Life... of William Cox... London, 1773, p.24. See also, The Genuine Life of William Cox... London, 1773, p.26.
3. London Evening-Post, 1416, 14 Dec. 1736. The Lord Mayor's response is not recorded.
4. Ibid, 1377, 14 Sept. 1736.
5. A Narrative Of the Barbarous and unheard of Murder of Mr. John Hayes, by Catherine his Wife... London, 1726, p.30.

6. A Genuine Account of the Lives, Characters... of the Six Malefactors... at Kennington-Common, on Friday the Fourteenth of September, 1739, London, 1739, p.13.
7. J.Woodforde, The Diary of a Country Parson 1758-1802, Oxford, 1979, p.6; A Compleat and True Account Of all the Robberies Committed by James Carrick... London, 1722, p.24. It was said that Jonathan Wild gave Joseph Blake money while he was in Newgate, although he had been responsible for Blake's arrest (Blake later stabbed him): Daily Journal, 1159, 7 Oct. 1724.
8. A short Narrative of the Behaviour, &c. of John Barry... who was executed May 16th, 1746... [London, 1746?]. See also, this thesis, chapter 8, especially Jack Rann's dinner party.
9. Public Record Office, State Papers, 44/79A/434, see A.R.Ekirch, Bound for America: The Transportation of British Convicts to the Colonies 1718-1775, Oxford, 1987, pp.62-3. According to a newspaper report only three prisoners were involved: T.Purland, Alsasian Eccentricities 1700-1780, item 46, July 1721. Smallpox was reported to have appeared in the prisoners, although what subsequently happened to them is not: Purland, item, 47, July 1721.
10. Purland, Alsasian Eccentricities, item 126.
11. For the government the Earl of Egmont decided that Clippingdale should be transported, unless required for other experiments: Calendar of Home Office Papers, vol. I, 907, pp.283-4, 908, p.284, 16-18 May 1763. The refusal sparked a row: T.Peirce, A Short, Plain, and Exact Narrative of all the Proceedings, relative to Two Convicts, lately respited by His Majesty, for the Trial of Mr. Thomas Peirce's Styptic Medicine, and the True Causes of his Disappointment shown, London, 1767; The Case of Thomas Peirce, with regard to his Styptic Medicines... [London, 1764].
12. London Evening-Post, 1356, 27 Mar. 1736.
13. Ibid, 1374, 7 Sept. 1736.
14. A.Knapp & W.Baldwin, The New Newgate Calendar, being Interesting Memoirs of Notorious Characters, Who have been convicted of outrages on the Laws of England, London, [1809], vol. I, p.61.
15. He was returned to Newgate the same day and later transported: Gentleman's Magazine, X (1740), pp.570 & 621.
16. London Evening-Post, 1374, 7 Sept. 1736.
17. Gentleman's Magazine, III (1733), p.213.
18. A Genuine Account of the Life and Transactions of William Parsons, Esq... London, 1751, p.10. For other examples of revivals see, L.Radzinowicz, A History of English Criminal Law and its Administration from 1750, 4 vols., London, 1948-68, vol.I, pp.194-5.

19. London Evening-Post, 4267, 18 Mar. 1755; Daily Universal Register, 468, 22 June 1786; Public Advertiser, 1550, 7 July 1785. See similarly, Gentleman's Magazine, XXXVII (1767), p.276; also the observations of J.H.Meister in Letters written during a Residence in England, London, 1799, p.62n.
20. Repertories of the Court of Aldermen, 1818-19, pp.19-23, see J.Bland, The Common Hangman: English and Scottish hangmen before the abolition of Public Executions, Hornchurch, 1984, p.101.
21. C.G.Harper, The Great North Road: The Old Mail Road to Scotland (2nd edn.), London, 1922, pp.113-4.
22. W.Andrews, Old-Time Punishments, Hull, 1890, p.231; Radzinowicz, History of English Criminal Law, vol. I, p.218n.

CHAPTER 14: SOLDIER, SAILOR

1. The Emergence of a Crime Panic in 1748

1. See, for example, T.A.Critchley, A History of Police in England and Wales 900-1966, London, 1967.
2. J.Fielding, An Accountof the Origin and Effects of a Police Set on Foot by His Grace the Duke of Newcastle in the Year 1753, upon a Plan presented to his Grace by the Late Henry Fielding, Esq., London, 1758, pp.15-16; also, J.Fielding, A Plan for preventing Robberies within Twenty Miles of London, London, 1755, pp.1-2. See also, R. Leslie-Melville, The Life and Work of Sir John Fielding, London, [1935], p.51. Henry Fielding's account of the incident is in, The Journal of a Voyage to Lisbon, London, 1754, introduction. For other work on Sir John Fielding see, G.Armitage, The History of the Bow Street Runners, London, 1932; P.Pringle, Hue and Cry: The Birth of the British Police, London, 1955; L.Radzinowicz, A History of English Criminal Law and its Administration since 1750, 4 vols., London, 1948-68, esp. vol. II, pp.1-62; J.Styles, "Sir John Fielding and the Problem of Crime Investigation in Eighteenth-Century England", Trans. of Royal Historical Society, 5th series, 33, (1983), pp.127-49; C.Emsley, Policing and its Context 1750-1870, London, 1983, pp.21-29. One tends to have to look back to eighteenth-century writers for criticism of John Fielding, see, W.A.Miles, A Letter to Sir John Fielding, Knt. occasioned by His extraordinary Request to Mr. Garrick for the Suppression of the Beggar's Opera. To which is added a Postscript to D.Garrick, Esq.; Dat veniam Corvis, vexat cnsura Columbus, London, 1773.
3. Gentleman's Magazine, XVII (1747), p.496.
4. Penny London Post, 727, 4 Jan. 1748.
5. Whitehall Evening Post, 441, 6 Dec. 1748.
6. Whitehall Evening Post, 458, 17 Jan. 1749.
7. British Magazine, V (1750), p.380.
8. W.S.Lewis (ed.), Horace Walpole's Correspondence with Sir Horace Mann, vol. IV, London, 1960, p.199.
9. Gentleman's Magazine, XXI (1751), p.423.
10. Whitehall Evening Post, 452, 3 Jan. 1749. See similarly, Penny London Post, 1006, 26 Sept. 1748; Whitehall Evening Post, 409, 17 Sept. 1748.
11. Whitehall Evening Post, 427, 3 Nov. 1748; Penny London Post, 819, 10 Aug. 1748.
12. Penny London Post, 740, 3 Feb. 1748.
13. Whitehall Evening Post, 409, 22 Sept. 1748.
14. Whitehall Evening Post, 443, 10 Dec. 1748. See also, ibid, 309, 2 Feb. 1748.
15. Whitehall Evening Post, 300, 12 Jan. 1748.
16. Whitehall Evening Post, 555, 31 Aug. 1749.
17. London Evening Post, 3498, 26 Mar. 1750; ibid, 3520, 17

May 1750; ibid, 3582, 4 Oct. 1750.

18. Whitehall Evening Post, 475, 25 Feb. 1749. See similarly, ibid, 474, 23 Feb. 1749.
19. Whitehall Evening Post, 480, 9 Mar. 1749.
20. Whitehall Evening Post, 487, 28 Mar. 1749. See also, London Evening Post, 3649, 12 Mar. 1751.
21. L.Radzinowicz, A History of the English Criminal Law and its Administration since 1750, 4 vols., London, 1948-68, vol. II, p.96n.
22. G.Howson, The Thief-Taker General: The Rise and Fall of Jonathan Wild, London, 1970.
23. Philo-Patriae, A Full and Genuine Account of the Murder of Mrs. Robinson, by Elton Lewis, on Monday Night, April 21, 1735, London, [1735], p.21; [Thomas Coke], A Collection of Political Tracts, London, 1735, p.43; England's Ingratitude: or, Jonathan Wild's Complaint, Dublin, 1725. For tracts indicating high crime levels at the end of the 1720s see, [D.Defoe], Augusta Triumphans: or, the Way to make London The most flourishing City in the Universe, London, 1728; [Defoe, D.], Proposals to Suppress Robberies all over England, Humbly Submitted to the Consideration of the Legislature, [London, 1728]; [D.Defoe], Second thoughts are best; or, a Further Improvement of a late Scheme to prevent Street Robberies..., London, 1729; [D.Defoe], Street Robberies Consider'd; The Reason for their being so Frequent, With Probable Means to Prevent 'em, London, [1728]. For a contrary view of the mid-1730s see, O.B.S.P., 16-17 Oct. 1734, p.207.
24. T.Allen, A Sermon Preach'd om the Chapel at Newgate, Before the Twenty-One Criminals Condemned last Sessions. On Sunday December 16, 1744, In Order to Prepare them for another World, London, 1744, pp.10-11; Ordinary of Newgate, Account, 5 Oct. 1744, p.19. See also, The Faithful Narrative; Or an Impartial Account Of the Tryal of Bartholomew Greenwood, Gent..., London, 1740, p.10, although here the remark was made in the course of a robbery trial and on that account cannot perhaps be regarded as entirely disinterested.

2. The Projecting Age

1. [D.Defoe]. An Essay upon Projects, London, 1697.
2. [D.Defoe], A Tour through the Whole Island of Great Britain, (1724-26), Harmondsworth, 1979.
3. Ibid.
4. C.R.Dobson, Masters and Journeymen: A Prehistory of Industrial Relations 1717-1800, London, 1980, pp. 28 & 154-70.
5. Dr. A.Smith, An Inquiry into the Nature and Causes of

the Wealth of Nations, (ed. E.Cannan: 5th edn.), 2 vols., London, 1930, vol. I, pp.65-7 & 11; A.Ure, The Philosophy of Manufactures or An Exposition of the Scientifice, Moral, and Commercial Economy of the Factory System of Great Britain, (1835), London, 1967.

6. Smith, Wealth of Nations, vol. I, pp.435 & 64.
7. 1 Ld. Raym. 513.
8. (1756) 1 Burr. 2, at 5-7.
9. The textbook writers held similar views: [M.Bacon], A New Abridgement of the Law, 4 vols., London, 1736, vol. III, p.552; R.Burn, The Justice of the Peace, and Parish Officer, 2 vols., London, 1755, vol. II, p.58.
10. J.G.Rule, The Experience of Labour in Eighteenth-Century Industry, London, 1981, pp.107-9; Dobson, Masters and Journeymen, pp.47-59 passim.
11. J. de L. Mann, The Cloth Industry in the West of England from 1640 to 1880, London, 1971, pp.37-62; K.G.Ponting, The Woollen Industry of South-west England, Bath, 1971, p.41.
12. M.Berg, The Age of Manufactures: Industry, innovation and work in Britain 1700-1820, London, 1985, pp.108-28; A.J.Little, Deceleration in the Eighteenth-Century British Economy, London, 1976; W.A.Cole, "Factors in Demand 1700-80" in R.Floud & D.McCloskey (eds.), The Economic History of Britain since 1700, vol. I, Cambridge, 1981, pp.36-65.
13. Dr. Archibald Cameron was not executed until 1753: Gentleman's Magazine, XXIII (1753), pp.292-3.
14. Dr.T.Short, New Observations, Natural, Moral, Civil on Town and Country Bills of Mortality. To which are added, Large and Clear Abstracts of the best Authors, London, 1750.
15. Memoirs Of the Right Villainous John Hall... (4th edn.), London, 1714, p.30. See also, Blueskin's Ballad, n.p., 1724/5; Ordinary of Newgate, Account, 24 Dec. 1744, Part I, p.11; Hanging no Dishonour. Being a Modest Attempt to prove That such Persons as have the Honour to make their Exit at the Triple-Tree are not always the greatest Villains in the Nation. In a Letter from Gentleman Harry, Now under Sentence of Death in Newgate. Addressed To Villains of all Denominations in Great-Britain, London, 1747;
16. C.Jones, Some Methods Proposed Towards putting a Stop to the Flagrant Crimes of Murder, Robbery, and Perjury, London, 1752, pp.5-6; [J.Brown], An Estimate of the Manners and Principles of the Times, London, 1757, pp.88-94. See also, A Proposal for Arming, and Disciplining The People of Great Britain. With Some occasional Reflections on the late Conduct of France, London, 1746.
17. [J.Brown], On the Pursuit of False Pleasure, and the

Mischiefs of Immoderate Gaming: A Sermon Preach'd at the Abbey-Church at Bath..., (2nd edn.), London, 1752, pp.12-13.

18. [Brown], Estimate of the Manners, vol. I, p.15.
19. Ibid, vol. I, p.20.
20. Ibid, vol. I, p.29.
21. Ibid, vol. I, p.72.
22. Ibid, p.131.
23. Ibid, vol. II, p.49.
24. Ibid, vol. II, pp.83-9.
25. H.Fielding, "An Inquiry into the causes of The Late Increase of Robbers, &c. with some proposals for remedying the growing evil..." (1751) in T.Roscoe (ed.), The Works of Henry Fielding, complete in one volume, with memoir of the author, London, 1845, pp.759-93, at p.767. See also, ibid, pp.763, 765, 767-8.
26. Ibid, p.763. See also, The Vices Of the Cities of London and Westminster. Trac'd from their Original... Dublin, 1751, p.7.
27. N.Rudd (ed.), Johnson's Juvenal: London and The Vanity of Human Wishes, Bristol, 1981, line 65. The pernicious influence of London was a common feature of contemporary literature: see, for example, Tobias Smollett, Humphrey Clinker. James Thomson's long poem, The Seasons, provides an example of the idyllic view of the countryside, in, for instance,

> ...the Shepherd,
> Around him feeds his many-bleating Flock,
> Of various Cadence; and his sportive Lambs,
> This way and that convolv'd, in friskful Glee,
> Their Frolicks play...

(J.Thomson, The Seasons, (ed. J.Sambrook), London, 1981, p.42.)
Such poets received their rebuttal from Stephen Duck, "the thresher poet", who was only too glad to escape from the country and his noisy, unrelenting work of threshing, "The Sweat, the Dust, and suffocating Smoak", adding that,

> No Fountains murmur here, no Lambkins play,
> No Linnets warble, and no Fields look gay;
> 'Tis all a gloomy, melancholy Scene,
> Fit only to provide the Muse's Spleen.

(S.Duck, Poems for Several Occasions, London, 1736, pp.14 & 13.)

28. B.Mandeville, The Fable of the Bees: or, Private Vices, Publick Benefits, (ed. F.B.Kaye), 2 vols., Oxford, 1924, vol. I, p.18; see also, ibid, pp.25 & 115. For the response of one of the "Court" society see, Lewis, Horace Walpole's Correspondence with Mann, vol. II,

London, 1955, p.211, 14 April 1743: "Dull as London is in summer, there is always more company in it than in any one place in the country. I hate the country - I am past the shepherdly age of groves and streams, and am not arrived at that of hating everything but what I do myself, as building and planting."

29. J.Shebbear, An Essay on the Origin, Progress and Establishment of National Society, London, 1776.
30. J.Fielding, An Account of the Origin and Effects of a Police, p.ix.
31. Short, New Observations, Natural, Moral, Civil on Town and Country Bills of Mortality, p.121.
32. Public Nuisance Considered under the Several Heads of Bad Pavements, Butchers infesting the Streets, the Inconveniences to the Publick, occasioned by the present Method of Billetting the Foot-Guards, and the Insolence of Household-Servants, London, [1751], p.47.
33. The Life, Trial, &c. of William Hawke..., London, 1774, p.4. Similar in, Some Account of the Life and Death of Matthew Lee, Executed at Tyburn, October 11, 1752, In the 20th Year of his Age, (2nd edn.), London, 1752, p.3.
34. Ordinary of Newgate, Account, 14 Mar. 1739, p.6.
35. The Case of Mary Edmonson. By a Gentleman of the Law, London, 1759, p.4.
36. Particulars of the Very Singular and Remarkable Trials, Convictions, and Escapes, of John Shepherd... London, 1786, p.4. Henry Fielding even makes Joseph Andrews succumb to some extent to London: on arriving his friends "endeavour'd to make him despise his former Course of Life. His Hair was cut after the newest Fashion, and became his chief Care. He went abroad with it all the Morning in Papers, and drest it out in the Afternoon": H.Fielding, Joseph Andrews, (ed. M.C.Battestin), London, 1967, p.27. The same theme occurs in much of Hogarth's work, most obviously The Harlot's Progress, but also The Rake's Progress. Generally on the theme of country-city in literature see, R.Williams, The Country and the City, London, 1973; W.A.Speck, Society and Literature in England 1700-60, Dublin, 1983, pp.116-38.
37. See this thesis, above.
38. J.Fielding, A Plan for A Preservatory and Reformatory, For the Benefit of Deserted Girls, and Penitent Prostitutes, London, 1758, pp.3-4.

3. Soldier, Sailor, Robber

1. D.A.Baugh, British Naval Administration in the Age of Walpole, Princeton, 1965, p.205.
2. For some examples of the discharge of ships see,

Whitehall Evening Post, 356, 21 May 1748; Penny London Post, 792, 8 June 1748; ibid, 992, 24 Aug. 1748; ibid, 993, 26 Aug. 1748. For soldiers see, Penny London Post, 998, 7 Sept. 1748; ibid, 1002, 16 Sept. 1748; ibid, 1025, 14 Nov. 1748; Whitehall Evening Post, 432, 15 Nov. 1748.

3. Whitehall Evening Post, 373, 30 June 1748. See also, D.A.Baugh (ed.), Naval Administration 1715-50, Naval Records Society, 1977, p.456.
4. Whitehall Evening Post, 299, 9 Jan. 1748.
5. Penny London Post, 1039, 16 Dec. 1748; Whitehall Evening Post, 443, 10 Dec. 1748.
6. Letter from Vanburgh to Navy Board, 23 Dec. 1748 in D.A.Baugh (ed.), Naval Administration 1715-1750, Naval Record Society, vol. 120 (1977), pp.188-9; letters from Brown to Navy Board, 12 Jan. 1748/9 in ibid, p.189; 29 Jan. 1748/9 in ibid, pp.189-90; 7 Feb. 1749 in D.A.Baugh, British Naval Administration in the Age of Walpole, Princeton, 1965, p.479. The intricacies of the highly-complex system of payment used by the Navy are outlined in R.D.Merriman, Queen Anne's Navy, Naval Record Society, vol. 103 (1961), pp.172-5.
7. Chester Courant, 16 May 1749, p.325.
8. Penny London Post, 794, 13 June 1748; Whitehall Evening Post, 365, 11 June 1748. See also, Whitehall Evening Post, 371, 25 June 1748 for a robbery allegedly committed by five sailors in Bristol.
9. Penny London Post, 1015, 17 Oct. 1748.
10. Penny London Post, 1042, 23 Dec. 1748.
11. Baugh, Naval Administration 1715-1750, doc. 47, pp.142-4.
12. Whitehall Evening Post, 451, 29 Dec. 1748.
13. Penny London Post, 816, 3 Aug. 1748; ibid, 996, 2 Sept. 1748; Whitehall Evening Post, 530, 4 July 1749; ibid, 531, 6 July 1749; ibid, 545, 8 Aug. 1749; ibid, 576, 19 Oct. 1749.
14. Whitehall Evening Post, 350, 7 May 1748.
15. Penny London Post, 807, 13 July 1748.
16. Penny London Post, 817, 5 Aug. 1748; ibid, 992, 24 Aug. 1748; Whitehall Evening Post, 431. 12 Nov. 1748.
17. Penny London Post, 807, 13 July 1748.
18. Whitehall Evening Post, 355, 19 May 1748. For the recommencement of grain exports see, Whitehall Evening Post, 353, 14 May 1748 - the preliminary treaty had been signed on 30 April.
19. Whitehall Evening Post, 311, 9 Feb. 1748; ibid, 301, 14 Jan. 1748. For a report of the export of grain to France see, Whitehall Evening Post, 301, 14 Jan. 1748.
20. Whitehall Evening Post, 322, 5 Mar. 1748.
21. Various statutes existed to encourage the export of grain: 1 Will. & Mar. sess. I, c.12; 2 Geo. II, c.18,

and these were followed in 1751 by 24 Geo. II, c.56.

22. Whitehall Evening Post, 351, 10 May 1748; ibid, 355, 19 May 1748.

23. Penny London Post, 1014, 14 Oct. 1748; Whitehall Evening Post, 421, 20 Oct. 1748.

24. Whitehall Evening Post, 413, 1 Oct. 1748; Penny London Post, 1025, 14 Nov. 1748; Whitehall Evening Post, 433, 17 Nov. 1748.

25. M----C L----N's Cabinet broke open..., London, [1750], p.8.

26. Janssen's figures were reprinted by John Howard in, The State of the Prisons in England and Wales, Warrington, 1777, and the Select Committee on the Criminal Laws, (585), 1819, vol. VIII, Appendix.
the

27. Whitehall Evening Post, 318, 23 Feb. 1748; ibid, 330, 22 Mar. 1748; ibid, 333, 29 Mar. 1748; ibid, 342, 19 Apr. 1748; Penny London Post, 775, 29 Apr. 1748; Whitehall Evening Post, 374, 2 July 1748; Penny London Post, 816, 3 Aug. 1748; ibid, 990, 19 Aug. 1748; ibid, 1023, 17 Nov. 1748; ibid, 1041, 21 Dec. 1748; London Evening Post, 3311, 19 Jan. 1749.

28. Whitehall Evening Post, 358, 26 May 1748; Penny London Post, 800, 27 June 1748; Whitehall Evening Post, 371, 25 June 1748; Penny London Post, 814, 29 July 1748; ibid, 816 3 Aug. 1748; ibid, 817, 5 Aug. 1748; ibid, 819, 10 Aug. 1748; ibid, 987, 12 Aug. 1748; ibid, 989, 17 Aug. 1748; ibid, 994, 29 Aug 1748; ibid, 998, 7 Sept. 1748; Whitehall Evening Post, 404, 10 Sept. 1748; Whitehall Evening Post, 407, 17 Sept. 1748; ibid, 440, 2 Dec. 1748; London Evening Post, 3311, 19 Jan. 1749. For other reports in 1749 see, for example, Whitehall Evening Post, 469, 11 Feb. 1749; ibid, 474, 25 Feb. 1749; ibid, 481, 11 Mar. 1749; ibid, 491, 13 Apr. 1749; ibid, 540, 27 July 1749. For Keef see, London Evening Post, 3541, 5 July 1750. Sailors who had received their wages and prize money were also occasionally reported to have been the targets of crime, indeed this was what started the Strand riots which led to the hanging of Penlez in 1749: see, Whitehall Evening Post, 366, 14 June 1748; ibid, 417, 11 Oct. 1748; ibid, 436, 24 Nov. 1748, London Evening Post, 3309, 14 Jan. 1749; ibid, 3312, 21 Jan. 1749; Whitehall Evening Post, 476, 28 Feb. 1749.

29. Linebaugh, Tyburn, p.658; Ordinary of Newgate, Account, 18 Oct. 1749.

4. Instant Reactions: Constructing the Moral Barricades

1. Penny London Post, 749, 24 Feb. 1748; ibid, 758, 21 Mar. 1748. There are several reports of the press operating

and regiments taking on men during the first few months of 1748: for example, Whitehall Evening Post, 309, 2 Feb. 1748.

2. Whitehall Evening Post, 355, 19 May 1748; ibid, 365, 11 June 1748; Whitehall Evening Post, 451, 29 Dec. 1748; London Evening Post, 3304, 3 Jan. 1749; Whitehall Evening Post, 454, 7 Jan. 1748. On the fear of smugglers see, Whitehall Evening Post, 454, 7 Jan. 1748. Before the Special Commission arrived in Chichester to try various people for offences linked to smuggling in Sussex one newspaper reported, "The Smugglers are to be hang'd immediately after Sentence is pass'd, Orders being given for a Gallows to be erected for that Purpose". Whitehall Evening Post, 455, 10 Jan. 1749. Generally see, The Whole Proceedings of the Special Commission... the held at Chichester, the 16th, 17th, and 18th of January last..., London, 1749; The Trials of the Sussex Smugglers, and the Other Prisoners, at the Assizes held at East-Grinstead for the County of Sussex... the 13th, 14th, 15th, and 16th of March, 1748-9..., London 1749. Also, C.Winslow, "Sussex Smugglers" in D.Hay et al (eds.), Albion's Fatal Tree: Crime and Society in Eighteenth-Century England, Harmondsworth, 1977, pp.119-66. Some of the "crime wave" was indeed blamed on smugglers see, Whitehall Evening Post, 556, 2 Sept. 1749.

3. Penny London Post, 1014, 14 Oct. 1748; London Evening Post, 3314, 26 Jan. 1749; Whitehall Evening Post, 463, 28 Jan. 1749; ibid, 481, 11 Mar. 1749. The first group of 2,576 immigrants arrived in Nova Scotia under Colonel Cornwallis in 1749 and built Halifax (named after the President of the Board of Trade at the time); this scheme was part of an effort to subjugate the Acadians who were sympathetic to France: see, G.Lanctot, A History of Canada (tr. M.M.Cameron), 3 vols., London, 1963-65, vol. III, pp.90-100.

4. Whitehall Evening Post, 458, 17 Jan. 1749.

5. Ibid, 460, 21 Jan. 1749.

6. Ibid, 462, 26 Jan. 1749.

7. Ibid, 472, 18 Feb. 1749.

8. Penny London Post, 812, 25 July 1748; London Evening Post, 3515, 5 May 1750.

9. Serious Thoughts In Regard to the Publick Disorders, with Several Proposals for Remedying the Same; Particularly in Respect to Gaming, Publick-Houses, Pawn-Brokers, and receivers of Stolen Goods. By a Country Justice of the Peace, London, [1751], p.22.

10. Penny London Post, 727, 4 jan. 1748.

11. Gentleman's Magazine, XIX (1749), p.88; Whitehall Evening Post, 466, 4 Feb. 1749.

12. Whitehall Evening Post, 467, 7 Feb. 1749.

13. Whitehall Evening Post, 471, 16 Feb. 1749.
14. Gentleman's Magazine, XX (1750), pp.41-2.
15. London Evening Post, 3515, 5 May 1750; ibid, 3609, 8 Dec. 1750; ibid, 3611, 13 Dec. 1750; ibid, 3612, 15 Dec. 1750; Gentleman's Magazine, XX (1750), p.378.
16. Gentleman's Magazine, XXI (1751), p.38; Whitehall Evening Post, 766, 8 Jan. 1751. In May 1751 the government offered a reward for the arrest of offenders responsible for a series of robberies in Suffolk between March and December 1750 and various people were later arrested see, London Evening Post, 3687, 14 May 1751; ibid, 3682, 23 May 1751.
17. Penny London Post, 814, 29 July 1748; Whitehall Evening Post, 444, 13 Dec. 1748; Whitehall Evening Post, 451, 29 Dec. 1748.
18. Whitehall Evening Post, 460, 21 Jan. 1749; ibid, 570, 5 Oct. 1749.
19. Whitehall Evening Post, 478, 4 Mar. 1749; 479, 7 Mar. 1749.
20. Whitehall Evening Post, 575, 17 Oct. 1749.
21. The hanging in Surrey of two men, Arthur Gibbons and Thomas Walker, both apprentice watermen, for river robberies on the evidence of a third, Parkin who was transported, in April 1749 may represent an early form of the association: see, [Rev. W.Wilson], The Solemn Declaration of Richard Coleman, Who was Executed at Kennington-Common... on Wednesday, April 12, 1749..., London, [1749], pp.11-12. Even earlier, the merchants organised river patroles see, [Rev. W.Wilson], A Genuine Account of the Behaviour, Confessons, and Dying Words, of the Malefactors... Executed at Kennington-Common On Thrusday the 25th of August, 1743..., London, [1743], p.4. There had been various patroles on the Thames organised by several different bodies, including the Commissioners of Customs and Excise, since at least 1711: L.Radzinowicz, A History of the English Criminal Law and its Administration, 4 vols., London 1948-68, vol. II, pp.353-7.
22. Manuscripts of the Earl of Egmont. Diary of Viscount Percival Afterwards First Earl of Egmont, 3 vols., H.M.C., London, 1920-3, vol.I, pp.85-6; Journal of the House of Commons, xxvi, p.212. Bethell was the treasurer of the association: Radzinowicz, History of English Criminal Law, vol. II, p.354.
23. Philopatriae, Observations on the Buyers or Receivers of Stolen Goods, Particularly of Lead, Iron, &c. taken from Buildings, London, 1751; Further Observations on the Buyers or Receivers of Stolen Goods, particularly Of Lead, Iron, Copper, Brass, Bell-metal, and Solder. With Some Extracts from Mr. Fielding's Enquiry, London, 1756.
24. London Evening Post, 3586, 16 Oct. 1750.

25. Ibid, 3627, 19 Jan. 1751. See also, Whitehall Evening Post, 772, 22 Jan. 1751.
26. Ibid, 3628, 22 Jan. 1751.
27. Ibid, 3655, 26 Mar. 1751.
28. Ibid, 3659, 4 Apr. 1751.
29. Ibid, 3661, 9 Apr. 1751.
30. Ibid, 3663, 13 Apr. 1751.
31. Ibid, 3718, 20 Aug. 1751. See also, Purland, Alsasian Eccentricities, items 184-5.
32. P.Linebaugh, Tyburn: A Study of Crime and the Labouring Poor in London During the First Half of the Eighteenth Century, 2 vols., unpublished Ph.D. thesis, University of Warwick, 1975, vol. I, p.502.
33. H.Fielding, "A Charge delivered to the Grand Jury, at the Sessions of the Peace held for the City and Liberty of Westminster, &c. On Thursday the 29th of June, 1749" in W.E.Henley (ed.), The Complete Works of Henry Fielding, 16 volumes, n.p., 1967, vol. XIII, p.215.
34. Brittanicus, Esq., A Letter To the Honourable House of Commons, relating to The present Situation of Affairs. To which is added, An Address to all generous and humane Minds, occasioned by the Execution of Mr. James Maclaine, &c., London, 1750, pp.4-5.
35. Ibid, pp.6 & 9-11.
36. London Evening Post, 3638, 14 Feb. 1751.
37. Whitehall Evening Post, 309, 2 Feb. 1748; General Advertiser, 4367, 24 Oct. 1748, also Penny London Post, 1018, 24 Oct. 1748; London Evening Post, 3311, 19 Jan. 1749; ibid, 3509, 21 Apr. 1750; ibid, 3654, 23 Mar. 1751; ibid, 3668. 25 Apr. 1751; ibid, 3702, 13 July 1751. See also, Whitehall Evening Post, 460, 21 Jan. 1749; Westminster Journal, 330, 26 Mar. 1748; British Magazine, V (1750), Apr., p.188; Gentleman's Magazine, XXI (1751), pp.87 & 185; Covent Garden Journal, 46, 9 June 1752; ibid, 63, 23 Sept. 1752.
38. Purland, Alsasian Eccentricities, items 168, 246, 256, dated 1750-1.
39. Whitehall Evening Post, 372, 28 June 1748.
40. Penny London Post, 738, 29 Jan. 1748; ibid, 814, 29 July 1748; ibid, 817, 5 Aug. 1748; ibid, 1023, 7 Nov. 1748.
41. Whitehall Evening Post, 366, 14 June 1748; ibid, 374, 2 July 1748; Penny London Post, 1015, 17 Oct. 1748. See also the resolution of the parish of St. Clement Danes following the sailors' riots against the bawdy houses, Whitehall Evening Post, 571, 7 Oct. 1749; T.Purland, Alsasian Eccentricities, 1700-1780, 2 vols. of newspaper cuttings in the British Library, item 343.

5. The King and Fielding

1. F.W.Torrington (ed.), House of Lords Sessional Papers, New York, 1977, sessions 1747-48 to 1753, p.334.
2. Some of the pamphlets make specific reference to the King's speech: Public Nuisance Considered under the Several Heads of Bad Pavements, Butchers infesting the Streets, the Inconveniences to the Publick, occasioned by the present Method of Billetting the Foot-Guards, and the Insolence of Household-Servants, London, [1751], p.51; Civis, A Method Proposed to prevent the many Robberies and Villainies Committed in and about the City of London; and for Establishing a Fund for the Maintenance of the Poor, without Detriment to any Individual: London, 1752, p.ix; C.D., A Letter to a Member of Parliament, Upon the Subject of the present reigning Enormities of Murders and Robberies: Bath, 1754, p.1; Proposals to the Legislative, For preventing the frequent Executions and Exportations of Convicts. In a Letter to the Right Honourable Henry Pelham, Esq; By a Student in Politics: London, 1754, p.2. The speech was also recalled in 1763 in [Sir. Wm. Mildmay], The Police of France: or, An Account of the Laws and Regulations established In that Kingdom, for the Preservation of Peace, and the Preventing of Robberies: London, 1763, p.iii.
3. Torrington, House of Lords, session 1747-48 to 1753, p.388.
4. Whitehall Evening Post, 1257, 5 Mar. 1754. This was recalled some 25 years later as having been very successful in breaking up "the Gangs of Villains... for a considerable Time." T.Purland, Alsasian Eccentricities, 1700-1780, 2 vols. of newspaper cuttings in the British Library, item 1852.
5. Dr. Allen, An Account Of the Behaviour of Mr. James Maclaine... (2nd edn.), London, 1750, p.14.
6. H.Fielding, "An Inquiry into the causes of The Late Increase of Robbers, &c. with some proposals for remedying the growing evil..." (1751) in T.Roscoe (ed.), The Works of Henry Fielding, complete in one volume, with memoir of the author, London, 1845, pp.759-93, at p.761.
7. Ibid, p.764.
8. H.Fielding, "A Proposal for Making an Effectual Provision for the Poor, for Amending their Morals, and for Rendering them useful Members of Society. To which is added, A Plan of the Building proposed, with proper Elevations. Drawn by an Eminent hand" (1753) in W.E.Henley (ed.), The Complete Works of Henry Fielding, (reprint), 16 vols., n.p., 1967, vol. xii, at pp.138-9. The term "mercantilist" has been used for a loose body

of economic practices and theories, no school of thought existed as such. One of the main tenets of mercantilism was that national wealth was directly related to the number of usefully employed people.

9. Fielding, Inquiry, p.793.
10. Ibid, pp.763-4.
11. Ibid, p.766.
12. Ibid, pp.766-7. Also, Covent Garden Journal, 70, 11 Nov. 1752.
13. Fielding, Inquiry, p.767.
14. British Magazine, V (1750), December.
15. Fielding, Inquiry, p.767. See also, this thesis, Chapter 6.
16. Ibid. See also, Britanicus, A Letter To the Honourable House of Commons, relating to The present Situation of Affairs. To which is added, An Address to all generous and humane Minds, occasioned by the Execution of Mr. James Maclaine, &c., London, 1750, pp.5-6, 7-9; The Life of Benjamin Barker, A Notorious Highwayman, from his Youth to his Death, Who was Executed at Chelmsford on Friday the 18th of May, 1750... London, 1750, pp.5-7; Reflexions on Gaming; and Observations on the Laws relating thereto. In which is considered, The Mischiefs that are occasioned by Gaming-Houses being Encouraged by Persons of Rank and Distinction. And A Remedy proposed for the same, London, [1750?]; C.Jones, Some Methods Proposed Towards putting a Stop to the Flagrant Crimes of Murder, Robbery, and Perjury, London, 1752, p.22.
17. Ibid, p.769.
18. Covent Garden Journal, 3, 11 Jan. 1752.
19. The letter from Maclaine is reproduced in W.S.Lewis, The Yale Edition of Horace Walpole's Correspondence, London, vol. 40, pp.63-5. See also, The World, 103, 10 Dec. 1754; British Magazine, V (1750), August, p.330. In Daily Post, 2 Apr. 1730, there is an advertisement for the return, with no questions asked and a 1/2 guinea reward, of "a small Liver colour'd Lap Bitch" the property of Sir Robert Walpole, at the time the prime minister.
20. Fielding, Inquiry, p.780. See also, J.Fielding, A Plan for A Preservatory and Reformatory, For the Benefit of Deserted Girls, and Penitent Prostitutes, London, 1758, p.4.
21. The latest statute was the Vagrancy Act, 1744. Fielding seems to have misread the Vagrancy Act since in section 2 the term vagrant includes "all persons wandring abroad, and lodging in Alehouses, Barns, Outhouses or in the open Air, not giving a good Account of themselves".
22. Covent Garden Journal, 24, 24 Mar. 1752; ibid, 37, May 1752.
23. Fielding, Inquiry, p.791.

24. Ibid.
25. Ibid.
26. Philo-Patria, A Letter to Henry Fielding, Esq; Occasioned by his Enquiry into the causes of the late Increase of Robbers, &c.: London, [1751?].
27. Serious Thoughts In Regard to the Publick Disorders, with Several Proposals for Remedying the Same; Particularly in Respect to Gaming, Publick-Houses, Pawn-Brokers, and receivers of Stolen Goods. By a Country Justice of the Peace: London, [1751].
28. The Right Method of Maintaining Security in Person and Property To all the Subjects of Great Britain, London, 1751, p.60.
29. Public Nuisance Considered under the Several Heads of Bad Pavements.
30. Civis, A Method Proposed to prevent the many Robberies and Villainies.
31. C.Jones, Some Methods Proposed Towards putting Stop to the Flagrant Crimes of Murder, Robbery, and Perjury, London, 1752.
32. The Vices Of the Cities of London and Westminster. Trac'd from their Original. Being An impartial detection of the true Cause and Source of the present Growth of Immorality, and the prodigious number of Thefts and Robberies daily committed in the Streets, &c. of this Metropolis, Dublin, 1751, quotes at p.5.

6. The Lloyd Committee, 1751

1. The Committee was actually set up on 1 Feb. 1751; the membership was added to on 12 Feb., 28 Mar. and 1 April: Journals of the House of Commons, xxvi, pp.27, 39, 155 & 158. According to Thomas select committees usually consisted of between eight and thirty members. On this criterion the Lloyd Committee was exceptionally large: P.D.G.Thomas, The House of Commons in the Eighteenth Century, Oxford, 1971. Radzinowicz incorrectly states that the Committee carried out its inquiries from 1st Feb. 1750 and continuing until 13th June 1751: L.Radzinowicz, A History of the English Criminal Law and its Adminstration since 1750, 4 vols., London, 1948-68, vol. I, p.401. Officially the year 1750 did not end until 24 March, so Feb. 1750 was just four months before June 1751. The commencement of the official year on 1 Jan. did not begin until 1752 (24 Geo. II, c.23). In the text and footnotes I take the year as commencing on 1 Jan.
2. Journals of the Commons, xxvi, p.27.
3. Ibid, p.123, 13 Mar. 1751.
4. Ibid, p.159, 1 Apr. 1751.
5. S.Lambert (ed.), House of Commons Sessional Papers of the Eighteenth Century, Wilmington, 1975, vol. 1, p.46.
6. Journals of the Commons, xxvi, p.220, 7 May 1751; ibid, p.236, 17 May 1751; ibid, pp.260-1, 21 May 1751; ibid, p.266, 22 May 1751; ibid, p.268, 23 May 1751; ibid, p.270, 24 May 1751; ibid, p.283, 6 June 1751; ibid, p.286, 8 June 1751; ibid, p.287, 10 June 1751; ibid, p.289, 12 June 1751.
7. Ibid, p.130, 15 Mar. 1751. The report is at, ibid, pp.214-5, 3 May 1751. The bill is in Lambert, Sessional Papers, vol. 9, pp.329-43. The bill failed in the Lords: Journals of the House of Lords, xxvii, p.597, 21 June 1751.
8. Journals of the Commons, xxvi, p.190.
9. Ibid, pp.344-5.
10. Ibid, pp.381-2; ibid, pp.458-9, 25 Feb. 1752.
11. Ibid, p.490, 12 Mar. 1752; Journals of the Lords, xxvii, p.490; Journals of the Commons, xxvi, p.588, 14 Feb. 1753; Journals of the Lords, xxviii, p.101, 18 Apr. 1753; Lambert, Sessional Papers, vol. 9, pp.357-67. On Fielding's plans see, J.Fielding, A Plan for preventing Robberies within Twenty Miles of London, London, 1755; J.Styles, "Sir John Fielding and the Problem of Criminal Investigation in Eighteenth-Century England", Transactions of the Royal Historical Society, (5th series), 33, (1983), pp.127-49.
12. Covent Garden Journal, 47, 13 June 1752. See also, ibid, 70, 11 Nov. 1752.

13. Ibid, 3, 11 Jan. 1752.
14. Ibid, 43, 30 May 1752; ibid, 44, 2 June 1752.
15. Whitehall Evening Post, 764, 3 Jan. 1751.
16. Gentleman's Magazine, XXII (1752), pp.30-1. There were even problems in Parliament with this bill, but only because of the attempt by the House of Lords to extend the provisions to cover the whole of England rather than just London; since this bill imposed charges for the licence it was technically a money bill, and the Lords were stepping outside their constitutional territory. The Lords backed down: Journals of the Commons, xxvi, p.503, 23 Mar. 1752; ibid, pp.513-4, 24 Mar. 1752; ibid, p.515, 26 Mar. 1752.
17. I.Maddox, Bishop of Worcester, The Expediency of preventive Wisdom. A Sermon Preached before the Right Honourable the Lord-Mayor, the Aldermen, and Governors of the Several Hospitals of the City of London. At St. Bridget's Church, On Easter-Monday, 1750, London, [1751].
18. For the vote of thanks: Gentleman's Magazine, XXI (1751), p.40. For the petition: Journals of the Commons, xxvi, p.55, 21 Feb. 1751.
19. Journals of the Commons, xxvi, p.177, 1 Mar. 1751; ibid, pp.84-5, 4 Mar. 1752; ibid, p.88, 5 Mar. 1752; ibid, p.94, 6 Mar. 1752; ibid, pp.106-7, 7 Mar. 1752; ibid, p.114, 11 Mar. 1752; ibid, p.117, 12 Mar. 1752; ibid, p.133, 18 Mar. 1752; ibid, p.219, 7 May 1751.
20. Ibid, xxvi, p.77, 1 Mar. 1751.
21. London Evening Post, 3638, 14 Feb. 1751. Hogarth wrote of Gin Lane: "Poverty misery and ruin are to be seen Distress even to madness and death and not a house in tolerable condition but Pawnbrokers and the Gin shop". Of Beer Lane he wrote: "its companion was given as a contrast were [sic] that invigorating Liquor is recommended in order drive [i.e. in order to drive] the other out of vogue. Here all is Joyous... Industry and Hollity go hand in hand the Pawnbroker in this happy place is the only house going to ruin": British Museum, Add. Mss. 27,991, fo. 49b (undated).
22. Journals of the Commons, xxvi, p.55, 21 Feb. 1751.
23. Ibid, p.194. The report was referred to the committee on ways and means because it involved the imposition of duty: ibid, p.204-5, 29 Apr. 1751.

7. Henry Fielding and the Legislation of 1751-2

1. B.Maelor Jones, Henry Fielding: Novelist and Magistrate, London, 1933, pp. 236-9, passim.
2. W.L.Cross, The History of Henry Fielding, 3 vols., London, 1918, vol. II, pp.268 & 280, vol. III, p.339.

See also, P.Rogers, Henry Fielding: a biography, London, 1979, pp.190-1. Dudden added three other bills to the list attributed to Fielding, namely, the bills on pawnbrokers and on the poor, all introduced in 1752: F.H.Dudden, Henry Fielding: His Life and Works, 2 vols., London, 1952, vol. II, pp.794-6.

3. London, 1752.
4. Fielding's book was "occasioned by the many horrid Murders committed within the last Year" (General Advertiser, 5452, 9 Apr. 1752). It was really only an updated version of four similar tracts published between 1597 and 1697, given a modern flavour by the inclusion of the eighteenth-century murderesses Hayes, Jefferies and Blandy. According to Dudden, Fielding only wrote the preface and the conclusion leaving the rest to his old friend Rev. William Young: Dudden, Henry Fielding, vol. II, p.957.
5. Cross, History of Henry Fielding, vol. II, p.280.
6. Covent Garden Journal, 20, 10 Mar. 1752.
7. Radzinowicz changes his mind about these attributions. At one point he argues that the Committee and Fielding's An Enquiry reached different conclusions, with the former recommending the reform of prisons and, according to Radzinowicz, the reform of the capital laws, and the latter being essentially repressive; however, elsewhere he approves of Cross's view that Fielding was the person behind the scenes: L.Radzinowicz, A History of the English Criminal Law and its Administration since 1750, 4 vols., London 1748-68, vol. I, pp.420 & 403n.18.
8. M.R.Zirker, Fielding's Social Pamphlets, A Study of An Enquiry into the Causes of the Late Increase of Robbers and A Proposal for Making an Effectual Provision for the Poor, London, 1966, pp.41-2.
9. Ibid, pp.34-42.
10. H.Fielding, "The Fathers, or The Good-Natured Man: A Comedy As it was acted at the Theatre Royal, Drury Lane" in W.E.Henley (ed.), The Complete Works of Henry Fielding, (reprint) 16 vols., n.p., 1967, vol. xii, p.149, at p.153.
11. London Evening Post, 3625, 15 Jan. 1751; ibid, 3626, 17 Jan. 1751; ibid, 3627, 19 Jan. 1751. See also, Whitehall Evening Post, 770, 17 Jan. 1751; ibid, 771, 19 Jan. 1751.
12. Elected as chair 12 May 1749: Daily Advertiser, 5725, 17 May 1749.
13. Its existence is known only through a letter from Fielding to Lord Hardwicke, the Lord Chancellor: British Museum, Add. Mss. 35,990, fo.334. Its disappearance might indicate that it was passed on and might, therefore, have been regarded as worthy of being circulated, but this is, of course, pure speculation.

14. Journals of the House of Commons, xxvi, p.107, 7 Mar. 1751.
15. See the reviews in Gentleman's Magazine, XXI (1751), pp.3-4, referring to "This excellent pamphlet"; The Monthly Review, IV (1751), pp.229-39. See also, R.Paulson & T.Lockwood (eds.), Henry Fielding: The Critical Heritage, London, 1969, pp.239-49; Cross, History of Henry Fielding, vol. II, pp.223-300.

8. The Crime Panic and Shifts in the Criminal Justice System

1. 1 Leach 464.
2. An Account of John Westcote, Late Porter To the Right Honourable The Earl of Harrington. In which is laid down An Effectual Method For preventing Theft and Robbery, London, [1765], p.18. Langbein inferred the existence of such a rule, but was unable to provide judicial confirmation of it: J.H.Langbein, "Shaping the Eighteenth-Century Criminal Trial: A View from the Ryder Sources", University of Chicago Law Review, 50, 1, (Winter 1983), pp.96-103.
3. H.Fielding, "An Inquiry into the Causes of The Late Increase of Robbers, &c. with some proposals for remedying the growing evil" (1751) in The Works of Henry Fielding, complete in one volume, London, 1845, pp.789-90; J.Fielding, A Plan for Preventing Robberies within Twenty Miles of London. With An Account of the Rise and Establishment of the real Thieftakers. To which is added, Advice to Pawnbrokers, Stable-keepers, and Publicans, London, 1755, pp.10-11. Also, S.Welch, A proposal to render effectual a Plan, To remove the Nuisance of Common Prostitutes from the Streets of the Metropolis: To prevent The Innocent from being seduced; To provide A decent and comfortable Maintenceance for those whom Necessity or Vice hath already forced into that infamous Course of Life; And to maintain and educate Those Children of the Poor, who are either Orphans, or are deserted by wicked Parents. To which is annexed, A Letter upon the Subject of Robberies, wrote in the year 1753, London, 1758, p.61.
4. For an attempt by John Fielding to obtain corroborating evidence see, T.Purland, Alsasian Eccentricities, 1700-1780, 2 vols. of newspaper cuttings in the British Library, item 552, dated 1762, (referring to, ibid, item 512). See also, [M.Madan], Thoughts on Executive Justice. With Respect To Our Criminal Laws. Particularly on the Circuits, (2nd edn.), London, 1785, pp.167n. & 158-72.
5. H.Fielding, "The Journal of a Voyage to Lisbon" (1754) in The Works, p.725; J.Fielding, An Account of the

Origin and Effects of a Police Set on Foot by His Grace the Duke of Newcastle in the Year 1753, upon a Plan presented to his Grace by the late Henry Fielding, Esq. London, 1758, pp.15-16.

6. Purland, Alsasian Eccentricities, item 755.
7. "Report of the Committee of the House of Commons on Sir John Fielding's Plan for Preventing Burglaries and Robberies" in Parliamentary History, vol 16, cols. 929-43, 10 Apr. 1770, at col. 930.
8. Fielding, "The Journal of a Voyage to Lisbon", p.725.
9. Purland, Alsasian Eccentricities, item 445; An Account of John Westcote, p.17.
10. The Life of Theodore Gardelle, Linner and Enameller; with A particular Description of the Murder of Anne King... (2nd edn.), London, 1761, p.19.
11. The Genuine Life, Trial, and Dying Words of the Rev. James Hackman..., London, [1779], pp.7-9.
12. For example, Joshua Crompton was arrested in Scotland by Fielding's men: The Genuine Memoirs of Joshua Crompton; Written by Himself in the Cells of Guildford..., London, 1778, p.15.
13. Purland, Alsasian Eccentricities, item 755, dated 1767. See also, ibid, item 762. The use of the horse patrole can be seen in, ibid, item 933, dated 1769. The assistance of pawnbrokers and dealers in second hand goods in the detection of offenders can be seen in, ibid, item 1304, dated 1772; ibid, item 1972, dated 1777; A Genuine Narrative of the Lives, Characters and Trials Of... James Cotes, for a Highway-Robbery; Richard William Vaughan; William Stevens; and William Boodger, London, 1758, p.6; A Genuine Account of the Life, Robberies and Execution, of William Hawke, call'd the Flying Highwayman. Who was Executed at Tyburn, July the First, 1774, London, 1774, p.12.
14. Purland, Alsasian Eccentricities, item 755.
15. Public Advertiser, 10520, 10 July 1768. This practice was referred to in, Fielding, A Plan for Preventing Robberies within Twenty Miles of London, p.18.
16. A Collection of Manchester Police Advertisements, 1775-1800, in the British Library, for examples see items 23, 26, 62. After John Fielding's death Sampson Wright issued, The Public Hue-and-Cry; or, General Preventive Plan. Sent by Sampson Wright, Esq. To the Mayors and Chief Officers of Corporations, the Acting Magistrates in the Counties at large, and the Keepers of every County Gaol throughout England.
17. J.Hewitt, The Proceedings of J.Hewitt, Alderman, And one of his Majesty's Justices of the Peace, for the City and County of Coventry, in the Year 1756. Being a particular Account of the Gang of Coiners, apprehended in the Counties of Oxford, Warwick, and Stafford, pursued by

the Author, Birmingham, 1783, pp.39, 91-112 passim.

18. James Bevell, An Authentic Narrative of the Methods by Which the Robbery committed in The House of the Right Honourable the Earl of Harrington... was discovered. With Some Remarkable Anecdotes, and Original Letters sent to Sir John Fielding on the Occasion, London, [1765].

19. An Account of John Westcote, passim, quote at pp.15-16. For another example of such a competition between accomplices directed by John Fielding see, Purland, Alsasian Eccentricities, item 512, dated 1762. On the problems posed see, Hewitt, The Proceedings of J.Hewitt.

20. Sir John Fielding, Extracts from such of the Penal Laws, as Particularly relate to the Peace and Good Order of this Metropolis (new edn.), London, 1768, p.vi; "Report of the Committee on John Fielding's Plan", cols.929-30.

21. [M.Madan], Thoughts on Executive Justice. With Respect To Our Criminal Laws. Particularly on the Circuits, London, 1785, pp.133-4.

22. Little is known about de Veil except what has been passed down, generally by prejudiced sources. Someone so readily and contemptuously dismissed as he has been demands a biographer. The only biography at present is, Memoirs of the Life and Times, of Sir Thomas Deveil, Knight, one of His Majesty's Justices of the Peace, For the Counties of Middlesex, Essex, Surry and Hertfordshire, The City and Liberty of Westminster, The Tower of London, and the Liberties thereof, &c., London, 1748. See also, P.Pringle, Hue and Cry: The Birth of the British Police, London, 1955, pp.60-76. After de Veil's death a man called Poulson took his place, about whom nothing has been written at all: Pringle, p.80. Yet de Veil was an active magistrate as can be seen by the O.B.S.P. and newspapers of the period, see, Purland, Alsasian Eccentriticies, item 2444b, dated 1742. On Wild: G.Howson, The Thief-Taker General: The Rise and Fall of Jonathan Wild, London, 1970. For the apprehension of an offender before the Fieldings see, Account of the Life, Adventures and Transactions of Robert Ramsey, alias Sir Robert Gray, From his Birth to his Execution at Tyburn..., London, 1742, pp.20-4. For an example of an advertisement by the Mint Office see, Whitehall Evening Post, 452, 3 Jan. 1749. On coiners see, "'Our traitorous money makers': the Yorkshire coiners and the law, 1760-83" in J.Brewer & J.Styles (eds.), An Ungovernable People: the English and their law in the seventeenth and eighteenth centuries, London, 1980, pp.172-249.

23. Covent Garden Journal 5, 18 Jan. 1752; also, ibid, 42, 26 May 1752; ibid 52, 30 June 1752; Purland, Alsasian Eccentricities, item 999, Dec. 1769; ibid, item 1006;

ibid, item 1202, 15 Jan. 1772; ibid, item 1074, 21 Mar. 1774.

24. On these associations see, A.Shubert, "Lest the Law Slumber in Action": Associations for the Prosecution of Felons, unpublished M.A. thesis, University of Warwick, 1978; A.Shubert, "Private Initiative in Law Enforcement: Associations for the Prosecution of Felons, 1744-1856" in V.Bailey (ed.), Policing and Punishment in Nineteenth Century Britain, London, 1981, pp.25-41; P.King, 'Prosecution Associations, Courts and Community Concerns in Essex 1740-1800', paper delivered to the Conference on Crime, Labour and Law at the University of Warwick, 1983; D.Philips, 'Good Men to Associate and Bad Men to Conspire: Associations for the Prosecution of Felons in England 1770-1860', paper delivered to the Conference on Crime, Labour and Law. On the association of merchants on the River Thames see this thesis below. Little work has been done on parish police in the eighteenth century.
25. Purland, Alsasian Eccentricities, item 571, dated 1765.
26. "Report of the Committee of the Commons on Fielding's Plan"; Purland, Alsasian Eccentricities, item 1064, March 1774; Parliamentary History, vol. 16, cols. 1124-7; ibid, vol. 17, cols. 448-53; Journals of the House of Commons, xxxiii, p.612.
27. Purland, Alsasian Eccentriticies, item 1877, Aug. 1775.
28. Ibid, item 1885; ibid, item 2105, 5 Sept. 1777; ibid, item 2119, 6 Sept. 1777.
29. Ibid, item 2362, 20 Sept. 1781.
30. See this thesis below.
31. For the links made in the eighteenth century between the labouring people, the poor and crime see this thesis above.
32. Fielding, An Inquiry, p.778.
33. Fielding, An Account of the Origin and Effects of a Police, p.vii.
34. Ibid, p.ix.
35. Ibid, pp.x-xi, quote at p.xi.
36. Ibid, p.34.
37. Public Nuisance Considered under the Several heads of Bad pavements, Butchers infesting the Streets, the Incoveniences to the Public, occasioned by the present Method of Billetting the Foot-Guards, and the Insolence of Household-Servants, London, [1751], p.49; The Public Hue-and-Cry, 118, 31 Aug. 1781.

9. Conclusion

1. On the end of the panic at the start of the next war in 1756 see, [Sir W.Mildmay], The Police of France: or, An Account of the Laws and Regulations established In that Kingdom, for the Preservation of Peace, and the Preventing of Robberies, London, 1763.

CHAPTER 15: CHANGES IN CAPITAL PUNISHMENT

1. Tyburn Fair

1. Hanging, Not Punishment Enough (1701), (ed. B.Montagu), London, 1812, p.3; G.Ollyffe, An Essay Humbly Offer'd, for an Act of Parliament to prevent Capital Crimes, and the Loss of many Lives, and to Promote a desirable Improvement and Blessing in the Nation, London, 1731, p.7.
2. John Fielding, An Account of the Origin and Effects of a Police Set on Foot by His Grace the Duke of Newcastle in the Year 1753, upon a Plan presented to his Grace by the Late Henry Fielding, Esq, London, 1758, pp.vii-viii.
3. A Complete History of James Maclean, The Gentleman Highwayman, Who was executed at Tyburn, on Wednesday, October 3, 1750, for a Robbery on the Highway, London, [1750], pp.1-2.
4. T.Nourse, Compania Felix. Or, A Discourse of the Benefits and Improvements of Husbandry, London, 1700, pp.273-74, also pp.15-16. See also, Hanging, Not Punishment Enough, p.3; J.Astry, A General Charge to all Grand Juries and other juries, with advice to those of life and death, nisi prius, etc., collected and published for the ease of justices of the peace, quicker dispatch of business, better information of jurors, and common benefit of all freeholders, who shall be called to so honourable and necessary a service, to which is prefixed, a discourse of the antiquity, power and duty of juries, with an exhortation to their due performance thereof, (2nd edn.), London, 1725, p.40; Ollyffe, Essay Humbly Offer'd, p.7.
5. Covent Garden Journal, 55, 18 July 1752.
6. T.Purland, Alsasian Eccentricities, 1700-1780, 2 vols. of newspaper cuttings in the British Library, item 189, Feb. 1751. He was transported for 7 years: ibid, item 204, undated.
7. Penny London Post, 798, 22 June 1748; Purland, Alsasian Eccentricities, item 1826, 9 June 1775; ibid, item 2081, 5 Aug. 1777.
8. Purland, Alsasian Eccentricities, item 2394, dated 1782.
9. Ibid, item 2423, dated 1782.
10. Daily Universal Register, 106, 29 May 1785.
11. Hanging, Not Punishment Enough; B. Mandeville, An Enquiry into the Causes of the Frequent Executions at Tyburn; and a proposal for some regulations concerning felons in prison, and the good effects to be expected from them, London, 1725; Ollyffe, An Essay Humbly Offered; [D.Defoe], Augusta Triumphans: or, the Way to make London The most flourishing City in the Universe, London, 1728; [D.Defoe], Proposals to Suppress Robberies all over England, Humbly Submitted to the Consideration of the Legislature, [London, 1728]; [D.Defoe], Street

Robberies Consider'd: The Reason for their being so Frequent, With Probable Means to Prevent 'em, London, 1728; [D.Defoe], Second Thoughts are best, or, a Further Improvement of a late Scheme to prevent Street Robberies: By Which Streets will be as strongly guarded, and so gloriously illuminated, that any part of London will be as safe and pleasant at Midnight as at Noonday and Burglary totally impracticable: With some Thoughts for suppressing Robberies in all the publick Roads of Englnad, &c. Humbly Offered for the good of his Country, submitted to the Consideration of the Parliament, and dedicated to his sacred MAJESTY King GEORGE IId, London, 1729; H.Fielding, "An Enquiry into the causes of The Late Increase of Robbers, &c. with some proposals for remedying the growing evil, In which the present reigning vices are impartially exposed..." in T.Roscoe (ed.), The Works of Henry Fielding, complete in one volume, with memoir of the author, London, 1845; W.Eden, Principles of Penal Law, London, 1771 (3rd edn., 1775); H.Dagge, Considerations on Criminal Law, London, 1772, 3 vols., (2nd edn, 1774); M.Madan, Thoughts on Executive Justice. With Respect To Our Criminal Laws. Particularly on the Circuits, London, 1785; [S.Romilly], Observations on a late Publication, intitutled, Thoughts on Executive Justice: To which is added, A Letter containing remarks on the same work, London, 1786; Dr.W.Paley, "Moral and Political Philosophy" in The Works of William Paley, D.D. Archdeacon of Carlisle, with A Life of the Author. In one volume, London, 1833, pp.159-68. See the statistics in the appendix.

12. Mandeville, An Enquiry, p.20.
13. Ibid; Brittanicus, A Letter To the Honourable House of Commons, relating to The present Situation of Affairs... London, 1750, p.16.
14. Mandeville, An Enquiry, p.21.
15. Ibid, p.22.
16. Covent Garden Journal, 34, 28 April 1752.
17. Mandeville, An Enquiry, pp.19 & 37.
18. Purland, Alsasian Eccentricities, item 1757, Feb. 1775.

2. Striking "a far greater Awe"

1. Hanging, Not Punishment Enough, p.10.
2. Ibid, pp.9 & 14.
3. Ollyffe, An Essay Humbly Offer'd, p.7, also pp.3-4 & 5.
4. Ibid.
5. Hanging, Not Punishment Enough, p.9; Ollyffe, An Essay Humbly Offer'd, pp.7-9.
6. Hanging, Not Punishment Enough, pp.23-4.
7. Ibid.

8. Philo-Patriae, A Full and Genuine Account of the Murder of Mrs. Robinson, by Elton Lewis, On Monday Night, April 21, 1735, London, [1735], p.25, also, pp.21-2.
9. C.Jones, Some Methods Proposed Towards putting a Stop to the Flagrant Crimes of Murder, Robbery, and Perjury, London, 1752, pp.7-9, 12-14. Jones also favoured execution soon after the crime and separate cells for felons: pp.9-11.
10. Mandeville, An Enquiry, p.33.
11. Ibid, p.34.
12. Ibid, pp.37-41.
13. Ibid, pp.41-2.
14. Ibid, pp.45-6.
15. Fielding, An Enquiry, p.791.
16. Ibid, p.792.
17. Ibid.
18. Ibid, pp.792-3.
19. 25 Geo. II, c.37.
20. See this chapter.
21. [Rev.W.Wilson], A Genuine Account of the Behaviour, Confessions, and Dying Words, of the Malefactors... On Thursday the 25th of August, 1743... London, 1743, p.20; J.Gay, The Beggar's Opera. As it is Acted at the Theatre-Royal in Lincoln's Inn Fields, (3rd edn.), London, 1729, Act II, Scene I.
22. Gentleman's Magazine, XXI, (1751), pp.464-5.
23. A.Knapp & W.Baldwin, The New Newgate Calendar, being Interesting Memoirs of Notorious Characters, Who have been convicted of outrages on the Laws of England, London, [1809], vol. II, p.332; Gentleman's Magazine, XX, (1750), p.426. See also, ibid, XVII, (1747), pp.487-8, XXI, (1751), pp.464-5 & 504, XXIII, (1753), pp.256-7, XXIV, (1754), pp.152-3; Select Trials for Murders, Robberies, Rapes, Sodomy, Coining, Frauds, And other Offences. At The Sessions-House in the Old-Bailey... (2nd edn.), 4 vols., London, 1742, vol. I, p.33.
24. Section 6.
25. Select Committee on the Criminal Laws, (585), 1819, vol.VIII, Appendix 2.

3. "a Matter of Entertainment"

1. Purland, Alsasian Eccentricities, item 1370, dated 1774; ibid, item 1433, Jan. 1775. See also, Public Advertiser, 10527, 27 July 1768.
2. Public Advertiser, 10527, 27 July 1768, letter from "T.L."
3. A Complete History of James Maclean. The Gentleman Highwayman. Who was executed at Tyburn, on Wednesday,

October 3, 1750... London, 1750, p.2.

4. Ibid, pp.2 & 3. See also, An Account of John Westcote, Late Porter To the Right Honourable The Earl of Harrington... London, [1765], pp.19-20.
5. Rev.J.Parker, A Sermon Preached in St.Margaret's Church, York, On Sunday, Sept. 7, 1783; Occasioned by the Execution of John Rylery, On the 23d of August, 1783, York, [1783], p.13.
6. [Beccaria, Marchese di, C.Bonesana], An Essay of Crimes and Punishments. Translated from the Italian; with a Commentary, Attributed to Mons. de Voltaire, Translated from the French, (2nd edn.), London, 1769, pp.43, 82, 99 & 102-4. See also, Dagge, Considerations on Criminal Law, vol. II, pp.169-70, 276 & 294-301; Eden, Principles of Penal Law, pp.13-14 & 281-2.
7. Beccaria. Essay, p.105.
8. Ibid, pp.105-6.
9. Ibid, p.107, and generally, pp.102-14.
10. Thoughts on Capital Punishments. In a Series of Letters, London, 1770, p.1.
11. Parliamentary History, vol. 16, cols. 1124-7.
12. Dagge, Considerations on Criminal Law, vol. I, pp.318-21 & 327, vol.II, pp.313 & 315, vol. III, pp.176-83; Eden, Principles of Penal Law, pp.33-4, 50 & 56-9.
13. L.Radzinowicz, A History of English Criminal Law and its Administration since 1750, 4 vols., London, 1948-68, vol. I, p.421.
14. S.Lambert, House of Commons Sessional Papers, Wilmington, 1975, vol.9, pp.358-9. See also, J.M.Beattie, Crime and the Courts in England 1660-1800, Oxford, 1986, pp.522-4.
15. Lambert, Sessional Papers, vol. 9, pp.358-9.
16. Journals of the House of Lords, XXVII, p.661.
17. Gentleman's Magazine, XXII, (1752).
18. pp.21-4, quote at p.26.
19. Purland, Alsasian Eccentricities, item 1757, dated Feb. 1775. Admittedly this suggestion was made as an alternative to capital punishment rather than as an alternative to transportation.
20. Ibid, item 2058, 2 July 1777.
21. Ibid.
22. Ibid, item 2060, July 1777.

4. "the Possibility of Pardons and Reprieves"

1. Mandeville, An Enquiry, p.25.
2. Fielding, "An Inquiry", p.791.
3. Madan, Thoughts on Executive Justice, p.10.
4. Ibid, Appendix, p.3; also, ibid, pp.i-ii.
5. Ibid, p.42n.

6. Ibid, Appendix, p.54.
7. Parliamentary History, vol.25, cols.902-3, quote at col.903, 23 June 1785.
8. Gentleman's Magazine, LVI, (1786), p.264.
9. Beccaria, An Essay, p.77.
10. Ibid, p.176.
11. See also, Eden, Principles of Penal Law, pp.317, 319-20 & 328-31. For an early expression of agreement with Beccaria see, Public Advertiser, 10527, 27 July 1768.
12. Beccaria, An Essay, p.106.
13. Quoted in Madan, Thoughts on Executive Justice, Appendix, p.26.
14. Paley, "Moral and Political Philosophy", p.160.
15. Ibid, p.161.
16. Ibid.
17. Ibid, p.165.
18. Ibid, p.166.
19. Ibid, p.165.
20. Ibid.
21. The phrase is from Gentleman's Magazine, LVI, (1786), pp.102-3.
22. Romilly, Observations, pp.89-90.
23. Ibid, pp.65-8.
24. Ibid, pp.71-80.
25. Ibid, pp.80-2.
26. Ibid, p.27.
27. Ibid, pp.31-2.
28. Ibid, p.25; also, ibid, pp.32-4.
29. Ibid, p.29n.
30. Ibid, pp.59-61.
31. Ibid, pp.92-108.
32. Notice headed, "For the more effectual Security of This Town, the neighbouring Towns and the Vountry adjacent, against Housbreakers, Thieves and Receivers of stolen or embezzled Goods, Manchester 1 Feb. 1772".
33. See, this thesis Appendix.
34. Purland, Alsasian Eccentricities, item 1779, 8 May 1775; ibid, 1785, March 1775; ibid, 1836, 28 May 1775; ibid, item 1852, dated 1775.
35. Select Committee on Criminal Law (1819); Knapp & Baldwin, New Newgate Calendar, vol. III, p.475; Beattie, Crime and the Courts in England, pp.583-4.
36. Sir S.Romilly, The Life of Sir Samuel Romilly, written by himself. With a selection from His Correspondence, (ed. by his sons), (3rd edn.), 2 vols., London, 1842, vol. I, p.66.
37. Ibid.
38. M.Ignatieff, A Just Measure of Pain: The Penitentiary in the Industrial Revolution 1750-1850, London, 1978, pp.86-7.
39. Romilly, Observations, p.15, and generally, pp.15-22.

For his defence of the judges see, pp.133-5.

40. W.Blackstone, Commentaries on the Laws of England, 4 vols., London, 1795, vol.IV, p.9-10, quote at p.10.
41. Ibid, vol. IV, pp.18-19.
42. Ibid, vol. IV, p.18.
43. Ibid, vol. IV, p.197.
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CHAPTER 16: PRISONERS AND REFORMERS

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APPENDICES

DESCRIPTIONS OF HANGINGS

1. Tyburn

One of my Intimate Acquaintance in England, proposed my bearing him Company to some exquisite Rope dancing. The Air of Indifference wherewith he spake, persuaded me I should be satisfied with the Entertainment: He conducted me about 300 Paces out of London, when I beheld a Triangular Gibbet, whereon I presently understood a Dozen of Felons were just going to be hanged. "What the Devil, (said I,) is this the diverting Scence you told me of?" "O (answered he) you will have Reason to thank me for bringing you hither, the Comedy is to begin Immediately: They wait only for the Actors." His Words were scarce out of his Mouth, but I saw 4 Carts almost full of Men, among whom were 3 nicely decked out. "What Business have these People here?" (said I.) "How! (returned he), Why they are the Persons who are to act the Principal Parts." I then looked attentively towards the Carts, and discovered that those who were so primly dressed, had Ropes about their Necks, and were to be instantly hanged. One of them having cough'd, hemmed, hawked, spit, blew his Nose, wiped it, and put on a new Pair of white Gloves, with much seeming Indifference made the following Harangue. "Heaven has permitted me to make my Exit at Tyburn, not for Robberies I have been guilty of, but on Account of my having played at Cards on Sundays: had I been free from that heinous Sin, the Almighty would not have suffer;d me to have been taken, but I might, like a good Christian have followed my Employment." During this Discourse, one of his Comrades made a thousand comical Grimaces, and every now and then throwing out a nonsensical Jest, did his utmost to divert the Spectators. While the other contented himself with ridiculous Gestures to make the Mob merry. While I was examining the Intrepidity of these Rogues, who affected to die like Heroes, the Hangman began to whip the Horses, who abruptly drew away the Theatre, and the Comedians remain'd swinging in the Air. To shorten their Pain some lugged them by the Heels, others struck them on the Stomach: In short, by the easy Manner wherewith this Ceremony was perform'd, I readily perceiv'd that the English are very far from having any Share of that prudent Delicacy of other Nations, among whom People generally conceive a just Horror for Men whose Crimes being them to their Exit.

"How happens it (said I) that those Rogues, in particular, affected that sort of Intrepidity which did not appear in their Fellow-sufferers?" "It was (replyed he) Because they would have the Glory of dying like Gentlemen. In other Countries when a Criminal is sentenced to Death, he is busied with the Importance of the Voyage he is about to make: With us, such as would repair the Ignominy of their

Chastisement, have Thoughts of a different Nature. They take Care to be clean shaved, to dress as neat as possible, and make Choice whether they will go off as Mourners, or Bridegrooms. They study a Speech to make under the Gibbet, and deliver the written Copy to some Parson, who for their Consolation, promises to get it printed." "If so (cried I, greatly surprized) I no longer wonder if most of your condemned Malefactos leave the World either like Brutes, or Ideots, having nothing in their Thoughts but how to obtain a few idle Praises! Strange! that a People who so pique themselves on the Justness of their Reflections, and Sagacity of their Conduct shou'd thus contenance all the Vices which disturb Society. Shame operates on the Hearts of Men as powerfully as the Dread of Punishment. But here People laugh at the Dishonour (which elsewhere is reflected on the Relations of a Man who is condemned to suffer Death) and strive to efface the whole Ignominy of his shameful Execution. I am at a loss to define, which of the two is most out of his Senses; he, who bestows Commendations on the Follies of a hardened Scoundrel, or the rascal himself, who believes he can blot out his Villainies, by expressing neither Remorse nor Regret for having perpetrated them.

[Fog's Journal, 436, 19 Mar. 1737; see, Gentleman's Magazine, VII (1737), pp.168-9.]

2. After the Abolition of the Procession to Tyburn

The following is an exact Description of a Scaffold erected before the West Front of the Gaol of Newgate, extending westward from the said Gaol 30 Feet, and 16 Feet wide from North to South. This Scaffold is 60 Feet northward from the Door of Debtors Lodge, from whence a Passage was enclosed 8 Feet high, along the Foot-path leading to the Scaffold, on which they ascended by Stairs, by which Means the Criminals are not exposed to View till they mount the fatal Stage. The East Part of the Stage, or that next the Gaol, is enclosed by a temporary Roof, under which are placed two Seats for the Reception of the Sheriffs, one on each Side of the Stairs leading to the Scaffold. Round the North, West, and South Sides, are erected Galleries for the Reception of Officers, Attendants, &c. and at the Distance of 5 Feet from the same, are fixed strong Railing all round the Scaffold, to enclose a Place for the Constables. In the Middle of this Machinery is placed a moveable Platform in form of a Trap door, 10 Feet long by 8 Feet wide, over the Middle of which is placed the Gibbet, extending from the Gaol across the Old Bailey. This moveable Platform is raised six Inches higher than the rest of the Scaffold, and on which the Convicts stand. It is supported by two Iron Bars, six Feet long,

secured on the Under-side of the two Rollers, to run upon a Sliding-bar; this Sliding-bar runs also upon two Rollers fixed in a Groove made in a strong Parallel Beam and Slider, are made two Holes for the two Irons which support the Platform to drop through; being thus constructed, the Platform is raised to its proper Height, and the Slider drawn out a little, is firmly supported thereby; at the Head of this Slider is fixed a Lever, whose Handle comes above the Scaffold, and the Convicts standing on the Platform, being tied to the Gibbet, when the Signal is given, the Executioner, by a very small Force applied to the Handle of the Lever, slides the Bar into its Place, and the Platform falls from under them.

Standing Orders and Regulations to be observed at the Execution of the Criminals, upon the new Scaffold erected before the Gaol of Newgate, as ordered by the Sheriffs:

That 120 Constables be summoned to attend.
That proper Posts and Rails be fixed to prevent any Carriages coming up and down the Old Bailey.
Each Prisoner to give Notice in Writing to the Sheriff, prior to the Day of Execution, of the Name of one Friend, to be admitted to him.
The Time of Execution to be precisely at Nine o'Clock.
The Sheriffs Officers to be summoned to attend in their Gowns, and with Javelins.
The Execution to take Place as soon after the Prisoners come upon the Scaffold, as the Nature and Decorum of the awful Scene will admit.
That the Scaffold and Passage be completely fixed by Eight o'Clock, and no later.
That the Friends of each Culprit do send a Shell to Newgate at Seven c'Clock in the Evening of the Day preceding the Execution, from Michaelmas to Lady day, and at Half past NIne c'Clock from Lady-day to Michaelmas.

The following Regulations were also issued to be observed on the Days of Execution.
Constables to attend the first Removal of the Scaffold.
The Sheriffs Officers, 20 in Number, to be with Javelins within the first Railing of the Scaffold, four without Javelins, as usual to halter and bring out the Criminals.
The Constables, under the Directions of the City Marshals, are to be placed in close Order round the outer Rail, with strict Orders to preserve the Peace, and permit no Person within them. The City Marshals will, by this Arrangement, have the Void within the outer Rail to themselves.
The unhappy Objects to be brought out of Newgate, as usual, at Nine o'Clock.
The Procession from the Press-yard to be in the following

Manner, viz.

The Ordinary
The Sheriff and Under Sheriffs
The Criminals, two and two
One half of the Sheriffs Officers, two and two
Two Marshals Men
The junior Marshal
Closed by two Sheriffs Officers, and two Constables.

The Criminals were brought from the Press Yard through all the other Wards of the Prison, that some Impression might be made upon the Prisoners, by seeing their Fellow Creatures and late Companions in such a Situation.

No Person to be admitted on the Scaffold, except the Clergyman, the Executioner, his Servant, and the Criminals.

(Public Advertiser, 15456, 10 Dec. 1783)

Note not just the difference in the procedures and the minimal attention given to the condemned in the latter extract, but also the difference in the style of description.

STATISTICS ON CAPITAL PUNISHMENT: A New Source

Criminal statistics of any sort for the eighteenth century are difficult to obtain. Both Radzinowicz and Hay have relied on the figures obtained by the Select Committee on the Criminal Law in 1819. Another source noted by both historians are the figures produced by a Sheriff of London, Sir Stephen Janssen, which were published in the middle of the eighteenth century and then republished by John Howard about twenty-five years later. There is a third, unused source, and this is the figures published by the Ordinary of Newgate Paul Lorrain in December 1711 and October 1712.

His figures appear in the two Accounts published in those months and they provide information dating back to the year 1700 when he was appointed to the post. He breaks the figures into mayoralty years, which ran from November to October coincidentally, and fortunately, Lorrain had been appointed in November, 1700. They show the number condemned at the Old Bailey, the number reprieved, the number who died in prison and the number hanged.

Mayoralty Year	Condemned	Reprieved	Died in Prison	Hanged	
1700-01	118	48	4	66	[1]
1701-02	49	36	0	13	
1702-03	38	20	0	18	
1703-04	35	18	0	17	
1704-05	44	28	0	16	
1705-06	33	28	0	5	
1706-07	23	5	0	18	
1707-08	34	16	0	18	
1708-09	39	29	0	10	
1709-10	36	28	0	8	
1710-11	36	23	0	13	
1711-12	43	29	0	15	[2]
	528	308	4	217	
% of condemned		58.3		41.1	

Notes:
1. According to Lorrain the high figures for 1700-01 were because in November 1700, when Lorrain was appointed at the mayoralty year 1700-01 began, "no less than 65 Persons" were in Newgate having been condemned for capital crimes including 52 pirates (this figure is confirmed by the report of the Admiralty Sessions, 22-25 Oct. 1700). Of the pirates 24 were hanged "at one time" at Wapping and of the rest of the condemned 8 were hanged at Tyburn.
2. The figures for 1711-12 are as printed.

Sources: (i) Ordinary of Newgate, Accounts, 22 Dec. 1711.
(ii) Ordinary of Negate, Account, 31 Oct. 1712, p.6.

The Statistics of Crime in the 1740s and 1750s

Apart from the general difficulties with any criminal statistics, those for the eighteenth century provide special problems in that one is forced to rely on secondary sources which cannot be checked. Moreover, from the normal source (the Select Committee report of 1819) for the period before 1749 figures are only available for London (table (a)) and these provide only a small sample, which presents its own difficulties; from 1749 there are figures for London and Middlesex which provides a rather larger sample (see table (b)). To supplement these figures I have used the newspaper reports of the number condemned and hanged before 1749 in London and Middlesex: I have not included in these figues those tried by the Court of Admiralty at the Old Bailey and hanged at Wapping.

Date	Condemned	Executed	%
(a) London:			
1745-6	4	0	-
1746-7	5	0	-
1747-8	5	0	-
1748-9	12	0	-
1749-50	23	9	39.1
1750-1	13	8	61.5
1752	5	4	80.0
1753	9	7	77.8
1754	12	6	50.0
1755	11	5	45.5

Source: Appendix 4.

(b) London and Middlesex			
1731	44	35	79.5
1732	64	41	64.1
1733	60	42	70.0
1734	44	23	52.3
1735	67	36	53.7 [1]
1736	38	18	47.4
1737	55	32	58.2 [1]
1738	58	40	69.0 [1]
1739	48	24	50.0
1740	41	21	51.2 [2]
1741	64	36	56.2
1742	45	37	82.2
1743	44	24	54.5
1744	50	34	68.0 [3]
1745	34	18	52.9

1746	34	12	35.3
1747	24	16	66.7
1748	33	21	63.6
1749	61	44	72.1
1750	84	56	66.7
1751	85	63	74.1
1752	52	47	90.4
1753	57	41	71.9
1754	50	34	68.0
1755	39	21	53.8
1756	30	13	43.3
1757	37	26	70.3
1758	32	20	62.5
1759	15	6	40.0
1760	14	10	71.4
1761	22	17	77.3
1762	25	15	60.0

Notes:
The hanged count for each year between 1731-48 includes all those condemned during a particular year even if they were not hanged until the following year.

1. One person was recorded as having died in prison, not included in hanged count.
2. Hanged count includes Duell who was hanged, but later revived at Surgeon's Hall and was eventually transported for life.
3. One person committed suicide to avoid being hanged, not included in hanged count.

Sources for figures 1731-48:
O.B.S.P., 1731-48; Daily Post: 1737, 30 Jun., 8 July, 9 July, 9 Sept., 10 Sept., 30 Sept.; 1738: 23 Feb., 24 Feb., 25 Feb., 12 Oct., 13 Oct.; 1740: 19 Jan., 20 Jan., 21 Jan., 8 Feb., 13 Feb., 4 May, 11 July, 12 July, 7 Aug., 4 Sept., 5 Sept., 6 Sept., 7 Sept., 16 Oct., 17 Oct., 18 Oct., 19 Oct., 25 Nov.; 1741: 29 Aug., 30 Aug., 31 Aug., 2 Sept.; 1743: 13 Apr., 14 Apr., 15 Apr., 19 May, 20 May, 21 May, 30 June, 1 July, 2 July; 1744: 13 Sept., 14 Sept., 15 Sept., 17 Sept.; 1745: 28 Feb., 1 Mar., 2 Mar., 17 Oct., 18 Oct.; Gentleman's Magazine: I (1731), pp.26, 80, 122, 125-6, 217, 263, 264, 308, 401, 402, 447, 539; II (1732), pp.585, 627, 629, 673, 720, 773, 774, 823, 873, 875, 926, 975, 1029, 1123; III (1733), pp.43, 44, 100, 153, 213, 266, 267, 325, 493, 548, 660; IV (1734), pp.47, 105, 216, 329, 388, 510, 570, 701-2, 703; V (1735), pp.50, 161, 162, 217, 274, 330, 385, 386, 558, 618, 680, 734; VI (17360, pp.53, 54, 110, 290, 291, 354, 421, 422, 485, 550, 617, 681, 746; VII (1737), pp.58, 122, 186, 251, 314, 635-6, 763; VIII (1738), pp.48, 162, 217, 274, 275, 379, 489, 602, 659; IX (1739), pp.46, 105, 159, 270, 271, 325, 382, 494,

551, 659, 658; X (1740), pp.34, 142, 199, 259, 260, 570, 621; XI (1741), pp.49, 161, 218, 277, 329, 386, 441, 498, 552, 664; XII (1742), pp.161, 216, 215-6, 329, 385, 386, 497, 545, 601, 657; XIII (1743), pp.49, 105, 215, 273, 495-6, 551, 552, 611, 666; XIV (1744), pp.50, 104, 106, 281, 334, 392, 561, 563, 617, 674; XV(1745), pp.51, 162, 219, 330, 385, 387, 497, 665; XVI (1746), pp.41, 161, 218, 220, 271, 381, 493, 557, 666; XVII (1747), pp.45, 102, 245, 293, 342, 397, 446, 495, 541, 589, 591; XVIII (1748), pp.41, 137, 186, 234, 282, 330, 425, 473, 474, 570.

Source for figures 1749-62:
Select Committee on the Criminal Laws, (585), 1819, vol.VIII, Appendix 2.

(c) Home Circuit

1689	66	47
1690	25	18
1691	22	11
1692	21	13
1693	33	8
1694	54	34
1695	47	20
1696	61	29
1697	52	37
1698	65	30
1699	75	38
1700	58	25
1701	33	24
1702	14	10
1703	22	11
1704	21	7
1705	22	8
1706	24	12
1707	19	7
1708	19	7
1709	31	4
1710	35	25
1711	28	12
1712	38	19
1713	34	20
1714	83	53
1715	38	27
1716	43	28
1717	53	24
1718	29	14

1755	30	11

1756	32	9
1757	22	7
1758	50	17
1759	23	9
1760	25	0
1761	17	9
1762	21	3
1763	41	13
1764	40	18
1765	41	14
1766	53	12
1767	38	10
1768	65	17
1769	40	9
1770	47	16
1771	35	5
1772	65	18
1773	68	16
1774	55	22
1775	72	17
1776	71	20
1777	53	15
1778	47	13
1779	39	13
1780	36	15
1781	56	20
1782	42	19
1783	93	35
1784	88	30
1785	106	64
1786	90	40
1787	107	40
1788	43	8
1789	54	14
1790	56	21
1791	39	8
1792	55	12
1793	64	18
1794	50	9
1795	33	7
1796	55	15
1797	66	20
1798	70	18
1799	71	22

NOTES:

(1) Radzinowicz's argument that there was a continual decline

from a position of near full enforcement at the beginning of the eighteenth century to one of very low enforcement of the capital statutes does not fit in with these figures: during Lorrain's period of office in the early eighteenth century there was a lower rate of execution than for the middle years of the century, or the years around the 1780s.

(2) Note the climb in capital convictions, executions and the execution rate during the crime panics of the mid-century and the 1780s.

STATISTICS: 1780s

During the period in the early to mid-1780s during which the policy of stricter enforcement was being used, there was an average of over 65 people hanged each year, which represented 47.6% of those condemned. Once the peak had been hit of 81.4% in London and Middlesex in 1787 the rate of execution went over 40% only three times, in the years of fear amongst the authorities which immediately followed the French Revolution (1790 and 1791), and during the year of dearth of 1795 when there was widespread rioting over food; otherwise the rate generally stayed below 30%. This did not mean there had been a dramatic drop in the number of people hanged, what happened was that capital convictions had risen whilst the number hanged fell just below the numbers prevailing before 1782, causing the execution rate to fall. A study of the figures for the Home Circuit reveals a broadly similar story. There the numbers executed and the execution rate peaked in 1785, with 64 hanged (60.4%). The execution rate then fell back, but in that case it was to roughly the same levels as prior to 1782, however, as with London and Middlesex, the number hanged was at roughly the same level as earlier.

	Condemned	Hanged	Avg. Hanged p.a.	Hanged:Condemned avg. p.a.
London and Middlesex:				
1756-81	1502	735	29.4	48.9%
1782-1787	825	393	65.5	47.6%
1788-1800	1026	290	22.3	28.2%
Home Circuit:				
1756-1781	1152	337	13	29.3%
1782-1787	526	228	38	41.0%
1788-1800	751	201	15.5	26.8%

Source: Select Committee on Criminal Law, 1819 (585) vol. VIII, Appendix.

Statistics on the Rate of Execution for Forgery in London and Middlesex, 1756-1800

Date	Condemned	Hanged	Execution Rate (%)
1756-60	18	11	61.1
1761-65	22	16	72.7
1766-70	12	9	75.0
1771-75	16	10	62.5
1776-80	8	3	37.5
1781-85	30	19	63.3
1786-90	17	13	76.5
1791-95	19	13	68.4
1796-1800	35	26	74.3

Source: Select Committee on Criminal Laws 1819 (585) Vol. VIII, Appendix 5.

BIBLIOGRAPHIES

A CRITICAL BIBLIOGRAPHY OF THE LITERATURE OF CRIME

The bibliography which follows concentrates on the popular literature of crime, that is biographies and trial reports, rather than the more discursive, and apparently less popular, discursive tracts on crime and punishment. The works are mainly taken from the period between the late seventeenth and late eighteenth centuries, although works as early as the 1650s and as late as the 1860s are included. Although it includes around 500 works the listing is by no means complete; there are perhaps another 300-500 works not included. My selection has often been forced by the availability of works: in some cases what appear to have been unique copies were lost when the British Museum was bombed during the Second World War, in other cases no copy was available in this country and the age and condition of these items usually precludes photocopying and requires instead the lengthy process of micofilming. I have, therefore, concentrated my work on the holdings of the British Library which undoubtedly has the best general collection of such literature in the world. I have avoided duplicating work already done, so, for instance, de la Torre's work on the bibliography of Elizabeth Canning induced me to include only a few of the works on her rather than a full list of the 30 or so which are extant. The bibliography is meant to be read

as part of Part I of this thesis, and so it includes a critical discussion, sometimes at length, of the pamphlets listed, including comparisons with other pamphlets on the same subject. My intention is that this bibliography will lead to other work, to an appreciation of the size and variety of the literature and, so, to a greater understanding of its value as a source material.

Acton, William, The Tryal of William Acton, Deputy-Keeper and Lessee of the Marshalsea Prison in Southwark, at Kingston Assizes; On Saturday the 2d of August 1729.

J. Smith, London, 1729.

Followed Parliamentary inquiry on the State of the Gaols. Trial only: summarises evidence of witnesses, but includes questions put by counsel and judge's summing-up.

Acton, William, The Tryal of William Acton, Deputy-Keeper and Turnkey of the Marshalsea Prison in Southwark, at Kingston Assizes; On Friday the 1st of August 1729.

A.Moor, London, 1729.

Trial only.

Addison, John, An Account of the Life, Birth, Death, Parentage and Conversation, of Mr. John Addison a most notorious Highway-man.

J.Smith, London, 1711.

Biography. Includes Ordinary of Newgate's sermon (pp.6-7), but probably not by Lorrain.

Alderson, Robert, Proceedings at the Assizes at Thetford, On the 18th of March 1786, and the 24th of March, 1787, in the Trial of William Hurry, Merchant, Of the Borough of Great Yarmouth, On an Indictment preferred against him by John Watson, Attorney at Law, then Mayor Elect of the said Borough For Wilful and Corrupt Perjury: and in the Action against the said John Watson, Then Mayor of the said Borough, brought by The said William Hurry, for a malicious Prosecution of him by the above Indictment; with The Substance of Mr. Partridge's Opening in the first Trial: and The Speeches at large of Mess. Erskine and Hardinge in the last.

Norwich, [1787].

Acquitted of perjury in a civil case; led to a successful action for malicious prosecution.

Alexander the Great, A Parallel between Alexander the Great and A Highwayman: showing That the great Victories of the one are no more to be justified than the Robberies of the other.

J. Evans & Sons, London, [1800?].

Alexander, William, A Particular Account both of the Private and Public Behaviour of William Alexander, while in Prison, and at the Place of Execution, together with Striking Sayings and Remarks On the Occurrences of his awful Exit, to which are added, The Prayers he used the Morning before he was Executed, and the Hymns sung on the Occasion.

Newcastle, 1783.

See next item.

Alexander, William, Meditations and Letters wrote by the late William Alexander, During his Confinement in Newgate; Who was convicted of Forgery, at the last Assizes at Newcastle, and executed the 17th November 1783: Published from his own Manuscripts. To which are added His Last Dying Speech, Some Account of his Behaviour, &c.

Newcastle, [1783].

Price 4d. Some similarity to previous item, but fuller: includes dying speech allegedly written in gaol, read to crowd at gallows and given to Sheriff (pp.15-9, confirmed as having been delivered by previous item at p.7); very brief biography (pp.iii-iv) followed by meditations and prayers.

Allen, George, The Trial of George Allen, of Upper Mayfield, who was executed at Stafford, On Monday March 30, 1807, for the Wilful Murder of Three of His Children.

J. Drewry, Stafford, [1807].

Price 1/-. Trial only: includes summing-up by judge and discussion of question of insanity.

Altham, Edward, The Last Speech and Confession of Edward Altham, Who was Executed at Tyburn, on Friday the Twentieth of this Instant July, 1688. for a Rape committed upon the Body of Ruth Ewbank, a Girl about Nine Years of Age.

Geo. Croom, London, 1688.

21 July 1688.

Anderton, William, An Account of the Conviction Behaviour and Execution of William Anderton Printer Who was Condemned at the Old Baily, on Thursday the 8th of June, For High Treason, and executed for the same, at Tyburn on Friday the 16th of June 1693.

John Wallis, London, 1693.

For the publication of a treasonable paper.

Anecdotes, Anecdotes, Bon Mots, Traits, Stratagems, and Biographical Sketches, of the most remarkable Highwaymen, Swindlers, and other Daring Adventurers.

D. Brewman, London, 1797.

"Collected and Comprised, so as to render the whole Both Cautionary and Entertaining; and as much An Object of Wonder as of Pity!" (t-p)

Anderson, David, An Account of the Life, Crime, Trial, and Execution of David Anderson, Lately a well-known Character in Newcastle and the Neighbourhood, who suffered at York on Saturday, (Aug. 12, 1809) for knowingly uttering forged Bank of England Notes.

Marshall (printer), Gateshead, [1809?]

A broadsheet.

Ansell, Thomas, The Proceedings at the Assizes... at Guildford, On Thursday, the 9th, Friday, the 10th, and Saturday, the 11th Days of August, 1759... Also, The Remarkable Trial, Life, and Transactions of Thomas Ansell, commonly called Surry Tom, A most notorious Smuggler, (from his Birth to his Exit) who was convicted at the Assizes at Lewes, in the County of Sussex, on Tuesday the 7th of August, 1759, for the Murder of Thomas Cole, a Dragoon, (being then

in Company with a Gang of Smugglers) near Elmer-Sluice, and Slendon Common, in the said County; for which he was executed at Horsham, on Thursday, the 9th of August, 1759.

J.Leage, London, [1759].

Price 4d.

Aram, Eugene, The Genuine Account of the Trial of Eugene Aram For the Murder of Daniel Clark, late of Knaresborough, in the County of York (3rd edn.).

A.Ward for C.Etherington, York, [1759?].

Manuscript note on B.L. copy "By Hargrove": presumably Ely Hargrove, an historian of Knaresborough (1741-1818). At least 14 editions published of this pamphlet into the ninteenth century. Includes a copy of paper read out by Aram at his trial. Aram (1704-59) "left philological writings of considerable value" (D.N.B.). See, E.R.Watson, Eugene Aram: His Life and Trial, Edinburgh & London, 1913.

Aram, Eugene, The Genuine Account of the Life and Trial of Eugene Aram. For the Murder of Daniel Clark, Late of Knaresborough in the County of York.

W.Bristow, London, [1759].

This is 1st edition of The Genuine Account, but includes references to Aram's scholarly work (pp.45-86) not in that pamphlet. Raises interesting question about the admission of Houseman as Crown evidence after he had been arrested.

Aram, Euguene, The Genuine and Authentic Account of the Murder of Daniel Clark, Shoemaker, On the 8th of February, 1744-5. Also the material Part of the Arraignment and Tryal of Richard Houseman, Henry Terry, and Eugene Aram, for the said murder.

"Printed for, and sold by the Booksellers", York, [1759].

Published August, 1759: "scurrilous, anecdotal, unique" (Watson, Eugene Aram, p.209).

Aram, Eugene, The Genuine, Life, Trial, and Dying Words of Eugene Aram.

E. Smith, Holborn, [1759].

8pp. chapbook; brief accounts of trial, visits of clergy, suicide attempt and hanging.

Arnold, Mary, The Trial and Sentence of Mary Arnold.

Paul (printer), London, [1809].

Broadsheet.

Ashton, John, The Whole Tryal and Examination and Condemnation of John Ashton, a Farmer, for the barbarous Murder of his Sweet-heart Sarah Thorpe.

D. Brown, London, 1705.

Hanged at Lincoln.

Ashton, John, A True Account Of all Passages At the Execution of John Ashton, Gent.

J.Dunton, J.Harris, A.Roper, London, 1690/1.

Hanged 28 Jan. 1691. Broadsheet.

Athoe, Thomas, A Full, True and Particular Account of the Behaviour, Confession and last Words of Thomas Athoe, late Mayor of Tenby in Pembrokeshire, and Thomas Athoe his Son, who were Executed on Fryday July 5th, 1723, at St. Thomas's Watering in the County of Surrey, for a barbarous murther by them committed, upon the Body of Mr. George Marchant their Kinsman, in Pembrokeshire, Anno. 1722. The whole Faithfully Publish'd by Thomas Dyche Chaplain to the King's Bench Prison To which is added The case of the Two Athoes concerning this barbarous Murther.

J.Applebee, London, 1723.

Price 2d. The Athoes were condemned for murder, their trial having been transferred to the King's Bench Court. See N.L.W. Mss., Castell Gorfod 32; also, NLW Mss, Poston Deeds and Documents. For Dyche, see D.N.B. Dyche also published, The Malefactor's Guide. A Sermon

Preach'd June 30, 1723... before Thomas Athoe Senior, and Thomas Athoe his Son (1723).

Audouin, John, A Full and Impartial Account of the Tryal Of Mr. John Audouin, Surgeon, with the Depositions of Witnesses for and against the Prisoner, humbly offer'd to the Publick; by a well wisher of his Country.

Thomas Walsh, Dublin, [1728].

Account of murder trial (24 Feb. 1728 in Dublin); summarises evidence at trial. Author took "exact and strict Notes" (p.1); but summarises some of witnesses' evidence.

Audouin, John, A Letter Of Advice from the French Gentlemen of Ireland, to Doctor John Audouin Prisoner in Newgate, how to procure his Pardon or make off with his Life.

E.Tabown, Dublin, 1728.

A broadsheet satire.

B---, Lord (i.e. Lord Baltimore)- see Calvert, Frederick.

Baker, William, The Trial of William Baker, Sugar-Baker, for forging an East-India Warrant, for the Delivery of Goods, purporting to lie in the East-India Company's Warehouse, and publishing the same, knowing it to be such; together with the Pleadings of the Council on both sides, at Justice-Hall in the Old-Bailey, on Saturday the 9th of December, 1750, being the first Sessions in the Mayoralty of the Right Hon. Francis Cockayne, Esq.

M.Cooper & R.Hart, London, 1751.

Price 6d. Published "This Day", Whitehall Evening-Post, 769, 15 Jan. 1759. See also, Ordinary, Account, 31 Dec. 1750.

Barker, Benjamin, The Life of Benjamin Barker, A Notorious Highwayman, from his Youth to his Death; Who was Executed at Chelmsford on Friday the 18th of May, 1750, for robbing Mr. John Blower, of Bocking, in the Bury Coach. Containing A Full Account of his wicked Behaviour from his Infancy, with the many Intrigues during his Apprenticeship with lewd Women, &c.

Together with The many Robberies he and his Gang committed in divers Parts of England. Also An Account of his Trial, Behaviour in Gaol after Sentence, and dying Words at the Place of Execution.

J. Underwood, London, 1750.

Biography. Barker published a notice in Ipswich Courant (April 1750) confessing to the charge and denying allegation that Blower had sworn against him at the assize (pp.14-5), although he later regretted having done this.

Barnwel, George, An Excellent Ballad of George Barnwel, an Apprentice of London, who was undone by a Strumpet, who having thrice robbed his Master, and murdered his Uncle in Ludlow, was hanged in Chains in Polonia, and by the means of a Letter sent from his own hand to the Mayor of London, she was hang'd at Ludlow.

n.p., n.d. (late C17th.).

This story was the basis for the popular play by George Lillo, The London Merchant (1731), London 1965, see introduction by W.H.McBurney.

Barrington, George, The Life and Extraordinary Adventures of George Barrington. Now Transported to Botany-Bay, for picking the Pocket of Mr. Townsend, at Enfield races.

W.A., Darlington, [1790?].

Price 1d. "however we may admire the greatness of his abilities, we cannot but lament the sad perversion of them." (p.8) Born 1755. Brief account of early life, crimes and strategems together with humourous stories. Barrington rose to a position of some authority in Australia and wrote important works on transportation and Australia. See, R.S.Lambert, The Prince of Pickpockets: A Study of George Barrington who left his country for his country's good, London, 1930.

Barry, John, A short Narrative of the Behaviour, &c. of John Barry, while under Sentence of Death, who was executed May 16th, 1746 at St. Michael's Hill Gallows, for causing and procuring to be falsely made, forged and counterfeited, the last Will and Testament of James Barry, who died at his House, in order to secure unto himself his Prize-Money,

amounting to at least 1500 l.

n.p., [1746?].

Critical of way in which gaolers allow condemned prisoners to live "sumptuously" which only works to harden them. Barry supposedly asked his wife to "have him bleeded, if possible, and sprinkle his Blood upon the Prosecutor's Doors, praying that the same might gall upon them and their Posterity."

Bather, James, A Full and Faithful Account of the Life of James Bather, late Boatswain of the Nightingale Brig, Thomas Benson, esq; Owner. Written by Himself.

R.Griffiths, London, [1754].

Price 6d. "My only Motive for this Publication, was the Publication of Truth; and that I might give myself the Opportunity of saying a Word or two in my own Behalf." (p.30) See Lancey.

Bean, Thomas, The Last Speech of Thomas Bean, One of the Mob that demolished the Mug-House in Salisbury-Court; Who was Executed in London the 21st of September, 1716.

J.Baker, London, reprinted Edinburgh, 1716.

See Ordinary of Newgate, Account, 21 Sept. 1716. Bean and four other members of a Tory crowd "were the first Londoners to be executed under the new Riot Act" (1 Geo. I, st.2, c.5): N.Rogers, "Popular Protest in Early Hanoverian London", Past & Present, 79 (1978), pp.70-100, p.81-2.

Bean, Thomas, A True Copy of the Paper of Thomas Bean. One of the Five Rioters, Executed on Friday the 21st of September, 1716, at Salisbury-Court End in Fleet-street, deliver'd to a Gentleman at Fleet-Bridge, as he was going to Execution.

J. Read, London, [1716].

Price 1 1/2d. Attack on prosecution evidence.

Beddingfield, Margery, The Confession of Richard Ringe, and Marg. Beddingfield, Who were condemned at last Bury Assizes, For the Murder of Mr. John Beddingfield, And executed at

Rushmere, near Ipswich, On Friday the 8th of April, 1763.

Ipswich, [1763].

See next item.

Beddingfield, Margery, The Genuine Trial of Margery Beddingfield and Richard Ridge, before The Honourable Sir Richard Adams, Knt. One of the Barons of his Majesty's Court of Exchequer: at the Assizes held at Bury St. Edmunds, in the County of Suffolk, On Monday the Twenty-first of March, 1763: for Petty Treason and Murder.

L.Davies & C.Reymers, London, 1763.

Ringe confessed to murdering Beddingfield's husband; she admitted an affair with Ringe, but not complicity in murder, nevertheless she was hanged on the slimest evidence, the punishment seemingly being inflicted for her relationship with Ringe.

Bernardi, Major John, A Short History Of the Life of Major John Bernardi. Written by himself in Newgate, where he has been for near 33 Years a Prisoner of State, without any Allowance from the Government, and could never be admitted to his Tryal. To which is added by Way of Appendix, A true Copy of the Diploma, or Patent of Count of the Empire, granted to the Author's Grand-Father in the Year 1629, and a Translation of it into English. As also Copies of the Major's several Commissions, &c.

J.Newcomb, "for the Benefit of the Author", London, 1729.

Bernardi (1657-1736) was captured after fighting for James II at the Battle of the Boyne, and, in spite of this lengthy pamphlet, he died in Newgate.

Bevell, James, An Authentic Narrative of the Methods by which the Robbery committed in The House of the Right Honourable the Earl of Harrington, in the Stable-Yard, St. James's, was discovered. With Some Remarkable Anecdotes, and Original Letters sent to Sir John Fielding on the Occasion.

W.Nicoll, London, [1765].

Detailed account of how Bevell, steward to Harrington, apprehended alleged robbers (see Westcote, John); also shows how John Fielding acted as central clearing house

for information on crime.

Bibby, Thomas- see Tutty, W.

Bird, Edward, Mr. Bird's Case. The nature and circumstances of this prosecution, will appear from the malice as well as character, of my prosecutors.

London, [1719].

On Bird writing this see, P.Lorrain, The Ordinary of Newgate his Account of the Behaviour and last dying Words of Edward Bird (1719), pp.4-5.

Black Giles, Black Giles the Poacher; With some Account of a Family who had rather live by their Wits than their Work.

n.p., n.d.

Blake, Peter, The last Dying Speech and Confession Of the Unfortunate Malefactors, Executed before the Debtor's Door, Newgate.

n.p., [London, 1786].

Hanging of Peter Blake and James Haynes.

Blandy, Mary, An Answer to Miss Blandy's Narrative. In which all the Arguments She has Advanc'd in Justification of Her Innocence are Fully Refut'd.

W.Owen, London, 1752.

Price 3d. Published 27 March, 1752. See Miss Mary Blandy's Own Account. The division of responsibility between Mary Blandy and Henry Cranstoun was the major issue in contemporary pamphlets (indeed the split in opinion has continued: compare the entries for each of these people in the D.N.B.) On the case see, W.Roughead, Trial of Mary Blandy, Edinburgh, 1904: bibliography at pp.205-8 (hereafter, Roughead), this item is Roughead 4.

Blandy, Mary, An Authentic and Full History of all the Circumstances of the Cruel Poisoning of Mr. Francis Blandy.

W.Owen, London; R.Goadby, Sherborne, [1752?].

One of the longest accounts at 144 pages. Probably published after Owen's Answer to Miss Blandy's Narrative, and draws on that work (pp.113-32). Roughead 12.

Blandy, Mary, An Authentic Narrative of that most Horrid Parricide Committed on the Body of Mr. Blandy.

M.Cooper, London, 1751.

Price 6d. Two editions. Roughead 1.

Blandy, Mary, A Candid Appeal to the Publick, Concerning the Case of the Late Miss Mary Blandy: Wherein, All the ridiculous and false Assertions contained in a Pamphlet, entitled, Miss Mary Blandy's Own Account of the Affair between her and Mr Cranstoun, &c. are exploded, and The Whole of that Mysterious Affair set in a True Light. By a Gentleman of Oxford.

J.Gifford, London, 1752.

Published 15 April, 1752. A critique of Miss Mary Blandy's Own Account and an endorsement of the biography published by R.Walker, a rare event between apparently rival booksellers (see pp.6, 11, 27). Roughead 9.

Blandy, Mary, The Case of Miss Blandy: consider'd As a Daughter, as a Gentlewoman, & as a Christian. With a Particular reference to her own Narrative. By an Impartial hand.

for R. Baldwin in London and the booksellers of Oxford, 1752.

Published 6 April, 1752. Roughead 5.

Blandy, Mary, The case of Miss Blandy and Miss Jeffryes fairly stated.

Robinson, [London, 1752].

Published 26 March, 1752. I have not seen a copy; listed in London Magazine, 1752, p.194. See Swan, John. Roughead 27.

Blandy, Mary, Execution of Miss Blandy, Who was Tried at the Assizes, at Oxford, and suffered at the same place April, 6th for poisoning her Father.

Toy & Marble Warehouse, London, [1752].

Broadsheet. Blandy professed her innocence at the gallows. Roughead 29.

Blandy, Mary, The Fair Parricide. A Tragedy of Three Acts. Founded On a Late melancholy Event.

T.Waller, London, [1752].

Price 1/-. A play. Published 5 May, 1752. Roughead 14.

Blandy, Mary, A Genuine and full Account of the Parricide committed by Mary Blandy.

C.Goddard, Oxford; R.Walker, London, 1751.

Published 9 Nov., 1751. See London Magazine, 1751, p.512. Roughead 2.

Blandy, Mary, A Genuine and impartial Account of the Life of Miss M.Blandy.

W.Jackson [Oxford], R.Walker [London], [1752].

Published 9 April, 1752. Roughead 7.

Blandy, Mary, Genuine Letters between Miss Blandy and Miss Jeffries before and after their Conviction.

J.Scott, W.Owen, G.Woodfall, London, [1752].

Published 21 April, 1752. London Magazine, 1752, p.195. Roughead 28.

Blandy, Mary, The Genuine Lives of Capt. Cranstoun and Miss Mary Blandy.

M.Cooper, C.Sympson, London, 1752.

Price 1/-. Same text as Memories of... Cranstoun.

Roughead 19.

Blandy, Mary, Genuine Memoirs of Capt. Cranstoun.

Cooper, [London, 1753].

Listed in London Magazine, 1753, p.198. Not in Roughead.

Blandy, Mary, The Genuine Speech of the Hon. Mr. --- at the Late Trial of Miss Blandy.

J.Roberts, London, 1752.

Price 6d. Published 15 May, 1752. Another edition published at Patingham. This is the speech delivered by Henry Bathurst (1714-94), who became Lord Chancellor, who opened for the prosecution (Foss, pp.61-2; D.N.B.). Roughead 15.

Blandy, Mary, The Genuine Tryal At Large of Mary Blandy, Spinster, For Poisoning her late Father Francis Blandy, Gent. Town-Clerk of Henly upon Thames, Oxfordshire, at the Assizes held at Oxford, for the County of Oxford, On Tuesday the Third of March, 1752.

W. Jackson (Oxford); R. Walker, London, 1752.

Price 6d. Trial only. Another edition published in Edinburgh, 1752. Not in Roughead.

Blandy, Mary, An Impartial Enquiry into the Case of Miss Blandy.

London, 1753.

London Magazine, 1753, p.198. See also, Roughead 24.

Blandy, Mary, A Letter from a Clergyman to Miss Mary Blandy, Now a Prisoner in Oxford Castle; with Her Answer thereto. As also Miss Blandy's own Narrative of the Crime for which She is Condemn'd to Die.

London, 1752.

Price 6d. Published 20 March, 1752. Probably by Rev. William Stockwood, Rector of Henley (Roughead, p.153n.);

advises "Patience,under your Sufferings, and Resignation to the Decrees of Heaven" (p.4) if she is innocent. Reproduced in Roughead, pp.153-61. Roughead 2.

Blandy, Mary, Memories of the Life and Most Remarkable Transactions of Capt. William Henry Cranstoun. Containing an Account of his Conduct in his Younger Years. His Letter to his Wife to Persuade her to Disown him as her Husband. His Trial in Scotland, and the Court's decree thereto. His Courtship of Miss Blandy; his Success therein, and the Tragical Issue of that Affair. His Voluntary Exile Abroad with the Several Accidents that Befel him from his Flight to his Death. His Reconciliation to the Church of Rome, with the Conversation he had with a Rev. Father of the Church at the Time of his Conversion. His Miserable Death, and Pompous Funeral.

M.Cooper, W.Reeve, C.Sympson, London, [1752].

Price 6d. Published 13 March, 1752. Argues that both Blandy and Cranstoun were guilty. Same text as The Genuine Lives (above). Roughead 21.

Blandy, Mary, Memoirs of the Life of William-Henry Cranstoun, Esq.

J.Bouquet, London, 1752.

Price 1/-. Published 18 June, 1752. Blames Cranstoun for the murder. Roughead 18.

Blandy, Mary, Miss Mary Blandy's Own Account Of the Affair between Her and Mr. Cranstoun, from the Commencement of their Acquaintance, in the Year 1746. To the Death of her Father, in August 1751. With all the Circumstances leading to that unhappy Event.

A. Millar, London, 1752.

Price 1/6d. Published 10 April, 1752. Another edition published in Dublin, 1752. Reviewed London Magazine, 1752, p.180. "The most famous apologia in criminal literature." (Roughead, p.206) Apparently dictated to a clergyman (Rev. Swinton: see A Letter from a Clergyman, above) by Mary Blandy (see, A Candid Appeal, p.24). Said to be full "of so many incredible Stories, Improbabilities, and palpable Falsities" (A Candid Appeal, p.24 & see references noted in entry for that

pamphlet). Rev. Swinton "is a great favourite of Miss Blandy's." (Wise to Sharpe, Solicitor to the Treasury, undated [Nov. 1751?], Roughead, pp.149-50.) Reproduced in Roughead, pp.162-85. According to Boswell Swinton was "the chaplain of the gaol [at Oxford], and also a frequent preacher before the University, a learned man, but often thoughtless and absent": Hill & Powell, Boswell's Life of Johnson, vol. I, p.273, also pp.273-4. Roughead 8.

Blandy, Mary, Miss Molly Blandy who with her own & her Sweetheart's Contrivance did Barbarously and Inhumanly Poison her own Father for his Estate.

B.Dickinson, London, 1752.

Broadsheet print of Blandy with poem. Published 3 Feb., 1752. Reproduced in Roughead, facing p.112, but not in his bibliography.

Blandy, Mary, Original Letters To and from Miss Blandy and C-- C---. In which is contain'd The artful Evasions he used to prevent his clearing his Character to her Father, and the whole History of that Parricide.

S.Johnson, London, 1752.

Price 1/-. Published 8 April, 1752. C-- C--- is Captain Cranstoun. Almost certainly fictional: see Life of Cranstoun, p.31, "we have just now seen drop from a Garret-window, a little trifling Pamphlet". Roughead 6.

Blandy, Mary, The **** Packet Broke-open; or, A Letter from Miss Blandy, In the Shades Below, to Capt Cranstoun, In his Exile.

M.Cooper, London, 1752.

Price 6d. Published 16 May, 1752. London Magazine, 1752, p.244. Roughead 16.

Blandy, Mary The Secret History of Miss Blandy, from Her first Appearance at Bath, to Her Execution at Oxford, April 6, 1752.

H.Williams, London, [1752].

Price 1/6d. Published 11 June, 1752. Although the author admits that Blandy might have been innocent her execution was of benefit "by affording her an Occasion of excercising and improving those Christian Graces which may vastly highten [sic.] her future everlasting Joy." (p.87) "A sane and well-written account of the whole story" (Roughead, p.207). Copy in Harvard Law Library has a tipped in Mss. letter from Henry Fox to William Pitt on the trial. Roughead 17.

Blandy, Mary, The Tryal of Mary Blandy, Spinster; for The Murder of Her Father, Francis Blandy, Gent. At the Assizes held at Oxford For the County of Oxford, On Saturday the 29th of February, 1752.

J. & J.Rivington, London, 1752.

Price 2/- (folio), 1/- (8to.). No note of shorthand writer. Published 24 April, 1752 "by Permission of the Judges". Also published in Dublin and in abridged versions in London and Edinburgh (all 8to). Best version of the trial.

Blandy, Mary - see also Swan, John.

Bloody Tragedy, The Bloody Tragedy Or a Dreadful Warning to Disobedient Children. Giving a sad and dreadful account of one John Gill, in the Town of Woburn in Bedfordshire, who lived a Wicked Life.

J.Pitts, London, [n.d.].

A cautionary tale. Another, identical edition was printed by T.Evans.

Bolland, James, Memoirs of Mr. James B---d, Late Officer to the Sheriff of Middlesex, Candidate for City Marshall, And now under Sentence of Death in Newgate, for Forgery.

S.Bladen, London, 1772.

Price 1/6d. An attack on him, alleging he was a corrupt officer and a bankrupt.

Bolland, James, A True and Genuine Account of the Life, Trial and Execution of James Bolland, Late Officer to the Sheriff

of Middlesex, Who was Executed at Tyburn, March 18, 1772, for Forgery (2nd edn.).

for author & sold by R.Richards, T.Peat, J.Swan, London, 1772.

2 editions in 1772. "a life wholly spent in the practice of all manner of villainies, without the possession of one virtue to recommend him" (p.1).

Bolton, John, The Trial of Capt. John Bolton, Of Bulmer, near Castle-Howard, for the Murder of Elizabeth Rainbow, His Apprentice Girl, On Saturday the 21st of August, 1774.

T.Deighton, York, [1775].

Price 6d. Full account of trial held at York. Bolton committed suicide after being condemned, but was still dissected as per sentence (p.36).

Bolton, John, A true, and Tragical Song, concerning Captain John Bolton, of Bulmer, near Catle-Howard, who after a Trial of Nine Hours, at York-Castle, on Monday the 27th of March, 1775, for the wilful Murder of Elizabeth Rainbow, an Ackworth Girl, his Apprentice; was found Guilty, and immediately received Sentence to be Executed at Tyburn near York on Wednesday following, but on the same morning he strangled himself in the Cell where he was confined, and so put a period to his wicked and desperate Life. His Body was then pursuant to his Sentence, given to the Surgeons at York Infirmary to be dissected and anatomized.

n.p., [1775?]

Branch, Elizabeth, The Cruel Mistress; Being, The Genuine Trial of Elizabeth Branch, and Her own Daughter; for the Murder of Jane Butterworth, Their Servant Maid: Who were executed on Saturday, May 3. 1740 at Ivelchester in the County of Somerset.

C.Simpson, London, 1740.

Murder of an apprentice. "the Laws of England are as careful, and tenacious of the Life of the poorest Person as of the richest" (per 3rd counsel for King, p.8). See also, Inhumanity; Brownrigg, Appeal to Humanity.

Branch, Elizabeth, The Trial of Mrs. Branch, and Her Daughter, For the Murder of Jane Butterworth, before the Hon. Mr. Justice Chapple, at Somerset Assizes, March 31, 1740.

no publisher, London, [1740].

Other editions also published in Bath and Dublin. Criticises Inhumanity (p.iii & vii).

Branch, Elizabeth, Inhumanity and Barbarity Not to be Equal'd: Being an impartial Relation of the Barbarous Murder Committed by Mrs. Elizabeth Branch and her Daughter, on the Body of Jane Butterworth, their Servant, at their Farm at High-Church near Philips Norton, in the County of Somerset.

London, [1740].

Appears to be less useful than Cruel Mistress, concentrates on sensational evidence, on the intervention of divine providence, and presents trial as over quickly, which according to other accounts it was not.

Branch, Elizabeth, see also Brownrigg, E., An Appeal to Humanity.

Bristol Riot, A Full and Impartial Account of the Late Disorders in Bristol, To which is Added the Compleat Tryals of the Rioters before Mr. Justice Powys, Mr. Justice Tracey and Mr. Baron Price.

J. Roberts, London, 1714.

Price 6d. Probably wrongly attributed to Defoe by J.R.Moore, A Checklist of the Writings of Daniel Defoe, (2nd edn.), Hamden, Conn., 1971.

Bristol Riot, The Bristol Riot. Containing, I. A Full and Particular Account of the Riot in General, with several Material Circumstances Preceding, and Contributing to it. II. The whole Proceedings relating to the Tryal of the Rioters, before Judge Powys, Judge Tracey, and Mr. Baron Price.

J. Roberts, London, 1714.

Price 6d. Probably wrongly attributed to Defoe by J.R.Moore, Checklist of Defoe.

Broadfoot, Alexander, The Case of The King against Alexander Broadfoot, at the Sessions of Oyer and Terminer and Gaol Delivery Held for the City of Bristol and County of the same City, on the 30th of August, 1743.

Clarendon Press, Oxford, 1758.

> By Michael Foster. A legal tract which concludes that the press gang is legal; followed Broadfoot's indictment for the murder of a member of press gang.

Broderick, Ann, The Trial of Miss Broderick, for the Wilful Murder of George Errington, Esq. before Lord Chief Baron MacDonald, At Chelmsford, on Friday, July 17, 1794.

J.Robertson, Edinburgh, 1795.

> William Garrow (1760-1840: see Foss, pp.289-90 & D.N.B.) opened as counsel for prosecution; case centred on question of insanity, and Broderick was acquitted on that ground.

Brooks, Jonathan, The Trial of Jonathan Brooks and James Grierson, otherwise called John Guerson, Clerk, tried at Guildhall, January the 31st, 1748-9, before the Right Hon. Sir William Calvert, Knt. Lord-Mayor of the City of London, &c. and Richard Adams, Esq, Recorder; for wickedly devising and intending to aggrieve one Mrs. Mary Reading, Spinister, worth in Lands and Moveables about Fifteen Hundred Pounds; in combining together to procure her to be married to Jonathan Brooks, to the Intent of taking Possession of her Lands, &c. Also for assaulting and falsly Imprisoning the said Mary Reading, October the 7th, 1741, in an uninhabited House in Fenchurch-street, for the Space of Twelve Hours.

M.Cooper, London, 1749.

> Price 3d. Published "This Day", Whitehall Evening-Post, 16 Feb. 1749.

Brownrigg, Elizabeth, An Appeal to Humanity, in An Account of the Life and Cruel Actions of Elizabeth Brownrigg.

London, 1767.

Seeks to exculpate her husband who was "a man of a mild disposition... inclined to procure peace at home upon any conditions". Includes copy of Branch trial from The Cruel Mistress (see Branch, Elizabeth) (pp.27-64). See D.N.B. and O.B.S.P. 9-16 Sept. 1767, pp.258-75. Comparison of Ordinary of Newgate, Account, 14 Sept. 1767; An Appeal to Humanity; Genuine and Authentic; Wingrave: none has a great deal of biographical material; there is agreement on her job as a workhouse midwife (Account, pp.8-9, 14; Genuine, p.4; Wingrave, p.3); only the more sensationalist Appeal includes the claim that she killed pauper babies (this is denied in Account, p.14 by Brownrigg herself, and Genuine, pp.4-5, seems to be merely a shortened version of story in Account). Wingrave criticises "a certain clergyman" in Newgate for addressing her "more in the character of a judge than a comforter" (p.31); Moore denies that this was him and says that the clergyman referred to visited her before she was transferred to Newgate (Account, p.16). The fullest accounts are in Genuine and Wingrave, and they broadly agree. Wingrave appeared first (it was published after the trial), and it seems that Genuine (published after the hanging) borrowed from it, although does not actually reproduce Wingrave. Appeal also follows same story, but is more sensationalist and more passionate in its denunciation of Brownrigg.

Brownrigg, Elizabeth, The Cries of the Afflicted; being A true and faithful Account of the Sufferings of Mary Mitchell, Mary Jones, and Mary Clifford, Apprentices to Mrs. Elizabeth Brownrigg, a Painter's Wife in Fetter Lane, Fleet Street.

n p., London, [1795?].

Date attribution in B.L. cat.; a chapbook.

Brownrigg, Elizabeth, Genuine and Authentic Account of the Life, Trial and Execution of Elizabeth Brownrigg.

London, 1767.

Brownrigg, Elizabeth, A Narrative Of the many Horrid Cruelties Inflicted by Elizabeth Brownrigg Upon the Body of Mary Clifford, Deceased; And for which the said Elizabeth Brownrigg received Sentence of Death, On Saturday the 12th of September 1767. Together with An Account of the Sufferings of Mary Mitchell and Mary Jones.

for author and J. Williams, London, 1767.

By J.Wingrave, a constable involved in the case (he appeared as a witness at trials of Elizabeth Brownrigg and of James and John Brownrigg: see below). Details of this pamphlet criticised in the Ordinary of Newgate's Account, 14 Sept. 1767, at p.16n.

Brownrigg, James, The Trials of James Brownrigg, and John Brownrigg, his Son, For Confining and inhumanly Scourging Mary Mitchell, Spinster; at the General Quarter Sessions of the Peace, Held at the Guildhall, On Monday, October 19, 1767.

J.Wilkie, London, [1767].

Price 6d. Having been acquitted of the major charge, they were tried again for a misdemeanour, convicted and imprisoned for six months.

Bruce, George, The Life and Dreadful Transactions of George Bruce, And his Crew of Robbers and Murderers.

[London, 1800?].

8pp. chapbook.

Bruce, J., The Trial, Execution, &c. &c. of J. Bruce, For Murdering a Boy in a boat, off Milford Have. Who Suffered Death on Monday, At Execution Dock, Wapping.

Jennings, London, n.d.

Price 1d. Includes a description of the procession to Wapping.

Bugg, Joseph, The Last Dying Speech, and Confession, Life Character, and Behaviour, of Joseph Bugg, Who was Executed at Ipswich, on Saturday, the 24th of August, 1816, for Maliciously setting Fire to a Barn and Cart-lodge, in the Occupation of Mr. James Glanfield, of Martlesham Hall, near Woodbridge, Suffolk.

n.p., [1816].

The "Confession" is not an admission of the offence, but a confession of drunkenness and mixing with idle

company. Published day of the execution (see text).

Burch, Edward, The Whole Trials of Mr. Robert Powell, For Forging a Receipt with Intent to defraud the Honourable East India Company; and of Edward Burch and Matthew Martin, for Forging a Paper-Writing, purporting to be the Last Will and Testament of Sir Andrew Chadwick.

T.Evans, London, [1771].

Price 1/-. Full account of trial.

Burdett, J., A Letter from Mr. J. Burdett, Who was Executed on Friday, Febr. 1, at Tyburn, for the Murder of Captain Falkner, to some Attorneys Clerk of his Acquaintance. Written Six Days before his Execution.

J. Baker & T.Warner, London, 1717.

Addressed to friends whom he urges to turn to God before it is too late.

Burroughs, Elizabeth, The Remarkable Trial of Henry Steward and Elizabeth Burroughs, for the wilful murder of Mary Booty, at the Assizes Held at Bury St. Edmund's, Suffolk, On Friday, March 21, 1766.

P.Hand for W.Birchinall, London, 1806.

Price 6d. Burroughs was hanged, but declared her innocence at the gallows which led many to believe that Steward, who was acquitted, had committed the crime. He died 17 Feb. 1806 declaring his innocence, hence this publication.

Butterfield, [Jenny] Jane, Circumstances of the Death of Mr. Scawen, With Genuine Particulars relative to Miss Jenny Butterfield, Now under Confinement, and charged with the Murder of that Gentleman.

J.Whitaker, London, 1775.

Price 6d. Biography and summary of trial (pp.23-30); this account endorses Butterfield's acquittal.

Butterfield, Jane, A Letter to Mr. Sanxay, Surgeon, in Essex-Street. Occasioned by His Very Singular Conduct, In the Prosecution of Miss Butterfield, Who was tried at the Assizes at Croydon, Aug. 19, 1775, for poisoning the late William Scawen, Esq. of Woodcot-Lodge, in the County of Surry, and Honourably Acquitted.

G.Kearsly, London, 1775.

Vigorous attack on Sanxay, a prosecution witness: calls him "an unfeeling sycophant" (p.16), implies perjury and professional negligence in his failure to dissect Scawen to see if he had been poisoned. Apology for life of Butterfield.

Butterfield, Jane, The Trial of Jane Butterfield For the Wilful Murder of William Scawen, Esq; At the Assizes held at Croydon for the County of Surry On Saturday the 19th of August, 1775.

W.Owen & G.Kearsly, London, 1775.

Lengthy, and apparently verbatim, account, although no note of summing-up, if any (54 folio pages); shorthand by Joseph Gurney and William Blanchford (see Donellan, Proceedings at Large); endorsed by the judge (title-page).

Bythell, William, The Trials of William Bythell, William Hartley, William Ladds, and Thomas Tothill, at the Sessions-House in the Old-Bayly, for Misdemeanors.

R.Baldwin, London, 1695.

Notes that O.B.S.P. printed this trial with false names, so Lord Mayor (Sir Thomas Lane) ordered the real names to be published.

Cadman, Joseph, Particular Account of the last Speech and Dying Declaration of Josiah Cadman, for issuing Forged Five Pound Notes of the Bank of England, and of other Seven Men, who were all Executed at the Old Bailey, London on Wednesday 21st November 1821, together with their Behaviour at the place of execution.

[Edinburgh ?], [1821].

Price 1d. Broadsheet.

Calvert, Frederick, A Letter to Lord B---. With an Address to the Town.

W. Flexney, London, 1768.

Frederick Calvert, Baron Baltimore (1731-71: see D.N.B.); complains that rape easily charged by "every millener of the age of thirty" who wished "to appear to have yielded to violence than seduction"; suggests that rape is no more than "an unhappy passion" and should be punished less harshly than false accusation of rape which shows "the most abandoned profligacy of human malice." (pp.18-19 & 22)

Calvert, Frederick, Modern Chastity: or, the Agreeable Rape. A Poem.

for the author, London, 1768.

By Rev. Bennet Allen (see D.N.B.); a defence of Calvert, arguing that it was not a rape.

Cannicott, William, A Genuine Account of the Life and Actions of William Cannicott, Who was Executed at Tyburn, on Monday, September 20, 1756, For the Murder of his Wife, on Tuesday the 20th of July, 1756. Written by Himself, while Confined in Newgate.

Judith Walker, London, 1756.

Includes a lengthy declaration as to the authenticity of the work (t-p, also p11). See Ordinary's Account, 20 Sept. 1756.

Canning, Elizabeth, An Ode to the Right Hon. Sir Crisp Gascoyne, Protector of the Innocent, and late Lord Mayor of the City of London.

C.Corbett, London, 1754.

Price 6d. By Mr. Brecknock. Not in de la Torre (below). Published "This Day", Whitehall Evening-Post, 1250, 21 May 1754. See, A.Machen, The Canning Wonder, London, 1926; B.Wellington, The Mystery of Elizabeth Canning, New York, 1940; L. de La Torre, "Elizabeth is Missing or, Truth Triumphant, London, 1947; for bibliography see, University of Colorado Studies, Series B, vol. II,

no.4.

Canning, Elizabeth, Miss Canning and the Gypsey.

C.Corbett, London, 1754.

Price 6d. "By a Lover of Truth". An anti-Canning tract, attacks Gascoigne who defended her. Published "This Day", Whitehall Evening-Post, 1288, 16 May 1754.

Canning, Elizabeth, Some Account of the Case between Elizabeth Canning and Mary Squires, as it now stands upon the Foot of the Evidence given on both Sides, upon the Trial at the Old Bailey.

C.Corbett, London, 1754.

Price 1/-. By E.Biddulph. Published "This Day", Whitehall Evening-Post, 1251, 23 May 1754.

Canning, Elizabeth, The Evidence of Elizabeth Canning fully confuted. By Britannicus.

C.Corbett, London, 1754.

Price 6d.

Not in de la Torre.

Carew, Bampfylde-Moore, An Apology for the Life of Mr. Bampfylde-Moore Carew, Commonly call'd The King of the Beggars. Being An impartial Account of his Life, from his leaving Tiverton School, at the Age of Fifteen, and entering into a Society of Gipsies, to the present Time; wherein the Motives of his Conduct will be explain'd, and the great Number of Characters and Shapes he appered in thro' Great Britain, Ireland, and several other Places of Europe be related; with his Travels twice thro' great part of America. A Particular Account of the Origin, Government, Language, Laws, and Customs of the Gipsies; their Method of electing their King, &c. And a Parallel drawn after the Manner of Plutarch, between Mr. Bamfylde-Moore Carew and Mr. Thomas Jones (7th edn.).

R.Goadby & W.Owen, London, 1763.

Carew 1693-1770? (see D.N.B.). Dedicated to "Justice

Fielding", i.e. Henry Fielding; "Mr. Thomas Jones" refers to Tom Jones.

Carrick, James, A Compleat and True Account Of all the Robberies Committed by James Carrick, John Malhoni, and their Accomplices, In Dublin, Cork, Limerick, Waterford, and other Places in Ireland. As also on the Highway in England, and in the Streets of London and Westminster, and Places adjacent.

J.Peele, London, 1722.

"Written by James Carrick" (title-page). "Jonathan Wild is indefatigable in such Cases where Rewards are offered" (p.12). See, Ordinary, Account, 18 July 1722.

Chandler, Sarah, The true and Remarkable Life And Extraordianry Adventures of that unfortunate young woman Sarah Chandler, Hanged on Wednesday last before the Debtors Door, Newgate, for robbing her Master's House of a Quantity of Diamonds.

n.p., Newcastle [1796].

Initially she refused to plead until property was returned to her, but on being told that she would be treated as if she had pleaded guilty she relented: p.4.

Chandler, Thomas, The Remarkable Tryal of Thomas Chandler, Late of Clifford's Inn, London, Gent. Who was tried and convicted at the Lent Assizes at Reading, 1750, before Mr. Baron Clive, for wilful and corrupt Perjury, in swearing that he was robbed of fifteen Bank Notes of the Value of 9601. 5 Guineas in Gold, 20s. and upwards in Silver, and a Silver Watch, on the 24th of March 1747, between Hare-Hatch and Twyford in Berkshire, in the Road to Reading, by Three Men on Foot. To which is added, (At the Request of the High Sheriff and Grand Jury of the County of Berks,) An Introductory Account of the Life of the said Mr. Chandler, From the Time of his going Clerk to an Attorney, to the Time of his Conviction, and of the several Steps taken by the Prosecutors in order to bring him to Justice.

C.Micklewright, Reading; J.Newbery, London, 1751.

By Edward Wise, "Attorney at Law at Wokingham, Berks." Price 6d. Sentenced to pillory and transportation, but former commuted to imprisonment for fear of his being "murder'd by the enraged Populace." (p.68) Wise had

organised the prosecution, which had taken almost 2 years, and was rewarded by a subscription to reimburse him by the local gentry. Chandler had sued the Hundred of Sonning for compensation following his allegation that he had been robbed. The case led to two important changes in the law.

Chapel, Martha, An Account of the Trial & Execution of Martha Chapel, (only 19 years of age,) Who was executed at York, on Monday, August 1, 1803, for the wilful Murder of her female bastard child and her body to be dissected and anatomized.

David Bass, Newcastle-upon-Tyne, 1803.

Evidence of Robert Smith, a surgeon, about her state of mind at birth seems to have been crucial (p.7).

Charley, William, A True Account of The Behaviour, Confession, and Execution of William Charley and Ann scott, Who Received Sentence of Death on the 27th. of August last, at Justice-Hall in the Old-Bayly, and were Executed at Tyburn On Friday the 4th of this Instant September 1685.

E.Mallet, London 1685.

Chartres, Colonel, A Collection of Remarkable Trials... IV The trial of Col. Chartres for a Rape committed on the Body of Anne Bond his Servant.

for Tom Tickle, sold by Mrs. Tuz, Glasgow [1739].

Price 2/-. Francis Chateris (1675-1732) "styled 'colonel'" (D.N.B.), he was actually a colonel in the militia who had been the subject of Parliamentary inquiries. He was also featured in opening scene of Hogarth's The Harlot's Progress. Chartres' counsel asks for indictment to be read in Latin in attempt to find flaws (p.130).

Chernocke, Rob., A True Copy of the Papers Delivered by Mr Rob Chernocke, Mr. Ed. King, Mr. Th. Key, To the Sheriffs of London and Middlesex, at Tyburn, the Place of Execution, March 18th. 1695/6.

William Rogers, London 1696.

Chater, Daniel. A Full and Genuine History of the Inhuman and Unparalleled Murders of Mr. William Galley, a Custom House Officer and Mr. Daniel Chater, a Shoemaker, by Fourteen Notorious Smugglers, with the Trials and Execution of Seven of the Bloody Criminals at Chichester.

London, [1749?].

By a "Gentleman of Chichester"; Winslow thinks he may have been the Duke of Richmond, who led the campaign against the Sussex smugglers: C.Winslow, "Sussex Smugglers" in D.Hay *et al*, Albion's Fatal Tree, Harmondsworth, 1977, p.128n.

Chetwynd, William. The Trial of William Chetwynd, Gent. On Three several Indictments For the Murder of Mr. Thomas Ricjetts, Wherein The Arguments of the Council on each Side, on the several Points of Law arising therein are fully set forth: With the Special Verdict found by the Jury.

S.Powell for E.Exshaw, Dublin, 1744.

Full account of trial together with arguments on the definition of malice aforethought. Schoolboy stabbed another during a quarrel, held to be manslaughter by the twelve judges.

Child, Benjamin. The Whole Life and History of Benjamin Child, Lately Executed for Robbing the Bristol Mail.

A. Moore, London, 1722.

Price 6d. Refers to "the renowned Captain *Alexander Smith*, and trusty *Sam. Briscoe*, those two famous Action-Reciters of the Knights of the Pad": p.3. (Briscoe was a bookseller who published Smith.)

Churchill, Deborah. A True Copy of the Paper at large, left by Deborah Churchill, which she deliver'd at the Place of Execution.

London, 1708.

See, Ordinary's *Account*, 17 Dec. 1708.

Clark, Edward, The Trial of Capt. Edward Clark, Commander of His Majesty's Ship the Canterbury, for the Murder of Capt. Tho. Innes, Commander of His Majesty's Ship the Warwick; In a Duel in Hyde-Park, March 12. 1749. At Justice-Hall in the Old Bailey; On Thursday the 26th of April 1750. Being the Fourth Sessions in the Mayoralty of the Rt Hon. Sir Samuel Pennant, Knt. Lord-Mayor of the City of London.

M.Cooper, London, 1750.

Price 6d. Probably by T.Gurney (see advert at [p.19]). Published "This Day", London Evening Post, 3523, 24 May 1750. Appears to be a full account of evidence against prisoner set out in question and answer form, however does not include full account of defence, see p.18.

Clarke, Joseph, see Edmundson, Mary.

Clarke, Joseph, The Trial of Joseph Clarke, the Younger, and Sarah Lloyd, At the Assizes, held at Bury St. Edmund's, March 20, 1800, Before Sir Nash Grose, Knt. One of his Majesty's Justices of the Court of King's Bench. Taken in Short Hand by Mr. W.Notcutt.

Ipswich, [1800].

Burglary charge; prosecution dropped the case against Clarke and he was acquitted. Trial plus Lloyd's confession to justice of the peace, and his behaviour after being condemned to death. Judge's summing-up virtually amounts to direction to convict: "All I have to say, is, that I have been looking into this case, and can find no loop hole whereby you might be induced to acquit her" (p.8).

Clarke, Matthew, Execution for Murder! A Full and Paritcular Account of Matthew Clarke, a most abhorred Murderer, who, Judas like, betrayed an unfortunate Young Woman by a Kiss, and, in the act of pretended embrace, Cut her Throat; and who was Executed at Tyburn, on the 27th November 1823, and hung in Chains near the Spot where he committed the Murder.

reprinted for R.Forrest, Edinburgh, [1823].

Probably ficitional, the facts of this account are remarkably similar to those in Watson, Jonn, Fatal Love!, supra. No mention of crime or execution in The Times.

Clarke, Thomas, The Trial at Large of Thomas Clarke, Thomas Carty and John Deane. Who were Tried, Convicted, and received Sentence of Death, for Robbing Thomas Marsh, on the King's Highway, at Yoxford, of 187 Dollars. At the Summer Assize for the County of Suffolk.

J.Rackham, Bury St. Edmund's [1779].

> "Taken in Short-Hand, as delivered in Court." After his conviction Clarke said, "I have one thing more to say, and that is, I think I have a right to the pistols." (p12)

Clough, James, A True Copy of the Paper delivered by James Clough who was executed on Friday last at Tyburn to his Friend at the said place of Execution.

T.Paine, London, n.d.

> Price 2d. Allegedly written to deny reports that he had confessed to the crime.

Coke, Arundel, An Account of the Behaviour, Confessions, and last Dying Words, of Arundel Coke, Esq; and John Woodburne, Labourer. Who were Executed at Bury St. Edmunds in the County of Suffolk, on Saturday, March 31, 1722. For the Barbarous Attempt on the Life of Edward Crispe, Gent.

T. Payne, London, [1722].

> Price 1/-. Another issue published at Bury St. Edmunds. Woodburne induced by Coke, who sought an inheritance, to murder Crispe. Amongst the first to have been convicted under the Coventry Act.

Coke, Arundel, An Exact and Particular Narrative Of a Cruel and Inhumane Murder Attempted on the Body of Edward Crispe, Esq; At St. Edmunds-Bury in Suffolk, On the first of January last at Night, by Arundel Coke, Esq; Barrister at Law, and John Woodburen, a Labourer (2nd edn.).

J. Roberts, London, 1722.

> Price 4d. 2 editions in 1772. "Faithfully collected frcm the Original Papers."

Coke, Arundel, The Tryal and Condemnation of Arundel Coke alias Cooke Esq; and of John Woodburne Labourer; for Felony, In Slitting the Nose of Edward Crispe Gent.

J.Darby, D.Midwinter, London 1722.

Coleman, Richard, The Solemn Declaration of Richard Coleman, Who was Executed at Kennington-Common, in the County of Surry, on Wednesday, April 12, 1749, for the Murder of Sarah Green, Widow, with the Behaviour, Confession, and Dying Words, of the Four other Malefactors, Who were Executed at the same Time and Place.

J. Nicholson, London, [1749].

> By Rev. William Wilson. Coleman maintained his innocence, and two years later Jones and Welch were hanged for the crime (see Jones, Thomas); the main evidence against these two was said to have been the carman who drove the cart from under Coleman at the gallows: London Evening-Post, 3716, 15 Aug. 1751. Also includes, Patrick Rena, Thomas Dobbings, Arthur Gibbons and Thomas Walker.

Colley, Thomas, The Remarkable Confession, and Last Dying Words of Thomas Colley, Executed on Saturday, August the 24th, 1751, At Gubblecut-Cross, near Marlston (vulgarly called Wilston) Green, in the Parish of Tring in Hertfordshire; and afterwards hung in Chains there, for the Cruel Murder of Ruth Osborne, Under Supposition of her being a Witch.

R. Walker, London, [1751].

> Lengthy procession from Hertford gaol to be hanged at Tring. Initially he claimed that he had committed no crime, but a recantation, allegedly by him, was read out at the gallows, although the local people still thought it wrong to hang him "for destroying an old wicked Woman, who had done so much Mischief by her abominable Charms and Witchcraft." (p.9)

Collington, John, Authentic Memoirs Of the Wicked Life and Dying Words of the late John Collington, of Throwleigh, in Kent; Who was executed on Saturday, April 7, 1750, at Maidstone, for maliciously hiring John Stone and William Luckhurst, to set Fire to the Barn and Ricks of Mr. John

Clarke (2nd edition).

G.Griffith, London, 1750.

Price 3d. For trial see Kent Assizes. Also includes John Williams, hanged for housebreaking. Local opposition to reprieve for arsonist (pp.10-11).

Comyn, John, An Impartial Account of the Malicious Prosecution of John Comyn, and Chadwick Chambers. By Robert Deans of Maidstone, and his Accomplices, on Pretence of their Robbing the said Deans on the Highway. With An Abstract of their Trial, and being fairly clear'd at the Assize at Maidstone, March 18. 1707.

London, 1709.

Comyn and Chambers arrested, but released by a justice of the peace, and then prosecuted by Deans; following acquittal they sued Deans, but were non-suited for taking the wrong action. Pamphlet attacks Deans.

Cooke, Peter, A Brief Account of the Tryal of Peter Cooke, Esq: Who was Tryed before the Lord Chief Justice Treby, &c. At the Sessions-House in the Old Bailey, on Wednesday, May 13. 1696, for High Treason.

R.Greene, London [1696].

Cooke, Shadrach, Newgate, October 1693.

no publisher, London 1693.

Declaration by Cooke (a Church of England clergyman), that he is innocent of charge of forging a passport to France.

Cotes, James, A Genuine Narrative of the Lives, Characters and Trials Of the four following Malefactors: viz. James Cotes, for a Highway-Robbery; Richard William Vaughan; William Stevens; and William Boodger.

London, 1758.

Cotes was arrested following a tip-off to John Fielding by a pawnbroker with whom Cotes had left a stolen watch.

Cowper, Spencer, The Case of Mrs. Mary Stout, Widow.

n.p., [1701].

Cowper was acquitted of murdering Stout; he later became an M.P., Chief Justice for Chester and then a justice of Common Pleas. This and following pamphlets engage in controversy over the case, and include an attack on Quakerism (Stout was a Quaker).

Cowper, Spencer, The Case of Spencer Cowper, Esq; John Marson, Ellis Stephens, and William Rogers Gentlemen.

n.p., [1701].

Claims Quakers pursue this to try to show Stout did not commit suicide. This opposes retrial by means of the writ of appeal.

Cowper, Spencer, Sarah the Quaker to Lothario, Alias S-. C-. Judge, Lately deceased, on meeting Him in the Shades.

A. Moore, London; C.Dickson, Dublin, 1728-9.

Cowper, Spencer, Lothario's Answer to Sarah the Quaker in the Shades.

A.Moore, London, 1729.

Price 6d. A poem.

Cowper, Spencer, Some Observations on the Tryal of Spencer Cowper, J. Marson, E. Stevens, W. Rogers, That were Tried at Hertford, about the Murder of Sarah Stout. Together With other Things relating thereunto.

Booksllers of London & Westminster, London, 1702.

Argues that Cowper's defence was false.

Cox, J. - see M'daniel.

Cox, William, A Genuine Account of the Life, Robberies, Trial and Execution of William Cox, Who was executed at Tyburn, October the 27th.1773. For stealing Bank-Notes and cash (the Property of Mr. John Kendrick) to the amount of Four Hundred Pounds and upward. Relating A great number of artful Robberies, and how his father first taught him to Thieve: His many narrow Escapes and quick Inventions to evade the Hand of Justice: His Behaviour in Newgate and at the Place of execution.

n.p., London, 1773.

Anecdotal biography; criticism of transportation (pp.30-1).

Cox, William, The Genuine Life of William Cox, Who is now under Sentence of Death, in Newgate, For Robbing Mr. John Kendrick of Bank-Notes and Cash to the Amount of more than Four Hundred Pounds; containing A Recital of the Particulars of a very great Number of the most artful Felonies ever committed in this Kingdom; faithfully penned from Authentic Accounts, received from the indubitable Authority of Cox's intimate Acquaintance.

T.Axtell, J.Swan, London, 1773.

Price 1/-. Probably same author as A Genuine Life. Author complains that Cox was convicted on circumstantial evidence merely because he had a bad character (pp.22-3).

Crawford, A., A Circumstantial Account of the Conduct and Behaviour of Mr. Stirn, Now under Confinement for Killing Mr. Matthews. Wherein several Reports already published are contradicted, and an Attempt is made to arrive at his true Character.

J.Coote, W.Bristow, J.Townsend, London, 1760.

Price 1/-. Critical of "News Writers" who "are fond of blackening the Character of a Person in Misfortune, and because he has been guilty of one atrocious Crime, they represent him as if he never had performed any good or laudable Action." (p.6)

Crompton, Joshua, The Genuine Memoirs of Joshua Crompton; Written by Himself in the Cells of Guildford, After his unhappy Conviction for Forgery on the Bank of England; Who

was executed on Gangley Common near Guildford, on Thursday the 20th of August, 1778. They contain some useful and interesting Cautions to Mankind in general, but more particularly to the Credulous and Unwary, who, like himself, might fall Sacrifices to Art and Deception. The Whole authenticated by the Rev. Mr. Dyer.

J.Williams, London: J.Martin, Guildford, 1778.

Price 1/-. Pursued to, and arrested in, Scotland by John Fielding's men (p.15); praises Akerman, keeper of Newgate.

Cruel Husband, The Cruel Husband; or Devonshire Tragedy, Wherein is related the account of Mr. J. Barton of Topsham.

T.Evans, London, no date.

Price 1d. Murders wife, but landlady dreams where body is hidden, and eventually murderer penitent.

Cruel Husband, The Cruel Husband, And Suffering Wife. Being a shocking Account of the unheard of Cruelties practised by one C--ss, a Bricklayer's Labourer, in Camden Court, Grub Street, who on Sunday last beat his Wife in so dreadful a Manner, that she was sent to the Hospital, without Hopes of Recovery, and he committed to New Prison.

n.p., n.d.

Dalby, William, A true history of the base and unnatural murther of a man by his own son near Uppingham.

no pub., 1709.

The murder was said to have been motivated by "the Devil, who is the Author of all Villainy" (p.3).

Dalton, James, A Genuine Narrative of all the Street Robberies Committed since October last, by James Dalton, And his Accomplices, Who are now in Newgate, to be try'd next Sessions, and against whom, Dalton (call'd their Captain) is admitted an Evidence. Shewing I. The Manner of their Snatching Off Women's Pockets; with Directions for the Sex in General How to Wear Them, So That They Cannot be Taken by Any Robber Whatsoever. II. The Method They Took to Rob the Coaches, and the Many Diverting Scenes They Met with while They Follow'd Those Dangerous Enterprizes. III. Some Merry Stories of Dalton's Biting the Women of the Town, His Detecting and Exposing the Mollies, and a Song which is Sung at the Molly-Clubs; With Other Very Pleasant and Remarkable Adventures. To which is added, a key to the canting Language, occasionally made use of in this narrative. Taken from the Mouth of James Dalton.

J.Roberts, London, 1728.

Price 1/-.

Dalton's "Wigg Box" features in Hogarth's <u>The Harlot's Progress</u>.

Dalton, James, The Life and Actions of James Dalton, (The noted Street-Robber) containing All the Robberies and other Villanies committed by him, both alone and in Company, from his Infancy down to his Assault on Dr. Mead.

R.Walker, London, [1730].

Price 1/-. Declaration that this was "taken from his own Mouth in his Cell in Newgate" (title-page) "for which I have received full Satisfaction." (p.iii-iv) Includes hope "that the Person that accus'd me (whose Character is sufficiently known) may be stopt in his Prosecution against those Persons whom he has sent to <u>Newgate</u> since my Condemnation." (p.46) - an apparent reference to Waller (see thesis and below), although Dalton himself impeached six people for robbery (pp.43-4). Reference to Dalton going to see <u>The Beggar's Opera</u> (p.46). Important

source of information on transportation to the North American colonies.

Daniels, Thomas, The Affecting Case of the Unfortunate Thomas Daniels, who was Tried at the Sessions held at the Old Bailey, September 1761, for the Supposed Murder of his Wife; by Casting her out of a Chamber Window: And for which he was sentenced to die, but recieved his Majesty's most Gracious and Free Pardon. In which is contained, A circumstantial Account of the Behaviour of that unhappy Woman, from her Husband's first Acquaintaince with her, to the Day of her Death. Drawn up and authenticated by the said Daniels himself; And faithfully prepared for the Press, by An Impartial Hand.

E.Cabe, London, 1761.

Price 1/-. An apology for Daniels, written because he hoped to remarry and thought that women might be prejudiced against him: p.5.

D'Anvers, Caleb, The Ordinary of Newgate's account of the Parentage, Birth, and Education, Strange Life and Behaviour, of Calen d'Anvers, esq.

for T.Cooper, London, 1734.

Signed "J.Gur-thy", a satire on the editor of the Craftsman journal.

Darkin, Issac, The Authentic Trial, and Memoirs of Issac Darkin, alias Dumas, Capitally Convicted for a Highway-Robbery, near Nettlebed, Before Baron Adams, At the Lent Assizes at Oxford on Friday the Sixth, and Executed for the same on Monday the 23d of March, 1761.

R. Baldwin; W. Jackson (Oxford), London, [1761?].

Arrested by Marsden, one of John Fielding's men (pp.21-2); reads The Beggar's Opera in gaol (p.26); refuses to confess to clergy because "could not confess with Safety" (p.27). Darkin's fear of dissection, his behaviour at the gallows and the protection of his body by bargemen also appears in Annual Register, 1761, pp.54 & 89-90. Rev. James Woodforde visited Darkin in his cell, attended his trial and the hanging; he confirms story about bargemen and claims that Darkin also used the aliases Harris and Hamilton: J.Woodforde, The Diary

of a Country Parson 1758-1802, Oxford, 1978, pp.6-7, entries Feb. 2, Mar. 6 & 23.

Davies, Fanny, An Authentic Narrative of The Most remarkable Adventures, and Curious Intrigues, Exhibited in the Life of Miss Fanny Davies, The Celebrated Modern Amazon.

for editor, sold By R.Jameson, London, 1786.

Price 1/-. Bears many similarities to The Female Amazon, but is longer.

Davies, Fanny, The Female Amazon, or a Genuine Account of the most Remarkable Adventures, and Complicated Intrigues, displayed in the life of the Celebrated and Notorious Miss Fanny Davies, the Borough Beauty. Who received Sentence of Death at the last Chelmsford Assizes, by Mr. Justice Ashhurst, for stealing above 1250l. in Money and Notes, from Mr. Wrigglesworth, a Country Grazier.

T.Read, London, 1786.

Written by "Mr. Thompson". Published before her trial. Brief biography, ballad and engravings. "A tale may catch, where sober wisdom fails,/ For sermons are less read than tales." (p.4)

Davies, Fanny, The Whole Life and Adventures of Miss Davis, commonly called The Beauty in Disguise.

no pub., 1785.

Davies, William, A Short and Authentic Account of the Particular Circumstances of the last twenty-four hours of the Life and Death of William Davies, who was executed On Wednesday, December 11th, 1776.

J.W.Pasham, London, 1776.

Price 1/-. Written by Rev. Thomas Maxfield, initially a Methodist who had by this time irreversibily split with Wesley. Maxfield discusses the difficulties he had in gaining access to Davies in Newgate prison.

Davis, John, An Account of the Apprehending and Taking of John Davis, and Phillip Wake.

J.W., London, 1700.

Davis, John, An Account of the Confessions, Behaviours, and Dying Words of the Eight Criminals, That were Executed at Tyburn on Friday the 24th of May, 1700. (viz,) John Davis, alias Shirley, and Phillip Wake, for Firing Dr. Sloan's House in Bloomsbury-Square, Joseph Fisher, John Hatchman, John Cooper, John Titt, Thomas Nixon, and James Walters for Fellony and Burglary.

for W.J., London, 1700.

See thesis, Part I. See, Ordinary of Newgate, Account.

Dawson, J.O., Mercy Triumphant; A Discourse delivered at Fetter-Lane Meeting, London, June 15, 1800; occasioned by the death of John Osborn Dawson, Who was executed for Forgery, at Newgate, June 5, 1800.

for author, sold by T.Conder & C.Taylor, London, 1800.

Price 1/6d. By William Maurice, pastor. Short biography, then long discourse on religious conversion.

Dawson, Joseph, The Tryals of Joseph Dawson, Edward Forseith, William May, William Bishop, James Lewis, and John Sparkes, For several Piracies and Robberies By them committed in the Company of Every the Grand Pirate, near the Coasts of the East-Indies; and several other Places on the Seas. Giving an Account of their Villainous Robberies and Barbarities. At the Admiralty Sessions, begun at the Old-Baily on the 29th of October, 1696. and ended on the 6th of November.

J.Everingham, London, 1696.

In question and answer form, but presumably not verbatim since only 28 pages folio. Illustrates way judges interjected during examination and cross-examination of witnesses.

Deacon, Elizabeth, A Remarkable Account of the Penitent Carriage and Behaviour of the Whip-makers Wife, Both before and sicne her Confinement in Newgate. To which is Added, The Relation how strangely her House was troubled and disturbed

that Night her Maid Mary Cox died. Attested by a Person then present. As also Added Several Remarkable Passage relating to her Murthering the said Maid: With an Account of her Decent Burial. Publish'd to prevent false Reports.

R.Janeway, London 1689.

Declerk, Peter, The last Dying Speech and Confession, Parentage and Behaviour of the Two Unfortunate Malefactors, Executed this Day before the Debtor's Door, Newgate.

no pub., London, [1784].

> The hanging of Peter Declerk and Thomas Hunter. The abolition of the procession to Tyburn did not discourage the people from gathering: "the Old Bailey was crowded long before the unfortunate men were brought forth." (p.4)

Dickson, William, The Last Dying Speech Confession and Dying Words of William Dickson, who was Try'd and Condemn'd, for High Treason.

Dublin, 1725.

Diver, Jenny - see Gordon, Rev.

Dodd, William, Authentic Memoirs Of the Life of William Dodd, LL.D. who was Executed at Tyburn, On Friday, June 27, 1777. With the Particulars of his Trial and execution, and a review of the Arguments, For and against his suffering the Sentence of the Law. To which is added, A Letter from Lady Huntingdon, To the unfortunate Convict.

Jos. Hodson, Salisbury; Linden & Hodson, Southampton; Mrs. Willis, Ringwood; Mrs. Clarke, Cranborne; Mr. Lacy, Warminster; Mr. Spalding, Trowbridge; Mr. Stuart, Bradford; Miss Noyes, Andover, [1777].

> Price 6d. See, G.Howson, The Macaroni Parson: A Life of the Unfortunate Dr. Dodd, London, 1973; also P.F itzgerald, A Famous Forgery, London, 1859, "contains a great deal of material not to be found easily elsewhere", but also has inaccuracy: Howson, p.254. Also, J.Villette (Ordinary of Newgate), A Genuine Account.

Dodd, William, Historical Memoirs of the Life and Writings of the late Rev. William Dodd, L.L.D. from his Entrance at his Clare-Hall, Cambridge, In 1745, To his fatal Exit at Tyburn, June 27, 1777.

Fielding & Walker, London, [1777].

By J.Reed. Dated 28 June, 1777. B.L. copy lacks pp.43-46, NLW copy complete.

Dodd, Dr. William, Thoughts of a Citizen of London on the Conduct of Dr. Dodd, In his Life and Death. With Remarks on the several Petitions presented in his Favour; the Arguments of the Court of Common Council of the City of London on the Occasion considered; And some Queries addressed to the Right Hon. the Lord Mayor and the Court on the Subject. With Reflexions on some Passages of the Ordinary of Newgate's Account of Dr. Dodd's Conversation in Newgate, And going to Execution. Shewing that the dangerous, and hurtful Doctrine, of Christians who have past their whole Lives in Wickedness being saved at the last Hour by applying to Christ, has no Foundation either in the Nature of Things, or the Scriptures.

W.Owen, London, 1777.

Price 6d.

Donellan, John, The Case of John Donellan, Esquire, impartially considered, Abstractedly from the Man or Crime; but only as to the Law, in regard to the Judge's Charge to the Grand Jury; the Evidence of Anatomists, Physicians, Surgeons, and Apothecaries, respecting the Body of the late Sir Theodosius Edward Allesley Boughton being poisoned; and to the Judge's Charge to the Petit Jury, on the Disagreement of the Faculty, as to that Fact: with Observations, Notes and References. By A Lawyer.

J.Dodsley, London, 1781.

Uses reports by Blanchard and by Gurney; although believes Donellan guilty argues that he was unfairly prejudiced by Buller, J's conduct of the trial (pp.38, 38-57). See Monthly Review, LXIV (1781).

Donellan, John, A Defence and Substance of the Trial of John Donellan, Esq; who was convicted for the Murder of Sir Theodosius Boughton, Bart. at the Assizes held at Warwick, On

Friday the 30th of March 1781.

J.Bell, London, 1781.

> Edited by E.Inge & T.Webb. Price 3/6d. "solemnly attested by the Sufferer after his Conviction" (title-page). Lengthy examination and critique of the evidence (72 pages), including a version of the trial which is shorter than that in The Trial or The Proceedings (below). Probably a response to attack in The Life of John Donellan, p.35. See also, The Genuine Case...

Donellan, John, The Genuine Case of John Donellan, Esquire, (At Large) As Written by Himself; And in Pursuance of his Dying Request, Now Published by Mr. Thos. Webb, his Solicitor.

J.Wenman, London, [1781].

> Price 6d. See above, A Defence... Signed by Donellan and witnessed (p.3): see also The Life of Capt. John Donellan, pp.92-4, and The Life of John Donellan, p.33.

Donellan, John, The Life of Capt. John Donnellan, late Master of the Ceremonies at the Pantheon, Convicted of the Murder of Sir Theod. Edwd. Alleslay Boughton, Bt. At the Assizes held at Warwick, Friday the 30th of March, 1781: Including An Account of Capt. Donnellan's Transactions in the East-Indies. Complied from Authentic Papers.

J.Jackson, London 1781.

> An anti-Donellan tract; includes biography, lengthy account of Boughton's death, the inquest and the arrest, as well as the dispute in the newspapers pre-trial. Only a brief summary of trial. See The Life of John Donellan.

Donellan, John, The Life of John Donellan, Esq; (Formerly an Officer in the 39th Regiment of Foot) who was executed at Warwick, April 2, 1781, for the Murder of Sir Theodosius Boughton, Baronet. Written by Captain Murphy.

J.Wenman, London, [1781].

> Although believes Donellan guilty includes strong attack on conduct of Donellan's counsel. Shorter than biographies in The Genuine Case and The Life of Capt. John Donellan (large chunks of which appear in this

biography), all three agree on main events, although The Genuine Case omits court martial in India. See Monthly Review, LXIV (1781).

Donellan, John, The Proceedings at Large on the Trial of John Donellan, Esq. for the wilful murder (by poison) of Sir The. Edward Allesley Boughton, Bart. Late of Lawford-Hall, in the County of Warwick.

Almon & Debrett, Baldwin & Bew, Sewell, Blanchard (London); Luckman (Coventry), [1781].

Shorthand by W.Blanchard Price 2/-. "by Permission of the Judge"; Blanchard had worked with Gurney on the report of the Jane Butterfield trial. See next item and The Trial (Brewman). See Monthly Review, LXIV (1781).

Donellan, John, The Trial of John Donellan, Esq. for the Wilful Murder of Sir Theodosius Edward Allesley Boughton, Bart. at the Assize at Warwick, On Friday, March 30th. 1781. (2nd edn.)

G.Kearsley, M.Gurney, London, 1781.

Price 2/6d. Shorthand by Joseph Gurney. Notes that trial lasted from 7 a.m. to 6.25 p.m. when jury retired, returning at 6.34 p.m. (p.57n). Essentially same as Almon & Debrett, but this one seems to have left out what he regarded as superfluous (e.g. Thomas Powell's cross examination at p.15, but see Almon, p.32. See The Trial (Brewman). See Monthly Review, LXIV (1781).

Donellan, John, The Trial of John Donellan, Esq. (Late Master of the Ceremonies at the Pantheon in Oxford-Street) at the Assizes holden at Warwick, On Tuesday the 27th of March, 1781, before Francis Buller, Esq. One of the Judges of the Court of King's Bench, for the Wilful Murder of Sir Theodosius Boughton, Bart.

T.Brewman, London, [1781].

"Taken in Short-Hand by a Barrister at Law attending the Midland Cicuit." Also published in Bristol and Exeter. Differs greatly from Kearsley & Gurney and Almon & Debrett, but records interchanges betwen judges and counsel (e.g. p.26) not in the other two which touch on questions of evidence. Includes evidence not in Almon (e.g. evidence of Lady Boughton on destination of estate

of Boughton, p.33 & Gurney, p.16). However, also omits things that are in Kearsley & Gurney and Almon & Debrett, and the latter is almost four times as long.

Doyle, Genuine Copies of all the Letters Which passed between the Right Honourable the Lord Chancellor, and the Sheriffs of London and Middlesex, and between the Sheriffs and the Secretary of State, relative to the Execution of Doyle and Valline.

R.Davis, London 1770.

Edited by J.Horne Tooke. Doyle and Valline were hanged for murder during a labour dispute. The controversy centred on the decision, taken by the government, to hang Doyle and Valline in Bethnal Green, where they lived, rather than at Tyburn. The case aroused not only anger amongst friends of the two, but was also taken up by the Wilkites (Sjt. Glynn advised the two sheriffs to query the order): "public execution [is] not less necessary to the satisfaction and security of the subject than public trial" (p.17).

Dramatti, J.P., The Tryals of John Peter Dromett, the Frenchman, for the Murther of his Wife, and Thomas Cook, the Prize-player, called the Butcher of Gloucester, for the Murder of a Constable at May-Fair, at Justice-Hall in the Old-Baily, on the 7th and 8th of July. 1703.

Elizabeth Mallet, London, 1703.

Account of trials presented as continuous narrative rather than broken into questions and answers. Cook accused of killing John Cooper, a constable working for the societies for the reformation of manners. See Ordinary of Newgate, Account, 21 July 1703. His death led to P.Lorrain's sermon Walking with God which in turn led to Defoe's attack in A Hymn to the Funeral Sermon and Lorrain's reply Remarks on the Author of A Hymn to the Pillory.

Drayton, Samuel, Special Grace Uninterrupted, in its Egress, To the Chief Sinners. Or, Some Remarks on the Happy Exit of Samuel Drayton, alias D------, who was Executed at Dorchester, on Saturday April 8, 1775.

n.p., 1775.

By T.Molland, a student of the Countess of Huntingdon's College. Tends to concentrate on the difficulties he encountered in gaining access to Drayton (who had been condemned for returning from transportation) and on a critique of the Church of England.

Drew, Charles, An Authentick Account of the Life of Mr. Charles Drew. Late Of Long-Melford in the County of Suffolk. Who was tried and convicted at Bury Assizes, for the Murder of his Father, Mr. Charles John Drew, late an Attorney at Law, at Long-Melford, aforesaid.

Printed by J.Applebee & sold by J.Roberts, London, 1740.

Price 6d. Information to justices plus short account of trial with evidence of witnesses summarised.

Drew, Charles, The Genuine Trial of Charles Drew, for the Murder of His Own Father, at the Assizes held at Bury St. Edmund's On Thursday, March 27. 1740 (2nd edn).

C.Corbett, London, 1740.

Price 6d. "By a Gentleman of Bury, Well acquainted with the family of the Drews, who in Court took the Trial down in Short-Hand." Report substantially same as The Suffolk Parricide (below), but gives more detail. Includes behaviour after trial and at hanging (pp.42-4), similar to account in The Suffolk Parricide.

Drew, Charles, The Suffolk Parricide; being, the Trial, Life, Transactions, and Last Dying Words, of Chalres Drew, of Long-Melford, in the County of Suffolk.

J.Standen, London, 1740.

Price 6d. "By a Gentleman of Long-Melford." See The Genuine Trial (above).

Dyer, John, A Genuine Narrative Of the Memorable Life and Actions of John Dyer, (Who was Executed at Tyburn, on Friday the 21st Day of November, 1729.).

J.Applebee, W.Meadows, Mrs. Nutt, Mrs. Dod, London, 1729.

Price 6d. "Wrote by Himself" (t-p). See this thesis, Part I.

Drew, Charles, The Suffolk Parricide; being, the Trial, Life, Transactions, and Last Dying Words, of Chalres Drew, of Long-Melford, in the County of Suffolk.

J.Standen, London, 1740.

Price 6d. "By a Gentleman of Long-Melford." See The Genuine Trial (above).

Dyer, John, A Genuine Narrative Of the Memorable Life and Actions of John Dyer, (Who was Executed at Tyburn, on Friday the 21st Day of November, 1729.).

J.Applebee, W.Meadows, Mrs. Nutt, Mrs. Dod, London, 1729.

Price 6d. "Wrote by Himself" (t-p). See this thesis, Part I.

Edmundson, Mary, The Case of Mary Edmonson. By a Gentleman of the Law.

A.Touchit, London, 1759.

Price 6d. Defends Edmundson; comments briefly on the evidence and concludes that she should have been acquitted, especially since "in her dying Moments [she] denied the Fact" (pp.6-21, 24).

Edmundson, Mary, [Joseph Clarke], A Full Refutation of the Pretended Genuine Narrative of the Trial and Condemnation of Mary Edmundson: As published by J.Phipps, at the Britannia Printing-Office, White-Friars: As also that Falsly called, The Trial at Large, said to be taken by a Person who attended her in the New Gaol, and at the Stockhouse Prison at Kingston. Compared with that inserted in the Genuine Proceedings, Taken in Short Hand by Issac Harman, with Permission of the High Sheriff; and published by M.Cooper in Pater-noster Row: with Some Observations of the two Spurious Accounts above-mentioned, and their Aburdities and Inconsistencies pointed out.

M.Cooper, [London, 1759].

Price 6d. Clarke is said to be "a near Relation" of Edmundson (title-page); later he refers to her as "my sister" (p.5), presumably his sister-in-law since she does not appear to have been married.

Edmundson, Mary, A Genuine Narrative of the Trial and Condemnation of Mary Edmondson, For the Murder of Mrs. Susannah Walker, her Aunt. At the Assizes held at Kingston upon Thames, for the County of Surry, on Saturday, March 31, 1759. Before the Honourable Sir Thomas Dennison, Knt. With An Account of her general Behaviour, last Dying Words, and Execution on Monday, April 2, 1759.

J.Phipps, London, 1759.

Includes her examination by the coroner. See above, A Full Refutation... Anti-Edmundson.

Edmundson, Mary, The Life, Trial, and Dying Words of Mary Edmondson, Who was tried and Convicted at Kingston Assizes, for the Murder of her Aunt Mrs. Susannah Walker, a Widow Gentlewoman, at Rotherhithe. And Executed at Kennington-Common, on Monday, April 2, 1759. With her solemn Declaration of her Innocence at her Place of Execution, and Copies of some Papers she delivered after Condemnation.

For S.Bagnall, London, 1759.

Anti-Edmundson. In parts seems merely an abridged version of A Genuine Narrative: less full account of trial, it omits certain sentences and even some witnesses (Hillyer, Toucher, Sparrow, Fordham), but otherwise uses same phrases; biography does differ, but major facts substantially same and often lifts whole passages.

Edmundson, Mary, The Trial at Large, Behaviour and Dying Declaration, of Mary Edmonson, Who was try'd and Convicted at the Assizes held at Kingston upon Thames, in Surry, on Saturday, the Thirty-First Day of March, 1759. For the Murder of Mrs. Susannah Walker, Widow, her Aunt, At Rotherhith, on the 23d Day of February last.

J.Leage, London, [1759].

"Taken by a Person who attended her in New Gaol and at the Stockhouse Prison in Kingston." Details the efforts made to force her to confess: peruasion by various clergymen and her family, then the use of chains, but "she continued stubborn and hard hearted" (p.12), declaring her innocence to the last. Although includes opening speech for prosecution, tends to summarise evidence; sometimes less detailed than account in Surrey Assizes Paper (28.3- 3.4.59, pp.4-9: e.g. evidence of

Hiller or Hillyer, and Jefferies), sometimes more detailed (e.g. evidence of Holloway; summing-up); presents evidence in different order.

Ellem, John, The Trial and Sentence of John Ellem. A Considerable Rope Manufacturer, at Barking, in Essex, For A Rape On The Body Of Ann Pearson, On the 24th of March last.- Servant to the above Prisoner. For which he is left for Execution.

J.Pitts, London, n.d.

England, Richard, The Life of Dick En-l--d, alias Captain En-l--d; of turf memory.

T.Boosey, London, 1792.

Biography.

Fauntleroy, Henry, A Faithful Narrative of the Last Moments and Execution of the Ill-Fated Henry Fauntleroy, Esquire, Banker, At Newgate, on Tuesday, November 30, 1824.

Smeeton, London, [1824].

Price 2d. Published on day of execution: see text.

Ferrers, Earl - see Shirley, Lawrence.

Finnimore, Humphry, The Trial of Humphry Finnimore, Esq; (reputed to be worth Forty Thousand Pounds) Who was Tried at the Quarter Sessions holden for the County of Surrey, in the Town-Hall, Southwark, on Thursday the 14 day of January, 1779, and Convicted of Felony, In stealing of Five Turkies, the Property of Thomas Humphries.

B.White, J.Sewel, London, 1779.

Price 1/-. Claims to have been written from memory of an observer at trial (pp.iii-iv), but it includes 29pp. of questions to, and answers of, witnesses, plus speeches. Convicted, but pardoned later.

Flawn, John, An Account of the Tryal and Condemnation of John Flawn.

n.p., Leicester, [1741].

Forged a will; confessed after conviction, but nevertheless accused the prosecution witnesses of lying.

Flower, Ensign, A True Narrative Of The Confession and Execution Of Ensign Flower, at Reading the 8th of this Instant March 1684. Who was Tryed and condemned at Reading, February the 28th. for Killing of Capt. Powney, at Windsor, With a full Account of his penitent behaviour during the time of his Imprisonment.

E.Mallet, London, [1684].

Folkes, Martin, A Full and True Account Of an Horrid and Barbarous Robbery, Committed on Epping-Forest, upon the Body of the Cambridge Coach. In a Letter to M.F. Esq.

J.Roberts, London, 1728.

Poem: "since we, none of us, had yet/ Such Rogues, but in a Sessions Paper, met" (p.2).

Fonton, Francis, The Ability of Jesus Christ to save Sinners. A Sermon preached in the Chapel of Newgate, On sunday November 21st, 1790, At the Request of the Friends of Francis Fonton, (who was executed on the Wednesday following, in the Old Bailey, for Forgery:) And published for the Benefit of his distressed Widow and Family (2nd edn.).

W.Ash, M.Watts, J.Matthews, Peyton & Green, Taylor & Co., G.Terry, J.Potts, the Author, London, [1790].

By William Love. Fonton was a baptist who had visited Dodd in Newgate, then turned to fraud himself. Biography plus trial in summarised form. Some information on the practices with regard to condemned prisoners: locked up 20 hours a day, visitors only allowed into Press Yard, all prisoners required to attend chapel (description of chapel at p.42), bellman's visit, and describes how coiners still pulled on sledges despite proximity of gallows to prison (p.48).

Fonton, Francis, Genuine and Impartial Memoirs of Francis Fonton, Late of the Bank of England.

For the Editor, sold by J.Parsons, London, 1790.

"By a Student of the Law in the Inner Temple."

Gambol, George, A full and true Account Of thirty dead bodies of Men Women and Children that was taken out of one of the burying grounds belonging to St. Mary Overs in the Park, by George Gambol, and several others.

J.Smith, London, n.d.

Gardelle, Theodore, The Life of Theodore Gardelle, Linner and Enameller: with A particular Description of the Murder of Anne King; and the inhumane Means taken to conceal the same. The Whole interspersed with Many curious Particulars, among which a beautiful Anecdote concerning M. de Voltaire (2nd edn).

A.Henderson, London, 1761.

Price 6d. Includes references to John Fielding who sought to persuade him to confess in order "best to husband the Time of the Court" (p.19); he refused food in Newgate, "so that his Attendants were obliged to put a Pipe into his Mouth, and through this to convey some restorative Soup, and minced Meat, such as Oxcheek baked, or Leg of Beef, into him" (p.20).

Goodere, Samuel, The Genuine Trial of Samuel Goodere, Esq; (Late Commander of the Ruby Man of War) Matthew Mahoney, and Charles White, at the General Sessions of Oyer and Terminer for the City of Bristol... for the Murder of Sir John Dinely Goodere, Bt.

H.Goreham, London, 1741.

The trial lasted nine hours (p.24) so although a shorthand reporter was used by the order of Sir John's nephew the report is not verbatim (e.g. no note of the evidence given by character witnesses who were called by the defence). See, Rev. J.Penrose, The Reverend Penrose's Account... 15th of April. 1741.

Gordon, Rev. Charles, The Life and Circumstantial Account of the Extraordinary and Surprising Exploits, Travels, Robberies and Escapes, of the famous Jenny Diver, The most noted Pickpocket of her Time, Who was executed for a Street Robbery, on the 18th of March, 1740. With an Introduction Written by Herself. To which is added A Narrative of the chief Transactions of Harry Cook, And also the Gang to which he belonged. Written by the Rev. Mr. Gordon, Ordinary of Newgate.

R.Walker, W.Glindon, Champantre & Whitrow, A.Neil, Ker, Wilmot & Hill, London, [1740].

> Gordon said on title-page to be the Ordinary of Newgate, however James Guthrie signed the Accounts which includes the lives of Mary Young, or Jenny Diver, and Henry Cook that are virtually reprinted in this work. Possibly Gordon was a deputy for Guthrie.

Gordon, Loudon Harcourt, An Apology for the Conduct of the Gordons; containing the whole of their Correspondence, Conversation, &c. with Mrs. Lee: To which is annexed An Accurate Account of their Examination at Bow Street, and their Trial at Oxford (4th edn.).

J.Ginger & T. Hurst, London, 1804.

> Apparently written by Gordon. Acquitted of charge of abduction of a woman; pamphlet is an apology for actions of Gordon and his brother.

Gow, John, An Account of the Conduct and Proceedings Of the late John Gow alias Smith, Captain of the late Pirates, Executed for Murther and Piracy Committed on Board the George Gally, afterwards call'd the Revenge.

J.Applebee, London, [1725].

> Price 1/-. Ascribed to Daniel Defoe. Includes discussion of who was to be allowed to turn Crown's evidence. Reprinted as, An Account of the Conduct and Proceedings of the Pirate Gow. (The original of Sir Walter Scott's Captain Cheveland.) By Daniel Defoe, H.Southeran, London, [1890].

Graham, John, Genuine Memoirs Of the Life of John Graham, A.M.. (Late of the University of Glasgow, and some Time Master of a Boarding School near London) Who was capitally

convicted at the Old Baily, September 14, 1782, For a Forgery upon the Bank of England: Giving a particular Account of the various Methods made use of for circulating the counterfeit Notes throughout England, &c. To which is added The Arguments made use of By the Counsel respecting the Plea of Janet Graham, his Wife, to be exempt from Punishment, as acting under the Influence of her Husband.

E.Rich, London, [1782].

Price 6d. Graham studied logic and philosophy under Adam Smith (p.3) Includes brief account of trial and allegation that defence counsel believing their character witnesses to be false sent them away (p.24).

Greenwel, Thomas, A Full and True Account of the Discovering, Apprehending and taking of a Notorious Witch, who was carried before Justice Bateman in Well-Close, on Sunday, July the 23. Together with her Examination and Commitment to Bridwel, Clerkenwell.

H.Hills, London, 1704.

Sara Griffiths; she was subjected to the test of ducking for witches.

Greenwood, Bartholomew, The Case of Mr. Batholomew Greenwood submitted to the Publick By Himself. In Which The many Inconsistencies of Mr. Wheatley are plainly Demonstrated.

London, 1740.

Two editions. Greenwood, having been acquitted of robbery, wrote this because other accounts "contained many material Omissions, mistaken Facts, and gross Misrepresentations" (p.iii). Accuses Wheatley of persecuting him and of lying, indeed does not believe Wheatley was robbed at all (p.46 & passim).

Greenwood, Bartholomew, The Faithful Narrative; Or an Impartial Account Of The Tryal of Bartholomew Greenwood, Gent. Rider to his Majesty's First Troop of Horse-Guards, on A Suspicion of Robbing Roger Wheatley Esq, of Camberwell, On the Highway, Before Mr. Baron Carter, at the Assizes at Kingston; on the second Day of August 1740.

London, 1740.

Possibly by Wheatley. Argues that Wheatley made an honest mistake.

Gregory, Stephen, An authentic Account of the Trials, Behaviour, and Dying Declaration, of the Five Malefactors, Who were Executed at Kennington-Common, On Monday the 23d of April, 1770.

W.Robins, London, [1770].

Price 4d. In text date is given as 24th April.

Gwinett, Ambrose, The Life and Strange, Unparallel'd and Unheard-Of Voyages and Adventures of Ambrose Gwinett, Formerly well known to the Public, as the Lame Beggar Man (2nd edn.).

J.Lever, London, 1770.

Price 6d. "Written by Himself" (title-page). Possibly inspired by the success of the biographies of Bampfylde More. See, P.Gosse, My Pirate Library, London, 1926, p.40.

Gregory, Stephen, An authentic Account of the Trials, Behaviour, and Dying Declaration, of the Five Malefactors, Who were Executed at Kennington-Common, On Monday the 23d of April, 1770.

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Price 6d. "Written by Himself" (title-page). Possibly inspired by the success of the biographies of Bampfylde-Moore Carew. See, P.Gosse, My Pirate Library, London, 1926, p.40.

Hackman, Rev. James, The Case and Memoirs of the Late Rev. Mr. James Hackman, And of his Acquaintance with the late Miss Martha Reay: With a Commentary on his Conviction, distinguishing between his Crime in particular, and that of others who have been condemned for Murder, and also Some Thoughts on Lunacy and Suicide (9th edn.).

G.Kearsly, London, 1779.

> Said to have been taken from Hackman in Newgate in order "to place Mr. Hackman's conduct and connexion with Miss Reay in a true light" (p.v). The combination was a winner for Kearsley: nine editions appeared in 1779. See also, The Genuine Life.

Hackman, Rev. James, The Genuine Life, Trial, and Dying Words of the Rev. James Hackman, Who was Executed on Monday the 19th of April, 1779, at Tyburn, For the Wilful Murder of Miss Martha Reay, By Shooting her with a Loaded Pistol in Covent-Garden, of which Wound she died: together with His Rermarkable Defence, and the Copy of a Letter, He wrote to his Brother-in-Law, Before he had committed the Cruel Deed, Also, a Letter he sent to Miss Reay, After he had taken Orders.

J.Miller, London, [1779?].

> Arrested by Bond, one of John Fielding's men (p.5); Blackstone, trial judge, rejects insanity argument (pp.15); James Boswell at the trial, informed Hackman's brother-in-law, who could not bear to attend, of verdict. (p.23). Boswell's notes on Hackman are in, J.W.Reed & F.A.Pottle (eds.), Boswell: Lord of Auchinleck 1778-1782, New York, 1977, pp.85-95. See also, Public Advertiser, 1 Apr. 1779 (letter by Boswell); St. James's Chronicle, 17 Apr. 1779 (letter by Boswell); London Chronicle, 17 Apr. 1779 (re Blackstone's decision on the intent needed for murder) - Reed & Pottle, pp.85-9.

Hall, John, Memoirs Of the Right Villainous John Hall, The Late Famous and Notorious Robber. Penn'd from his own Mouth sometime before his Death, (4th edn).

J.Baker, London, 1714.

> 1st edition 1708. Supposedly by Hall, but "the Author could neither Write nor Read" (p.iii), and this is a very literate piece, which includes an important early

account of the London prisons (Newgate at pp.7-26, others at pp.31-4). Linebaugh supposes it to be by Paul Lorrain which it clearly is not if only because it includes an attack on him. For John Hall see also "A Print representing the Rehearsal of a new Farce, call'd, three Heads are better than one", a satirical print published after John Sheppard was hanged: see Daily Post, 1625, 10 Dec. 1724. See also, Ordinary, Account, 17 Dec. 1707.

Hall, John, Matchless Villany: or, A Full and Authentic Narrative of the Robbery and Murder of John Penny, Esq; in a Letter from a Gentleman in London, to his Friend in Hampshire.

J.Hugginson, London, 1741.

Signed at the end "G.H." John Hall, Penny's servant, was eventually hanged in Sept. 1741 for the murder (Ordinary of Newgate, Account, 14 Sept. 1741). This was written before the trial, but this does not prevent the author from assuming Hall's guilt. Hall's own confession is in the Ordinary's Account and was written to refute "the scandalous Imposition of the Author, (of the Pamphlet, or Libel)... Matchless Villany". Comparing Guthrie's biography in the Account, pp.4-5 (Guthrie), Hall's confession also in the Account, pp.7-13 (Hall), and Matchless Villany, Guthrie is the least informative. The three agree on his age, within a year and the area in which he was born and grew up, although whilst Guthrie says he was born in a place called Well near Odiham (p.4), both of the others (Hall, p.7; Matchless, p.5) say he was born at Stapeley Farm, near Odiham. The notes on Hall's family in both Matchless (pp.5-7) and Hall (p.7) broadly agree; Guthrie does not give details of his family. Hall has more detail of his working life, although all three give roughly the same outline, however there is a difference in treatment. For instance, Hall says that he left his job in the meal business on the advice of a surgeon after he broke his leg (pp.8-9); Matchless follows the stereotypical view of criminals, that Hall "being somewhat tired of... a laborious Way of Life", left to work as a servant to a gentleman; Guthrie, rather enigmatically, says he left "being very unsettled in his Resolutions" (p.4). Matchless also alleges that he separated from his wife and fell in with "the common Women of the Town" (p.11), and this led to his crime, whereas Hall blames his wife for leaving him (pp.9-10). Matchless includes details of the searches made for Penny by his friends and Hall's examination by de Veil at Bow Street (pp.17-28, 34-5), neither of which is in Guthrie

or Hall. The comparison shows that Hall's attack on Matchless seems unjustified on the basis of its content, since his own confession broadly confirms Matchless; it also shows that the Account was written in two parts, indeed Guthrie mentions that a confession written by Hall had been transmitted to Applebee, the publisher of the Account, but he clearly had not seen it.

Hampshire Tragedy, The Hampshire Tragedy: Shewing how a Servant Maid first robbed her Master, and was afterwards struck dead for telling a Lie. A True Story.

Cheap Repository, J. Marshall, S. Hazard (Bath), R. White, London, no date.

Price 1d. Moralising chapbook.

Hardy, Thomas, Trial of Thomas Hardy.

London, 1794.

4 volumes.

Harper, Thomas, The Trial of Thomas Harper, for Shooting Thomas Briggs, of Lackenheath in the County of Suffolk; At the Lammas Assizes, holden at Bury St. Edmunds, in the said County, Before Sir William Henry Ashhurst, Knt. (2nd edn.)

Printed by W.Whittingham, Lynn, n.d.

Price 6d. Shorthand by Mr. Hobart, solicitor, London. Appears to be a fairly full account, but no note of the defence (or whether he had any to present). Convicted, but reprieved and admitted as evidence against Roger Benstead the elder who was hanged as a result.

Harris, Mr., A Full and True Account of the Apprehending, taking and Examination of one Mr. Harris, and carried before Justice Tully, Sworn against by Mr. Stagg, to be that Notorious Highwayman that used to Rob on the Black Mare on Hounslow-heath: then Committed to the Gatehouse, August the 11th, 1704.

n.p., n.d.,

A broadsheet.

Harris, John, A Dreadful Waring to Disobedient Children: Giving an Account of John Harris. A young Man of about 20 Years of Age, born at Wigton, in Lancashire, who was executed the 28th of last Month, for the horrid and cruel Murder of his Father, Mother, and the Maid-Servant, and robbing and setting Fire to the House.

D.Bass, Newcastle, n.d.

Biography, crime, dying speech and sermon: "God, who sees in secret, has brought me to be punished openly." (p.6)

Harrison, Capt., Murder will Out: An Impartial Narrative of the Notorious Wicked Life of Capt. Harrison, who was Arraign'd, Try'd, and Convicted, at the Sessions-house in the Old-Baily, on Wednesday last, the Sixth Instant, for the late Barbarous, Cruel, and unheard of Murder of Doctor Clench.

For E.Golding, London, 1692.

Price 1d. Claimed not to have been written to add to the problems of Harrison "but that in the Description thereof, I may set up the same as a Buoy or Sea-Mark for others, to avoid those courses wherein he was Wrack'd" (p.3) by which he meant gaming and bawdy houses.

Hawke, William, A Genuine Account of the Life, Robberies, Trial and Execution, of William Hawke, call'd the Flying Highwayman. Who was Executed at Tyburn, July the First, 1774.

Printed by A.D., London, 1774.

Confirms many of the details in the next item and adds others.

Hawke, William, The Life, Trial, &c. of William Hawke, The notorious Highwayman; containing An Account of all the remarkable Robberies he committed before and since his Return from Transportation; with the Manner in which he was apprehended, and his Behaviour during the Time he was under Sentence of Death.

n.p., London, 1774.

Biography, including behaviour after condemend, and brief account of trial of Hawke. Robbed Christie the

auctioneer (pp7-8); arrested by John Fielding's men (pp.9, 13, 16-8). Also biography of Watkinson, "the noted Swindler", who died of gaol fever in Newgate (pp.26-32). See also, Rev. Villette (Ordinary of Newgate), A Genuine Account of... William Hawke (1774).

Hawkins, John, Tyburn's Worthies, or, the Robberies and Enterprizes of John Hawkins, and George Simpson, Lately Executed for Robbing the Bristol Mail.

T.Warner, London, [1722].

Price 4d. See next item, and Wilson, Ralph.

Hawkins, William, A Full, True and Impartial Account Of all the Robberies Committed in City, Town, and Country, For several Tears past By William Hawkins, In Company with Wilson, Wright, Butler Fox, and others not yet Taken.

Sam. Briscoe, London, 1722.

Price 1/-. Another edition 1788. See above. William Hawkins, at the time in Newgate, was brother of John Hawkins who was hanged for robbing the Bristol Mail. Aim is supposedly to vindicate self and comrades from "the foul and villainous Aspersions" of Ralph Wilson (preface), but seems ultimately to be plea for William Hawkins' own life (p.43). Includes references to how gang disposed of stolen goods in Amsterdam (pp.5-6), and to Jonathan Wild (p.19). See A.Knapp & W.Baldwin (eds.), The New Newgate Calendar, vol. I, p.199: alleges Wilson gave evidence because Simpson, one of the gang, had offered himself to the Post Office as an evidence.

Hayes, Catherine, A Narrative Of the Barbarous and unheard of Murder of Mr. John Hayes, by Catherine his Wife, Thomas Billings, and Thomas Wood, on the 1st of March at Night (2nd edition)

T.Warner, E.Nutt, A.Dod, London, 1726.

Price 6d. "Published with the Approbation of the Relations and Friends of the said Mr. John Hayes." (t-p) Billings and Wood both admitted as evidences against Hayes who was supposedly prosecuted at the King's expense (p.14). The body had been dismembered and dumped in the river; when the head was found it was put on a post in Westminster so that it might be identified

(pp.7-8, 19).

Haywood, Ann, A True and Particular Account of Three Most Horrid Murders, that have lately been Committed in the County of York with The Trials of the Murderers, at the York Assizes; viz. Ann Haywood, For the Murder of her Bastard Child, John Wilkinson, For Poisoning his Wife, and Benjamin Oldroyd, for hanging his own father.

T.Evans, London, n.d.

Henderson, Matthew, The Copy of a Letter sent to Matthew Henderson, While under Sentence of Death in Mewgate, for the barbarous Murder aof his Mistress, the Lady Dalrymple.

J.Hart, J.Lewis, London, 1745 [i.e. 1746?].

Price 1d or 9d per dozen. Letter by R.Fowler, a congregationalist (p.11n.). Attack on the notion that offenders must confess in order to obtain divine mercy. See also, Ordinary, Account, 25 Feb. 1746.

Henderson, Matthew, A Copy of a Letter sent to the Revd. Mr. K***. Concerning Repentance.

E.Allen, London, 1752.

By W.Cudworth. Similar to previous item.

Henderson, Matthew, Serious Advice and Warning to Servants, More especially those of the Nobility and Gentry (4th edn.)

London, 1763.

By T.Broughton (1712-77: see D.N.B.). First edition 1746, 6 editions to 1800; relates to the hanging of Matthew Henderson for murder of his mistress.

Hewitt, J., A Journal of the Proceedings of J. Hewitt, Senior Alderman, Of the City of Coventry, And one of His Majesty's Justices of the Peace for the said City and County, In his Duty as a Magistrate. (2nd edn.) 2 vols.

[Birmingham], 1790.

Hewitt, J., The Proceedings of J. Hewitt, Alderman, And one of his Majesty's Justice of the Peace, for the City and County of Coventry, in the Year 1756. Being a particular Account of the Gang of Coiners, apprehended in the Counties of Oxford, Warwick, and Stafford, pursued by the Author.

Published by the author, Birmingham, 1783.

Hibner, Esther, A Full and Particular Account of the Trial, Sentence, and Execution of Esther Hibner, senior, for the Murder of Frances Colpetts, a young girl, who was executed at Newgate, on Monday morning last, the 13th April, 1829, and her body given for dissection; with her extraordinary behaviour after he condemnation, in cutting her throat, and at the place of Execution, &c.

n.p., London, [1829].

Price 1d.

Highwaymen, The Lives of Noted Highwaymen.

H. Fenwick, London [1750?]

Date ascribed by B.L. Cat., but content suggests an earlier, and certainly not a later, date.

Hill, James, The Trial (at large) of James Hill; otherwise James Hind; otherwise, James Actzen: for feloniously, wilfully, and maliciously, setting fire to The Rope-House, in his Majesty's Dock-Yard at Portsmouth. Tried at the Assize, at Winchester, on Thursday, March 6, 1777.

G.Kearsly, M.Gurney, London, [1777].

Price 2/-; 2 edns in 1777 in 2' and 8'. Shorthand by J.Gurney.

Hind, Capt. James, The Last Will and Testament of James Hynd, High-Way Lawyer. Now sick to Death, in his Chamber in Newgate. Full of various Conceits, beyond expectation.

For J.H. London, 1651.

Published 17 Dec. 1651 according to note by George Thomason.

Hind, Capt. James, No Jest like a True Jest: Being a Compendious Record of the Merry Life and Mad Exploits of Capt. James Hind, The great Robber of Ebgland, Toghether with the Close of all at Worcester, where he was Hanged, Drawn, and Quartered for High treason against the Common Wealth, on September 24, 1652.

n.p., London, n.d. [1750?]

Several editions published up to 1797 (B.L. cat.). Regarded as basically a hero because he was a Cavalier.

Hind, Capt. James, A Pill to Purge Melancholy: Or, Merry Newes from Newgate: Wherein is set forth, The pleasant Jests, witty Conceits, and excellent Couzenages, of Captain James Hind, and his Associates.

Robert Wood, London, 1652.

By Robert Wood. Series of anecdotes of Hind's daring deeds; not a biography: "so it pleases you./ I care not if they count it false, or true".

Hind, Capt. James, The Trial of Captain James Hind on Friday last before the Honourable Court at the Sessions in the Old-Bayley. With his Examination and Confession; His Speech touching the King of Scots; His merry Conceits and witty Pranks presented to the Judges; the manner of his gallant deportment; An Order for his further Trial at Oxford; the reasons demonstrated; and a Charge of High-Treason exhibited against him. With his Narrative and Declaration touching all his Pranks and Proceeding. Published for general satsifaction, by him who subscribes himself - James Hind.

n.p., [1651].

Published 16 Dec. 1651 according to note by George Thomason. Apology for Hind: according to Hind's "declaration" (pp.6-7) he gave money to the Royalists and did not steal from the poor. Brief account of Hind at the Old Bailey; sent for trial at Oxford.

Hoffman, Francis, Secret Transactions During the Hundred Days Mr. William Gregg Lay in Newgate under Sentence of Death for High Treason, from the Day of the Sentence, to the Day of his Execution.

n.p., London, 1711.

Price 1d. Praises Lorrain (p.5). Lorrain pressed Gregg on the possible complicity of Harley (Gregg was an under-clerk in Harley's office who had sent state papers to the French) - Gregg had, according to this, been offered a pardon if he would accuse Harley. Alleges that the trial of Gregg has been suppressed by editors of OBSP.

Holloway, John, The Very Remarkable Trial of John Holloway, and Owen Haggerty, Who were found Guilty, at the Old-Bailey on Friday, February 20, 1807, of the Wilful Murder of Mr. J.C.Steele, with the Evidence, Prisoners' Defence, &c. &c. To which is added The Trial of Elizabeth Godfrey, for the murder of Richard Prince. The Eight Edition, containing A full Account of the dreadful Accident which happened at the Place of Execution.

R.MacDonald, E.Yardley, J.Llewellen, S.Akerman, London, [1807].

Price 6d. Describes how 30 killed in crush at the hanging outside Newgate prison in London.

Horne, William Andrew, The Remarkable Trial of William Andrew Horne, Esq; (For the Murder of a Male Child Thirty-Five Years ago) at the Assize held for The County of Nottingham on Saturday the 10th of August, 1759. Before Sir Thomas Parker, Knt. Lord Chief Baron of his Majesty's Court of Exchequer.

printed by S.Creswell, sold by G.Paul, Nottingham, 1759.

Price 3d. Fairly full account of trial, but not verbatim; generally presents evidence in continuous narrative form rather than question and answer; defence rested on attack on prosecutor (pp.16-19).

Hudson, John, The Case and Appeal of John Hudson, One of the Officers of His Majesty's Revenue of Excise: Who was tried at the Old Bailey, in December, 1779, upon a Charge of committing a Robbery in the Shop of Robert Davis, Grocer, (No. 164) in Fenchurch-Street.

For the J.Hudson, London, 1781.

Price 1/6d. Hudson, an excise officer, denounces the victims.

Hudson, John, A Supplement to the Case and Appeal of John Hudson, One of the Officers of His Majesty's Revenue of Excise.

For J.Hudson, London, 1782.

Price 3d. Further attack on victims (see The Case).

Hutchins, John, A True Account of the Behaviour, Last Dying Words, and Execution of John Hutchins, the Sollicitor: who Was Executed on a Gibbet erected in Fleet-street, for the Murther of John Sparks, a Water-Man, on Wednesday the 17th of December, 1684.

printed by E.R. for R.Turner, London, 1684.

Compare with the Account by Samuel Smith (Ordinary of Newgate): in both Hutchins denies the charge. Account provides details of the arguments Smith used in vain to obtain a confession; in A True Account most of the effort comes from Dr.Stillingfleet, Dean of St. Paul's (Account mentions him as well). According to both Hutchins was wealthy, but extravagant and this led him to poverty and into the army. A True Account provides more detail on the crime, but both broadly agree. He asserted innocence to the end according to both, but A True Account tells that he called his brother to the gallows "to whose use he delivered his Hat and an Orange" (p.4).

Jackson, Thomas, The Trial of Thomas Jackson, for Robbing the Mail, Between Stoke and Brandon, on the 8th day of January 1790. Before Sir William Henry Ashhurst, Knt. At the Lent Assizes held at Thetford, March 16, 1790. Taken in Court.

n.p, 1790.

Chapbook. The trial is presented in question and answer form, although it is almost certainly incomplete; concentrates on the dramatic parts: the opening speech by prosecution and the passing of the death sentence by judge. Jackson demanded "the money taken from him when he was apprehended; which, he said, he had a right to, as he was to suffer, and wrongfully too, but this request was not complied with." (p.16)

Janeway, James, A Warning to Youth. The Life and Death of Thomas Savage; Who was twice Executed at Ratcliff, for the Murder of Master's Maid-Servant (21st ed).

London, 1720.

One of the most enduring of criminal biographies with editions being published until the 1730s. Savage was a vintner's apprentice in the 1660s who frequented an alehouse on Sundays where he met Hannah Blay who persuaded him to rob his master's house; in the course of the robbery he murdered the maid" "He was a ycung Man, but an old Sinner." (p.15 - see Defoe, History of... Jack Sheppard). See also, Savage.

Jeffries/ Jeffryes, Elizabeth - see Swan, John.

Johnson, John, An Account of the Behaviour, Confession and last dying Speech of Sir John Johnson, who was Executed at Tyburn, on Tuesday the 23d day of December, anno Dom. 1690.

L.Curtiss, London, 1690.

Johnson, Mary, The Life, Trial, and Execution Special Commission, of Miss Mary Johnson, who was executed at the New Drop, London, on Tuesday, February 11, 1822, for being concerned in the Murder and Robbery of her own Mistress; and her two fellow-servants.

W.Wright, Birmingham, [1822].

Same account in Robinson, except that has a dying speech and a hymn.

Joiner, Abraham, A Terrible and seasonable Warning to young Men; Being a very particular relation of one Abraham Joiner: J.Dutton, London n.d. Jones, Captain, The Tryal And Examination of Capt. Jones; Who was Try'd this 24th. of November, 1725, at the Court of the King's Bench For the Murder of Mr. Nicholas Nugent, at Lucas's Coffee-House on Cork-Hill, the 5th Instant at Night.

Dublin 1724.

Broadsheet; brief summary of prosecution evidence and verdict.

Jones, Capt., The Tryal And Examination of Capt. Jones, Who was Try'd this 24th of November, 1725, at the Court of the King's Bench For the Murder of Mr. Nicholas Nugent, at Lucas's Coffee-House on Cork-Hill, the 5th Instant at Night.

Dublin, 1724.

Single sheet, folio, printed on one side only. Brief account of the prosecution evidence and the verdict (guilty).

Jones, John, A Full and True Account of one John Jones A Gentleman's Son in Wiltshire, Whose father left him an Estate of 1200l. A year, and married a lady of great fortune in the same place, but being reduced to Poverty, by riotous living with wicked harlots. He killed his wife and children, And afterwards hanged his mother on a tree in the Orchard: - with the last dying words of this wretch, who was tried and Executed this Assizes before his mother's door.

T.Evans, London, n.d.

Jones, Thomas, The True and Genuine Account of the Confession (Whilst under Sentence of Death) of Thomas Jones, and James Welch, For the barbarous Rape and Murder of Sarah Green, as Taken from the Mouth of Nicholls (the Evidence against them) and by them attested to be the Truth.

J. Gayland, P. Brown, Mrs. Dodd, London, [1751].

Price 3d. Includes accounts of others hanged with these two (Matthias Keys and Henry Brian) and a lengthy attack on rival account by Rev. L.Howard, (A True and Impartial Account) chaplain of gaol (p.3). The two versions differ: e.g. Howard gives Jones's age as 22 years, The True and Genuine has it as 26 years; the two also differ by 7 years on the age of Matthias Keys, who was hanged with Jones and Welch; Howard refers to Brian as Bryant. Howard's is apparently the fuller account: it includes details of the trial of Jones and Welch (tried for a murder for which Richard Coleman had been hanged in 1749), and has longer biographies of Bryant and Keys.

Kealy, Valentine, The Last Speech and Dying Words of Valintine Kealy, and Cornealus Sulavan, who is both to be Executed near St. Stephen's-Green, this present Saturday being the 13th, Inst. March 1724-5. For Robberys Committed by them.

[Dublin, 1725].

"I am advis'd by several of my Acquaintance to give my Speech from my own Mouth to some Printer, in order to prevent others of that Trade, from Printing sham Speeches of me". A familiar story of having fallen into "the Company of loose idle Women" and so to debt and crime.

Kelly, Capt. James, A full and true Discovery of all the Robberies, Pyracies, and other Notorious Actions of that Famous English Pyrate, Capt. James Kelly, who was Executed on Fryday the 12th of July 1700.

J. Johnson, London 1700.

One of a large number of people hanged for piracy in 1700-01.

Kent Assizes, The Trials Of all the Prisoners who were Try'd at the Assizes held at Maidstone, for the County of Kent... 21-23 March, 1749/50 (2nd edition, corrected).

G.Griffith, London, 1750.

Price 3d. Account completed in The Ladies Magazine, 7 April, 1750.

Kidd, William - see Ordinary of Newgate, Paul Lorrain.

Kidd, William, A True Account of the Behaviour, Confession and last Dying Speeches, of Captain William Kidd, and the rest of the Pirates, that were Executed at Execution Dock in Wapping, on Friday the 23d. of May, 1701.

[E.Mallet, London, 1701?]

Possibly by Lorrain: published by his publisher, confirms in general terms his Account, and includes advert that, "The only true Account of the Dying Speeches of the Condemn'd Priates, is Printed for E.Mallet". But adds little to Lorrain's Account.

Kimber, Capt. John, The Trial of Captain John Kimber, for the supposed murder of an African girl, at the Admiralty Sessions, before the Hon. Sir James Marriott, Knt. (Judge Advocate) and Sir William Ashurst, Knt. &c. On Thursday, June 7, 1792. Of which he was most honorably acquitted, and the Two Evidences for the Prosecution committed to Newgate to take their Trials for Wilful and Corrupt Perjury.

William Lane & all booksellers in Bristol, London, [1792].

> Price 1/-. 2 editions. Evidence of main witnessess given in question and answer form, that of minor witnesses summarised. After this last witness the foreman told the judge, "We are ALL satisfied, my Lord." To which the judge replied, "As you are satisfied, gentlemen, I shall not sum up the evidence."

Kingston-upon-Thames, The Calendar and Sentences of the Prisoners, at the Lent Assizes, At Kingston-upon-Thames, on Monday, the 29th day of March, 1813. With the trial and Execution of Sarah Fletcher, for the wilful Murder of Her New-Born Male Child, At Wandsworth.

London, [1813].

Kingston-upon-Thames, The True Narrative of the Confession and Execution Of the Prisoner at Kingsone-upon-Thames, on Wednesday the 16th of this Instant March, 1681.

London, 1681.

> Margaret Osgood burnt for petty treason: murder of her husband - told clergy "she was sorry for the Murther; but were her Husband now alive she would rather be Burnt according to sentance than to live with him." (p.2)

Kirby, John, A Sketch of the Life of that notorious House-Breaker, Horse-Stealer, and Highway Robber, John Kirby; who was convicted, At the Old Castle, Canterbury, On Tuesday the 13th of January, 1789, for stealing four geese, And sentenced to be Trnasported for Seven Years. Together with An authentic and circumstantial Account of every Robbery he hath committed From the year 1782 to the present Time, As Related by Himself, And attested as True, before two respectable Witnesess.

Printed by J.Grove, sold by W.Bristow & Flackton, Marrable & Claris, Canterbury, 1789.

Price 6d. Series of minor thefts; informed on accomplice who was hanged as a resutl, but "he bore me no ill will" (p.28); escaped one conviction because of an error in the indictment (pp.33-4).

Kirk, Edmund, An Exact and True Relation of the Behaviour of Edmund Kirk, John Bennet, Morgan Reading and Andrew Hill, During their Imprisonemnt, and at the place of Execution On Friday the 11th of this Instant July 1684. With their Last dying Words and Speeches at Tyburn.

E.Mallet, London, [1684]

See also the Smith bibliography. This work also possibly, although probably not, by Smith. It concentrates on Kirk, who was hanged for murdering his wife.

Lancashire Thief, The Greatest Curiosity of the Day. The Singular Story of a Lancashire Thief: told by himself, in Thieves' Slang, as now spoken by the Thieves, Gipsies, Rogues, & Vagabonds: made intelligible to any one. [Note - This strange and exciting narrative of actual facts, never before published, does not contain one word or idea to offend. Its thrilling revelations of what is passing around us; its absorbing interest; the general criminal life which is its centre - render it more fascinating than any novel, while the plot of the whole is as curious as true. It addresses itself to all people and classes, however high or low, rich or poor, educated or ignorant.] Edited by A Detective in Plain Clothes.

Armstrong & Hooper, Manchester, [1863]. <Price 1d.

Lancey, John, A Genuine Account of the Burning the Nightingale Brig. Lately belonging to Thomas Benson, Esq; a Member of the last British Parliament. Written by John Lancey, the Commander (Now under Sentence of Death) since his Commitment. Published Word for Word from the Author's Manuscripts.

H.Slater & H.Slater, junior, London, 1754.

A reply to Bather, (see, Bather). An interesting account with much information on shipping; Lancey was transporting convicts to Maryland.

Langley, Gilbert, The Life and Adventures of Gilbert Langley, formerly of Serle-street, near Lincoln's Inn, Goldsmith and Jeweller, and afterwards a Notorious Sharper and Gamester; having run away to Holland, with upwards of Twenty Thousand Pounds of His Creditors Money. Written by Himself in Maidstone Gaol, Whilst under Sentence of Death, for robbing Mr.Springate of Feversham, of three Farthings, on the King's Highway in the County of Kent.

J.Applebee, London, [1743].

Lee, Captain Anthony, The last Speech Confession, and dying Words of Captain Anthony Lee, who was executed at Exeter the 11th Day of April 1729, for the barbarous Murder of his own Servant.

no pub., [1729]

Lee, Edward, An Account of the Conversion of Edward Lee, A Malefactor, Who was executed at Haverford-West, in Wales, for a Robbery. In a Letter from Mr. Cannick, to his Friend in London.

M.Lewis, London, 1756.

> Lee was hanged in May 1753. Written by John Cennick (1718-55), a member of the Moravian church, in the form of letters. He encountered some opposition from a clergyman in gaining access to Lee. He accompanied Lee to the gallows and provides an account of his impression of leaving the prison in the cart. Cennick spoke to the crowd on Lee's behalf. Includes also Lee's confession in which he describes his transportation to America on two occasions.

Lee, Matthew, Some Account of the Life and Death of Matthew Lee, Executed at Tyburn, October 11, 1752, In the 20th Year of his Age (2nd edition).

no pub., London, 1752.

> Price 2d. 1st edn. 1752; also an edition in Bristol 1770. Lee was converted by Bristol Methodists: see Mooney, Nicolas. Includes an attack on the Ordinary (pp.12-13), and a long religious exhortation by Lee (pp.5-24).

Lewin, William, The Trial of William Lewin alias William Henry Clarke, alias William Brown, alias William Hutchinson, alias William Maule, alias William Hope, before the Honourable Edward Bearcroft, His Majesty's Chief Justice of Chester, and Francis Burton, Esq His Majesty's other Justice of and for the said County, On Monday the 18th of April, 1791, for robbing the Boy who carried the Mail between Warrington and Northwich, in the County of Chester, of his Horse, and the Bag which contained the Letters from Warrington to Northwich, On Tuesday the 11th of March, 1788. As taken in Court.

printed by J.Fletcher, for J.Poole, Chester, [1791].

Price 1/-. Evidence printed at some length, but presented as continuous narrative and in the third person (trial at pp.3-15). After arrest Lewin was taken around the country (presumably by Post Office officials) so that identifications might be made of him. Concludes with letters allegedly written by Lewin and his wife to one another - probably fakes.

Lewis, Elton, A Full and Genuine Account of the Murder of Mrs. Robinson, by Elton Lewis, On Monday Night, April 21, 1735.

A.Dodd, E.Nutt, R.Charleton & E.Cook, London [1735].

Price 6d. By "Philo-patriae" who seems to have been a clerk to Justice Thomas Robe, the magistrate who conducted the examination of Lewis. Includes suggestions for increasing the death penalty and policing (takes some of these from "Ebranos" [i.e. Thomas Robe], A Collection of Political Tracts (1735).

Lewis, Lewis, A Circumstantial Account of the Evidence Produced on the Trial of Lewis Lewis, the Younger, For the Murder of Thomas Price, late of Pen-Y-Craig, in the Parish of Lanafan-Fawr, in the County of Brecon, before the Honourable George Hardinge, and Abel Maysey, Esquires, His Majesty's Justices of the Court of Glamorgan, Brecon and Radnor, at the Shire-Hall, in Brecon, on Wednesday the 26th Day of August, 1789, as taken by one of the Counsel. To which are prefixed, A Detail of the Steps taken to bring this Horrid Murder to Light and a Copy of the Indictment, concluding with an Account of Lewis Lewis and his Family, together with his Behaviour form the Time of his Conviction to his Execution.

n.p., n.d. [1789].

Price 6d. Cardiff Public Library, Wooding Mss., Ms. 1. 115, see N.L.W. Mss., Facs. 600 for annotated transcript by John Price (died 1804); see also N.L.W. Mss. 9954c for the Lewis family history of crime.

Looney, Daniel, The Reward of Murder. A Faithful Narrative of the Lives of Daniel Looney, and Robert Greenstreet; Who were executed for Murder; at Tyburn, on Monday, December 14, 1751.

E.Cable, London, [1751].

Price 6d.

Lowrey, Capt. James, The Real, Genuine, and Authentic Narrative of the Proceedings of Capt. James Lowrey, Before and after he was appointed Commander of the Ship Molly. Taken from his own Mouth, as well as the Log-Book, by his own Desire, the Day before his Execution. With Letters wrote by Himself to the Consul at Lisbon.

T.Harris, J. Scott, W.Owen, London, 1752.

Murder of a sailor, hanged at Wapping. See rival account: Ordinary of Newgate section: Taylor. Taylor's account seems to have been published first, since The Real criticises it, but Taylor's account listed is presumably a second edition since it criticises The Real. Basically the dates and events in both agree, but Taylor's is more readable and better structured around the theme of the disintegration of authority: e.g. Taylor makes negligence and drunkenness of crew a constant feature from start of fateful voyage (pp.5-12 passim), whereas The Real only mentions it as arising after a month (p.7 et seq). Generally more detail in Taylor (its almost twice as long at 54pp. as against 29pp.). Both agree that Lowrey was the injured party. For a different view see satirical print The Scotch Triumvirate (1752): Catalogue of Prints and Drawings in the British Museum, vol. III, Part ii, p.847; Gentleman's Magazine, 1751, p.234; ibid, 1752, pp.89, 94, 140.

Luddites, The last Dying Speech Confession & Execution of George Mellor, William Thorpe, and Thomas Smith, 8th January 1813 for the murder of Mr. W.Horsefall; And of those 14 Unfortunate Men who were Executed on Saturday the 15th of January, 1813, On the New Drop, behind the Castle of York;

For Various Burglaries, Connected with the Disturbances in the part of the West Riding of Yorkshire.

no pub., [1813].

Maben, James, A True Copy of the Papers wrote by James Maben, Who was Executed Saturday, August 11, 1744, without The West Gate, Newcastle upon Tyne, for counterfeiting the current Coin of Great Britain, as delivered by him the Night before his Execution, in the Presence of several Spectators, signed by himself, and attested by Fourteen creditable Persons.

Newcastle, 1744.

> Price 2d. On being caught Maben confessed to the Mayor of Newcastle who agreed to admit him as evidence; he was then put in with the other felons in Newgate prison, Newcastle, where he was told that he was "in greater Hazard than any Body, and being put in Irons confirmed me in what he said", because he had informed against some people. He attempted to escape, but was caught and put in the "Dungeon" with two men he had informed on, who assaulted him, allegedly with the assistance of the turnkey. They forced him to retract his confession, and one of the other prisoners was then admitted as evidence.

M'Crory, Daniel, The Last Dying Speeches, and Confessions, and the Execution of Daniel M'Crory, who was executed at Carlisle on the 25th of September, and of Wm. Grierson, who was executed at Appleby on the 28th of the same month.

Norwich, n.d.

M'daniel, Stephen, A faithful Narrative Of the most wicked and inhuman Transactions of that Bloody-Minded Gang of Thief-makers Macdaniel, Berry, Salmon, Eagan alias Gohagan; With a curious print of Macdaniel As also of that notorious Accomplice of theirs, Mary Jones, and Others.

London, [1756].

> By Joseph Cox who uncovered the conspiracy to accuse people of robbery for the reward money.

Macklin, Charles, An Apology For the Conduct of Mr. Charles Macklin, Comedian.

T.Axtell, London, 1773.

Price 1/-. This is a biography of Macklin the actor (1697?-1797). See pp.31-5 for "The Trial of Charles Macklin, for the murder of Thomas Hallam"; he was acquitted.

Maclaine, James, An Account Of the Behaviour of Mr. James Maclaine, From the Time of his Condemnation To the Day of his Execution, October 3, 1750 (2nd edn).

J.Noons & A.Mills, London, 1750.

By Dr. Allen; supposedly published at Maclaine's desire (title-page). Published "This Day", London Evening-Post, 3583, 9 Oct. 1750. At least four editions in 1750. Maclaine or Maclean (1724-50: see D.N.B.; for trial O.B.S.P. 12-19.9.50; also Ordinary's Account 3.10.50), "gentleman highwayman", most famous for robbing, and shooting at, Horace Walpole (see Lewis, Walpole's Correspondence, vol. 13, p.23; vol. 20, pp.99, 101, 106, 168-9, 188, 199; vol. 40, pp.63-5). Of the biographies, An Account is the least detailed, better are Ordinary's Account and A Complete History.

Maclaine, James, A Complete History of James Maclean, The Gentleman Highwayman, Who was executed at Tyburn, on Wednesday, October 3, 1750, for a Robbery on the Highway.

London, [1750].

Two editions published 1750. The longest of the biographies and probably the best. Much of the information in it can be cross-checked with the Ordinary's Account and A Genuine Account. Includes many pages of letters supposedly written by and to Maclaine; no note of how publisher obtained them: probably fictitious, although Ordinary's Account (p.91), A Complete History (pp.55-6) and A Genuine Account (pp.31-3) all have a letter written anonymously to Maclaine's brother, and Allen (pp.17-22, 27-32) and A Complete History (pp.56-64) have identical letters from brother to Maclaine, from Allen to brother and from Maclaine to "his Friend".

Maclaine, James, A Genuine Account of the Life and Actions of James Maclean, Highwayman, To the Time of his Trial and receiving Sentence at the Old-Bailey. Containing His Robberies, Gallantry at publick Places, with other remarkable Transactions. Together with some Account of Plunket his Companion.

W.Falstaff, London, [1750].

Written before hanging (p.iv), notes the interest of "the Ladies" and the "Quality" in the case. Includes defence Maclaine used in court (pp.26-31).

Maclaine, James, A Letter To the Honourable House of Commons, relating to The present Situation of Affairs. To which is added, An Address to all generous and humane Minds, occasioned by the Execution of Mr. James Maclaine &c.

London, 1750.

By "Brittanicus". This is a discourse on crime, its causes and solutions, which uses the Maclaine case to illustrate the writer's theses. Similar ideas to those which were to appear in H.Fielding, An Enquiry into the Causes of the Late Increase of Robbers &c. (1751).

Maclaine, James, M----C L----N's Cabinet broke open; or, His private List of all the Duchess Dowagers, Countess, Widow Ladies, Maiden Ladies, Widows and Misses of Honour, Virtue, and large Fortunes in England: together With their several Places of Abodes.

P.McLaughter, London, [1750].

Satirises the interest of women in Maclaine.

Maclaine, James, Petition to the Right Hon. Mr. Pelham, in favour of Mr. Maclean.

London, 1750.

According to Horace Walpole this poem was by Richard Bentley: see Lewis, Walpole's Correspondence, vol. 35, p.643.

Maclaine, James, A True and Exact Copy of a Genuine Letter, written by a Rev. Clergyman in Holland, on the commitment of James Maclean for a robbery.

London, 1750.

The "Rev. Clergyman" was probably Maclaine's brother.

MacNemara, Thomas, A Full and True Account of the Life, Birth, Parentage, Conversation, and Death, of Mr. Thomas Mac-

Nemera, An Irish Gentleman; Who was Executed at Tyburn, on Wednesday, the 27th of July, for a Notorious Robbery committed on his own Kins-man lately, at Charing-Cross.

London, [1710].

Petition for mercy delivered by Elizabeth Bliss accompanied by 11 women dressed in white (p.4).

Madan, Patrick, Authentic Memoirs of the Life, Numerous Adventures, and Remarkable Escapes, of the Celebrated Patrick Madan: Interspersed with a Variety of Genuine Anecdotes of his Contemporaries, and the Character of his Fair S---, the well-known C---rt---n, the Influence of whose Charms has so often saved the Culprit.

A. Milne, London, [1782].

Price 1/-. By "a Gentleman of the Inner Temple" (title-page). Refers to a riot in Newgate 1776 which was put down by prison officers and Fleet-market butchers (pp.25-6, another riot at pp.32-3). Critical of Newgate ("contracted, loathsome, and dark") and the governor of New Prison, Elmore ("this worthless keeper") (pp.12 & 26-7). Transported as soldier to Senegal, returns and is sent back to Africa (pp.37-42).

Madan, Patrick, The Life of Patrick Madan; Exhibiting a Series of the most extraordinary Transactions, notorious Villainies, and wonderful Escapes, that ever happend to one Man. Comprising a Series of Events equally calculated to astonish the Mind, and lead the Heart ot Virtue, by exhibiting the Deformity of Vice. With Reflections naturally arising from the Subject; and Hints, which if attended to, will tend greatly to the Suppression of every Species of Theft.

A.Hogg, London, [1781].

Price 1/-. "Whoever reads this Pamphlet, and considers the Price of the Engraving, must be convinced, that it is published from better Motives than those of Gain, having for its Object Public Benfit, and private Security." (t-p. Engraving of Madan opposite.) Seeks to show that capital laws should be more strictly enforced and convicts pardoned less often; calls for better law enforcement by magistrates and officers, who wait until offenders "weigh... forty" (p.8) (i.e. commit offences carry the forty pounds reward), but praises Bow Street

Malcom, Sarah, A True Copy of the Paper, Delivered the Night Before her Execution, by Sarah Malcom, to the Rev. Mr.

Piddington, Lecturer of St. Bartholomew the Great. March 6th, 1732-3.

J.Wilford, London, 1732.

Price 4d. Born c.1710. Declares herself guilty of robbery , but innocent of the murder (pp.7-13). Gives the elaborate arrangements to authenticate the work (pp.3-5, see this thesis). Piddington was paid #20 for this work (Gentleman's Magazine, III, (1733), p.137). Whilst in condemned cell her portrait was painted by William Hogarth, she "had put on red to look the better" (painting 838 in National Gallery of Scotland, formerly in Horace Walpole's collection at Strawberry Hill: [Horace Walpole], A Description of the Villa of Mr. Horace Walpole... (1784), p.23). See, Ordinary, Account, 5 March 1733.

Matthews, Peaceable Robert, A Vindication of Peaceable Robert Matthews, from The Change of Mrs. Ruschombe's Murder, lately revived against him: addressed to the inhabitants of St. Augustine's Parish.

printed by T.Cocking, Bristol, 1781.

By Rev. John Casberd. Matthews denied the murder right up until he died of natural causes (he was never tried), and this pamphlet seeks to show he was innocent.

Matthieson, John, Memoirs Of the Life of John Matthieson, Executed for a Forgery on the Bank of England, on Wednesday the 28th of July, 1779.

J.Bew, London, [1779].

Price 1/-. Published at Matthieson's request "to prevent any spurious Publications" (title-page) and editor has letter to this effect (p.iii). Summarises trial (pp.15-29). See adverts inserted by Matthieson in General Advertiser, 19 July, 1779 & 24 July, 1779 (see also, 23 July, 1779) offering directors of Bank information in exchange for pardon.

Maugridge, John, A Full and True Account of the Tryal, Examination, and Proceedings against Mr. John Maugridge a Kettle Drummer, who was on Saturday the 14th of December, Try'd before the Twelve Judges at the Hall in Serjeants-Inn in Chancery Lane, upon a Special Verdict, for the Murther of Captain Cope on the Guard at the Tower.

T.Bland, London, [1705].

Having been convicted by jury Maugridge seems to have been present whilst the 12 judges considered argument as to whether the offence was murder or manslaughter; they ruled the former and he was hanged.

Maugridge, John. The Life and Penitent Death of John Mawgridge, Gent. Who was Executed for the Murder of Captain Cope. Penn'd from his own Account of himself, and approv'd of by him, before his Death.

H.Hills, London, 1708.

Author claims to have interviewed Maugridge; Maugridge alleged to have said that he did not give any account to the Ordinary - Lorrain, however, printed an account.

Merriman, Tom, [The Matchless Rogue. Or, An Account of the Life of Tom Merriman].

[London, 1725].

A short novel. Title page of the copy I have seen is missing.

Meyer, William and Mary. The Trial of William Meyer, Esq; and Mary his Wife, At the City of York, before Edward Willes, Esquire, On Tuesday, March 20, 1781, for the Wilful Murder of Joseph Spinke, On Wednesday, October 18, 1780.

J. Wenman, London, [1781].

Price 6d. Trial lasted 7 1/2 hours. Not verbatim account, summarises witness evidence.

Meyer, William-Meek. The last Speech and Confession of William-Meek Meyer, who was executed at Tyburn, near York, on Friday the 6th of April 1781, for the Murder of Joseph Spink.

no pub., [1781?].

Middleton, Thomas. A Full and Particular Account of the apprehending and taking of Thomas Middleton and Francis Warren, Grave-Diggers of Aldgate and Bow.

John Davis, London, [1738].

Broadsheet. Stole lead coffins.

Milton, Rev. C.W., Narrative of the Gracious Dealings of God

in the Conversion of W.Mooney Fitzgerald and John Clark, two malefactors, Who were Executed on Friday, Dec. 18, 1789, At St. John's New Brunswick, Nova Scotia, for Burglary; In A Letter from The Reverend Mr. Milton to the Right Honourable The Countess Dowager of Huntingdon.

no pub., London, 1790.

Mitchell, William, The Trial of Mr. William Mitchell, Surgeon, For Perjury. Tried at the Sittings after Trinity Term, 1754, in His Majesty's Court of King's Bench at Westminster.

R.Baldwin, London, 1754.

Price 1/-. The allegation related to a civil action.

M'Keand, Alexander, A full, true and particular Account of the Trial and Execution of Alexander and Michael M'Keand.

Stephenson, printer, Gateshead, n.d.

M'Neal, James, A True and Particular Account Of a most Bloody and Inhumane Murder, Committed on the Bodies of Jane and Mary Ferguson, Two Sisters In the Forests of Delaware, on the 4th of last Month, By James M'Neal, Farmer, near the Town of Shrewsbury, in the County of Shropshire.

Marshall, Gateshead, n.d.

Printed as his confession to a clergyman.

Mooney, Nicolas, The Life of Nicolas Mooney. Wherein is contained, His Parentage and Education (2nd edn.).

Bristol, [1752].

Three editions. Converted by Bristol Methodists: see, Lee, Matthew.

Mooney, Nicolas, Some Account of the Life and death of Nicolas Mooney, by R.Hawes.

Sold at the Foundry and Rev. Mr. Wesley's Preaching-Houses, 1776.

Sauffer lists a 1773 edition (p.173).

Moore, James, The Unparallel'd Imposter: Or, The Whole Life,

Artificies and Forgeries of Japhet Crook, alias Sir Peter Stranger, Bart. With all the Proceedings against him.

J.Wilford, London, 1731.

Price 1/-. Claims that because of this case forgery made capital offence (p.iv).

Morgan, William, The Trial of William Morgan, for the Murder of Miss Mary Jones, Daughter of William Jones, Esq; of Nass, in the County of Glocester, at the Assizes held at Glocester, On Wednesday The 11th of March, 1772; before the Hon. Sir George Nares, Knt.

Printed by R.Raikes (Glocester), sold by S.Bladon, London, [1772].

Primarily about the trial; apparently full account although no note of judge's summing up (if any).

Morgan, William, Executions! A Full and Particular Account of William Morgan, and George Siggans, who were Executed on Penenden Heath, on Thursday the 21st August, 1817, Morgan for Robbery and Cruelty, and Siggins for an Abominable Offence. - Also, of James Harry, who was Executed at Monmouth, on Monday the 18th of August, for the Murder of his Wife.

n.p., Edinburgh, [1817].

Price 1d.

Motherhill, John, The Genuine Trial of John Motherhill, (more generally known by the name of the Brighthelmstone Taylor;) for a Rape of the Body of Miss Catherine Wade, Daughter of Mr. Wade, Master of the Ceremonies at Brighthelmstone; At the Assizes held at East Grinstead.

R.Randall, London, [1786].

Shorthand by Wilkinson, however much shorter than <u>The Trial</u> (15 pages quarto as against 35 pages folio); summarises opening speeches and evidence presented. Motherhill acquitted.

Motherhill, John, The Trial of John Motherhill, for committing a rape on the body of Catherine Wade. Tried at the assize Holden at East Grinstead for the County of Sussex, On Tuesday the 21st of March, 1786.

G.Kearsley & M.Gurney, London, 1786.

Price 2/6d. Shorthand by J.Gurney. See above item.

M'Pherson, Samuel, The Behaviour and Character of Samuel M'Pherson, Malcolm M'Pherson, and Farquarshan, The Three Highland Deserters; who were Shot at the Tower, July the 18th 1743.

M.Cooper, London, 1743.

Price 6d. "By the Clergyman of the Church of Scotland, who conversed with them in their own Language from the Time of their Sentence till their Execution.": title-page.

Munn, Thomas, The Life of Thomas Munn, Alias, The Gentleman Brick-maker, alias, Tom the Smuggler, who was executed with John Hall, alias Rich, on Friday the 6th of April, 1750, at Chelmsford, and hung in Chains near Rumford Gallows, for robbing the Yarmouth Mail on the 20th of July last.

T. Harris, C. Corbett, London, 1750.

"Written by Himself" and given to the turnkey. Published "This Day", London Evening-Post, 3518, 12 May 1750.

Murphy, Tim, The Trial of Timothy Murphy, At the Sessions-House in the Old Bailey, for Felony and Forgery, On Saturday, January 13, 1753.

For J.Hodges, sold by M.Cooper, London, 1753.

Shorthand by T.Gurney.

Mutineers, The Trial of the Mutineers, late of His Majesty's Ship Temeraire, Held on Board the Gladiator, in Portsmouth Harbour, January 6, 1802.

A.Macpherson for J.Lee & C.Chapple, London, 1802.

Price 1/-. Portraits of the 14 men tried (with 2 unidentified) opposite title-page. See also, next item. For Nore mutiny 1797 see, Parker, Richard.

Mutineers, A Continutation of the trial of the Mutineers, Late of His Majesty's Ship Temeraire, Held on Board the Gladiator, in Portsmouth Harbour, January 14, 1802.

A.Macpherson for J.Lee & C.Chapple, London, 1802.

Price 6d. Trial of six other men.

Neale, Dennis, Memoirs of the Life and Remarkable Exploits of the noted Dennis Neale, alias John Clarke, otherwise call'd the Second Turpin, who was executed at Tyburn on Monday the 4th of February, 1754, for robbing on the Highway. Containing a full Account of all his extraordinary Adventures, and most daring Robberies, during a Course of Years, from his first Arrival in this Kingdom; together with those of the famous Hornblow, M'Shane, Whiffon, &c. &c. Including particularly, the Manner of Neale's committing that audacious Robbery on his Excellency Prince Czenichew, the Russian Ambassador, on Finchley Common. The Whole written by Himself, while under Sentence of Death in Newgate.

R.Griffiths, London, 1754.

Price 6d. Published "This Day", Whitehall Evening-Post, 1247, 9 Feb. 1754, (see also, 1246, 7 Feb. 1754) this issue states that Neale "left a Paper". The 2nd edn. "To which is now added, an Appendix, containing a circumstantial Narrative of the bold Conspiracy form'd in July last, by Neale and his Accomplices, in order to break out of New Gaol, Southwark". It was pub. by T.Parker & R.Griffiths, and appeared "This Morning", Whitehall Evening-Post, 1252, 21 Feb. 1754. 3rd edn. advertised as "printed from his Manuscript, which is now in the Publisher's Hand.": Whitehall Evening-Post, 1258, 8 June 1754. See, Ordinary's Account, 4 Feb. 1754; also, Monthly Review, X (1754).

Nicholson, Philip, An Account of the Examination of Philip Nicholson, before the Lord Mayor; and of the proceedings of the Coroner's Inquest, relative to the Murder of Mr. and Mrs. Boner, at Chiselhurst, Kent, On Monday Morning, 31st May, 1813, together with the Particulars of the attempt at Suicide, Made by P.Nicholson.

J.Evans, F.Collins, London, [1813].

Price 1d.

Nicholson, Philip, An Account of the Life, Confession, and Dying Words of Philip Nicholson, Who was executed on Monday the 23d of August, 1813, At Penenden Heath, For the Murder of Mr. And Mrs. Bonar, at Chiselhurst, Kent.

T.Bachelor, n.p., [1813].

Nicholson, Philip. The Full Particulars of the Trial, Execution, and Dying Words, of Philip Nicholson, Who was Executed at Maidstone, or the Twenty third of August, 1813, for the Murder of Mr. and Mrs. Bonar, of Chiselhurst, Kent, With his most remarkable Confession, and A Copy of Verses. To which is added, The Trial and Execution of Charles Masureux, For the Murder of William King, on board his Majesty's ship Sampson, who suffered on the same day, and at the same place.

Jennings, London, [1813].

Noble, Richard. [A Full and True Account, &c.], [1713].

Title page missing in copy I have seen.

Noble, Richard. The Right Dying Speech and Confession of Mr. Richard Noble, and the other Five Criminals, viz. Nich. Wells, Will. Thornton, Robert Wells, Will, Stanton and Jacob Skinner; who were Executed at Kingston on Saturday last, the 28th of March, 1713. Also the true Copy of a Paper which Mr. Noble left with the Sheriff at the Place of Execution.

J.Read, London, [1713].

Price 1d. "Doubtless its expected that I should make a Speech to the Spectators, but such is my great Concern for the Welfare of my Soul, that I am not compos'd for any other undertaking; I therefore intreat your Worship to cause these Lines to be made Publick to the World" (p.3).

Northampton. The Last Dying Speech and Confession, Of the Six Malecfactors, Who were executed at Northampton, on Friday the 3d of August, 1787.

n.p., [1787].

Norton, George. The True Confession of Mr. George Norton, Concerning the Murther of Mr. Harris the Dancing -Master, on the 11th of June last. Taken out of his won Papers, delivered by him to Mrs. Mary Edwards, before he took the Fatal Draught of Poyson, on the 8th of August, of which he died the next following day, which was appointed for his Execution at Tyburn.

Printed by D.Edwards, London, 1699.

Includes a note attacking "a Quaker printer" in Little Britain who plaigirises and then undersells the work of others, but worst of all he includes so many errors that

when it comes to "an Ingenious Man, 'tis enough to make him Spew to see the nastiness of the print, and the abundance of Errors" (p.2).

Nugent, Dennis, The Last Dying Speeches and Confessions, Lives and Adventures, of the Three unfortunate Malefactors, Executed this Morning before the Debtor's Door, Newgate, viz. Dennis Nugent, for a rape on a Child only 8 Years of Age; Robert Troyt, for a Forgery; and Ann Warner, for Coining.

no pub., n.d.

Oliphant, James, The Case of Mr. James Oliphant, Surgeon, respecting a prosecution Which He together with his Wife and Maid Servant, underwent in the Year 1764, for the Supposed Murder of a Female Domestic.

Newcastle-upon-Tyne, 1768.

Corner's hearing (held in open air) accused Oliphant of murder; later acquitted and this is a defence apparently written by him.

Orton, Samuel, A True and Genuine Account... [of Samuel Orton].

[1767].

Title page missing in copy I have seen. Forgery trial.

Owen, William - see General Bibliography under Manuscripts.

Palliotti, the Marquis, A Particular Account of the Life and Actions of the Marquis Palliotti, Executed at Tyburn on Monday, March 17. 1717. for the Murder of his Servant. By an Italian Gentleman.

J.Roberts, London, 1718.

Year of hanging 1718.

Palmer, John, The Case of John Palmer, and Thomas Symonds, Gentlemen. Executed near Worcester on the 7th of May, 1708. upon the Evidence of Gyles Hunt, who having obtain'd his own Pardon, charg'd them to have been concern'd with himself in the Murder of Mrs. Alice Palmer, Mother to the said Mr. John Palmer, and her Maid. With The Letter of the said two Gentlemen to the Lord Bishop of Oxon, asserting their Innocence, and giving an Account of how they were prevail'd

on to confess themselves Guilty, by some who put them in Hopes of a Pardon on that Condition. Lordship's Answer, with a Form of Prayer he compos'd and sent them. Palmer's Letter to a Noble Lord in London on the Day of his Death, denying the Fact. And Mr. Palmer and Mr. Symond's Dying Speeches; wherein they deny it upon their Salvation.

Hen. Hills, London, 1708.

Alleged to have been persuaded to confess by a clergyman and an attorney who said that the Bishop would obtain a reprieve for them if they did (p.3). Both declared their innocence (p.6-8).

Parker, Francis, A Full and True Account of the Tryal and Condemnation and Execution of Frances Parker.

D.Brown, London 1705.

Parker, Richard, The Whole Trial and Defence of Richard Parker, President of the Delegates, for Mutiny, &c. On board the Sandwich, and others of His Majesty's Ships, at The Nore, In May, 1797. Before a Court Martial, held on board the Neptune, of 98 Gunes, Laying off Greenhithe, near Gravesend, On Thursday, 22d of June, 1797, and following Days. Taken in Short-Hand.

G.Thompson; Griffiths; Jordan; Bruce; Porter; J.Bains; Darton & Hervey, London, [1797].

Portrait of Parker opposite title-page. For 1802 mutiny on the Temeraire see Mutineers.

Parsons, William, Authentick Memoirs of the Life and Amazing Adventures of William Parson, Esq; an Officer during the late War, and Son of a Baronet of this Kingdom, from his Birth to the Time of his Execution, February 11; being a true and faithful Narrative of every memorable Occurence that attended him, interspers'd with several entertaining and interesting Scenes, deserving the Perusal of the Public. Written by Himself (2nd edn.).

F.Stamper, London, 1750.

Price 1/-. "The Whole corrected and revis'd, (with some Additions) at his own Request, by a Gentleman fully acquainted with his Affairs." Stamper claimed to have the "Title" in Parsons' own handwriting together with witnessed letters from him authenticating the work; refutes suggestion that Parsons had duped him (London Evening-Post, 3639, 16 Feb. 1751, 3646, 5 Mar. 1751), but Corbett also claimed to have published an

"autobiography" (A Genuine, Impartial and Authentick). A 3rd edn. also published. See A Genuine Account.

Parsons, William, A Genuine Account of the Life and Transactions of William Parsons, Esq; Who was Executed at Tyburn on Monday, Feb. 11, 1750-1.

J. Lowndes, London, 1751.

Price 3d. Advertised as published on 23 Feb., "To prevent the Publick being imposed on" (London Evening-Post, 3642, 23 Feb. 1751), probably a reference to Authentick Memoirs, which it also undercut on price. Stamper had advertised Authentic as "Speedily will be publish'd" on 16 Feb., but it did not appear until 5 Mar. allowing Lowndes to get in first (also beat A Genuine, Impartial). Supposedly written by a former servant and accomplice. Parsons born 1717; surgeon attempted post-hanging revival by cutting vein in neck (p.10). Basic details and dates of crime (forgery) match with trial in O.B.S.P. 16-21.1.51, p.57. Important source of information on transportation to Virginia.

Parsons, William, A Genuine, Impartial and Authentick Account of the Life of William Parsons, Esq.; executed at Tyburn, Monday, Feb. 11, 1750-1, for returning from Transportation. Containing the Particulars of his whole Life from his Birth to his Death. Taken from Memoirs of his own Hand-Writing, and communicated by him to a Person who attended him during the whole Time of his Confinement in Newgate.

T.Parker & C.Corbett, London, 1751.

Price 1/-Corbett advertised that he had the originals of the letters included in the appendix at his shop; published "This Day": London Evening-Post, 3647, 7 Mar. 1751.

Parsons, William, Trial and Life of Parsons, executed at Tyburn near London, Feb. 1750-1, for returning from Transportation.

Newcastle, n.d.

Patch, Richard, Second Edition, With A Subsequent Confession, of The Trial of R.Patch, for the Murder of Issac Blight, Ship-Breaker of Rotherhithe, in the County of Surry. Tried at

Horsemonger-Lane, in the Borough of Southwark, before the Lord Chief Baron Sir Archibald MacDonald, and a respectable Jury of the County of Surry. Guilty - Death. "God knows I never injured any Man so as to lead him to take away my life!" - Mr. Blight's last Words.

T.Hughes & Crosby & Co., London, 1806.

Price 6d. Includes a crude engraving of the murder. People queued for the trial four hours before it began; nobility attended in force; sixteen hundred squeezed in to hear condemned sermon, producing fees of #80 (p34). Most of pamphlet taken up by opening speech of Garrow for prosecution (pp. 7-20, but see next item). Evidence of each prosecution witness summarised, defence case very briefly summarised.

Patch, Richard. The Trial of Richard Patch for the Wilful Murder of Issac Blight, At Rotherhithe, on the 23d of September, 1805.

M.Gurney, London, 1806.

Shorthand by Joseph Gurney & W.B.Gurney. Much longer, apparently verbatim, account of trial than previous item (Garrow's speech is given about four times the space). During his speech Garrow was interrupted by questions from jurors and judge. Three different printers were responsible for printing parts of this lengthy work: see reverse of title-page, p.160, final page.

Penlez, Bosvaren. A True State of the Case of Bosvaren Penlez.

London, 1749.

By Henry Fielding, in his role as Bow Street magistrate, defending the prosecution of Penlez for riot. See, P.Linebaugh in D.Hay et al, Albion's Fatal Tree, London, 1977, pp.89-106 passim.

Perreau, Daniel & Robert. Forgery Unmasked; or, Genuine Memoirs of the Two Unfortunate Brothers, Robert and Daniel Perreau, and Mrs. Rudd.

A.Grant, London, [1775].

Price 1/-. Details "Never before published" (t-p.). See

Rudd, Caroline, on whose evidence they were chiefly hanged. Describes the crime, examination and case of Rudd; only a brief biography. James Boswell, continuing his fascination with crime, had an affair with Mrs. Rudd: F.Brody, James Boswell.

Perreau, Daniel & Robert, Genuine Memoirs of the Mess. Perreau.

G.Kearsley, London, 1775.

By Theodosia. A biography published pre-trial apparently to catch the Christmas period (pp.v-vi).

Perreau, Daniel & Robert, Mr. Daniel Perreau's Narrative of his unhappy case; wherein Every particular Transaction between Mrs. Rudd, his Brother, and himself, from the commencement of Daniel Perreau's connexion with Mrs. Rudd, until the time of his trial, is most truly and candidly laid before the Public; together with his Defence. Published by Himself.

T.Evans, London, 1775.

Price 2/-. Published as a defence, arguing that Rudd was main criminal.

Perreau, Daniel & Robert, Observations on the Trial of Mr. Robert Perreau, With Mr. Perreau's Defence, as spoken on his Trial, in which Many unaccounted for Omissions in the Sessions-Paper are supplied, From a Copy sent the the Author by Mrs. R. Perreau: An Address to the Jury on Mr. R.Perreau's Trial, and Such Remarks on Mrs. Rudd's Narrative as tend to confirm the Justness of these Observations. The whole prefaced with Correspondence between the Author & Mrs. R. Perreau.

S.Bladon, London, 1775.

Price 2/-. Attacks the OBSP for omitting much of what Robert Perreau said in his defence (pp.i-viii, 44-52); observations on prosecution evidence; alleges that the brothers suffered because of a panic about "Swindlers in High-Life" which were seen as a threat to credit and trade, "Even Moderation seemed to lose its patience, and scarcely wished them common Right of Trial but for the sake of form." (pp.38-9; see The True Genuine Lives, p.4.)

Perreau, Daniel & Robert. A Solemn Declaration of Mr. Daniel Perreau. Addressed to the Public. Written by Himself, and Delivered to a Friend in the Cells of Newgate, on Sunday, January 14, 1776. Published at his Dying Request.

T.Evans, London, 1776.

Price 1/-. Lays blame on Rudd, claims Daniel and Robert both innocent; Daniel duped by Rudd totally.

Perreau, Daniel & Robert. The Trials of Robert and Daniel Perreau's on the King's Commission of the Peace, Oyer and Terminer, and Gaol-Delivery, held for the City of London, &c.

Printed by T.Bell, London, 1775.

Includes also trial of Margaret Rudd, and Daniel Perreau's narrative.

Perreau, Daniel & Robert. The True Genuine Lives, and Trials, &c. of the Two Unfortunate Brothers, Robert and Daniel Perreau, Who were capitally convicted on Thursday the 2d, and Friday the 3d of June, 1775.

Printed by J.Miller, London, [1775].

Anti-Perreaus: accuses them of extravagance and of having forced Mrs. Rudd into the forgery: "forgers abound more than ever" (p.4).

Phillips, Richard. The True and Genuine Trial of Richard Philips [sic], for Blasphemy, and other High Crimes and Misdemeanors, at the Sessions held at Ryegate. For the County of Surrey, On Thursday the 26th Day of April, 1750, in the 23d Year of His Majesty's Reign.

J.Nicholson, London, [1750].

Price 3d. "By Richard Phillips, the Prisoner". Trial for uttering blasphemous words; apparently fairly full account.

P***n, James.** The History of James P*****n, Esq; of the County of Devon.

London, 1756.

A moral tale about a gentleman drawn into robbery by his association with prostitutes who escapes the gallows and marries.

Phipoe, Mrs., The last Dying Speech and Confession of the Unfortunate Malefactors, Executed This Day before the Debtors Door, Newgate.

No publisher or place, no date.

Poulter, John, The Discoveries of John Poulter, alias Baxter; Who was apprehended for robbing Dr. Hancock, of Salisbury, on Clarken Down, near Bath; and who has since been admitted King's Evdence, and discovered a most numerous Gang of Villains; many of which have been already taken, (9th edn).

London, 1754.

See next item.

Poulter, John, The Discoveries of John Poulter, alias Baxter; Who was apprehended for Robbing Dr. Hancock, of Salisbury, on Clarken-Down, near Bath; and thereupon discovered a numerous Gang of Villains, many of which have been already taken.

London, no date.

14 editions 1753-69; these editions vary in content. An important pamphlet which appears to have originated in the confession of Poulter, who allegedly informed against 45 people. Describes his robbery methods, travelling around fairs and highway robbery; how he returned from transportation through bribery. Although most of the names of accomplices, etc. are not printed one of the copies in the B.L. (shelved at 1493g.32) supplies these in manuscript. There is some reason to believe that Poulter was hanged because of his revelations rather than in spite of them (see, for example, pp.53-60). As one contemporary put it, this pamphlet reveals "extensive Combinations in Villainy"; C.D., Letter to a Member of Parliament, Upon the Subject of the present reigning Enormities of Murders and Robberies (Bath, 1754); Whitehall Evening Post, 1252, 21 Feb. 1754.

Powell, Robert. The Whole Trials of Mr. Robert Powell, For Forging a Receipt with Intent to defraud the Honourable East India Company; and of Edward Burch and Andrew Martin, For Forging a Paper-Writing, purporting to be the Last Will and Testament of Sir Andrew Chadwick; Who were tried at the Sessions House in the Old Bailey.

T.Evans, London, [1771].

Price 1/-. Apparently very full account of trials: 64pp.

Powis, Joseph. A Compleat and Genuine Account of the Life and Actions of Joseph Powis, Convicted at the Sessions-House in the Old-Bailey, for Burglary, September, the Sixth, 1732. Executed at Tyburn, On Monday, the Ninth of October.

London, 1732.

Ascribed his downfall to his disinclination to work; and, like so many others, his depravity is revealed by mention of him having seen The Beggar's Opera (p.53).

Price, Charles. Memoirs of A Social Monster; or, the History of Charles Price.

G.Kearsley, London, 1786.

Same author as following item (p.v). Lengthy biography; poor attempt to imitate the style of Fielding's The History of... Mr. Jonathan Wild the Great (see pp.34-7). "Entertaining, ingenious, and convincing. The best of the criminal biographies." (Stauffer, p.204)

Price, Charles. A New Edition, Being a more minute and particular Account of that consumate Adept in Deception, Charles Price, otherwise Patch, many years a Stock-Broker and Lottery-Office-Keeper in London and Westminster.

For editor, G.Kearsley, London, 1786.

"a part only of these Memoirs first appeared in the English Chronicle" (title-page); attacks biography by Ridgeway. Based on Memoirs.

Ramsey, Robert. A Compleat, True and Genuine Account of the Life, Adventures and Transactions of Robert Ramsey, alias Sir Robert Gray, From his Birth to his Execution at Tyburn, on

Wednesday, the Thirteenth of January 1741-2.

London, 1742.

"collected from the Relation of his Brother John Ramsey". Ramsey counterfeited a draught on Hoare & Co, bankers, this led to a series of adverts being published for him; he and accomplice were chased to Coventry and finally caught in Lancashire (pp.20-4). See, Ordinary of Newgate, Account, 13 Jan. 1741/2, Part I, pp.8-9 (Guthrie's version), Part I-II, pp.17-39 (Robert's version). John was evidence against Robert, and at the trial Robert alleged John had lied for revenge after a quarrel between them over money (O.B.S.P. 14-16 Oct. 1741, pp.4-7); in Compleat John says he turned evidence from "the natural love of Life", that Robert drew John into crime (something Guthrie repeats in Account) and that anyway there was a possibility that someone else might have impeached them both. All three versions broadly agree on methods of crime employed by the brothers (Account, pp.8, 9, 37-8). Both Compleat (pp.28-9) and Robert (pp.33-5) say he joined the Methodists in order to steal from them, although Compleat claimes he conned Whitfield's brother and stole from (John?) Wesley. Guthrie tells more of John Ramsey than the other two.

Rann, John, An Account of John Rann, Commonly called Sixteen String Jack. Being A circumstantial Narrative of his Principal Transactions, and His Amours to the Celebrated Miss La Roache.

T.Sabine, Lewis Tomlinson, London, 1774.

Includes engraving of Rann and La Roache (opp. t-p.). Arrested by Bond, one of John Fielding's men; the interest in his case was so great "that above a thousand people had assembled at Bow Street" to see him being examined (p.20). Concludes with scandalous "Anecdotes of Miss Roache" (pp.24-8).

Reed, Mary, The Trial of Mrs. Mary Reed, charged with Poisoning Her Husband, at Berkley, in Gloucestershire, in April, 1794. Which was tried Before Mr. Justice Lawrence, at Gloucester Assizes, on Monday, March 28, 1796. Including the Evidence of R.Edgar and M.Foot, giving an account of a criminal intercourse between Edgar and Mrs. Reed, during Mr. Reed's life. Also Authentic Copies of the Letters, &c. produced in Court, and the Written Defence of the Prisoner.

J.Davenport, London, 1796.

Price 6d. Summarises evidence of some witnesses, gives question and answer form for others.

Revel, James. The Poor Unhappy Transported Felon's sorrowful account of his fourteen years transportation, At Virginia in America. In Six Parts Being a remarkable and succinct History of the Life of James Revel, the unhappy sufferer. Who was put apprentice by his Father to a Tinman, near Moorfields, where he got into bad company, and before long ran away and went a robbing with a gang of thieves; but his master soon got him back again, yet would not be kept from his old companions, but went thieving with them again; for which he was transported fourteen years. With an account of the way the transports work, and the punishment they receive for committing any fault. Concluding with A Word of Advice to all Young Men.

J.Pitts, London, n.d.

Price 1d. A manuscript copy of this is held in the U.S.A.'s Library of Congress, Washington, D.C. See, Jennings, Virginia Magazine of History and Biography, 56 (1948); A.R.Ekrich, Bound for America: The Transportation of British Convicts to the Colonies 1718-1775, Oxford, 1987, p.100n.

Robinson, Jane. The Life, Trial, and Execution of Jane Robinson, who was Executed at the New Drop, London, on Monday, 29th April, 1822, for being concerned in Robbing and Murdering Mrs Lascells, a widow lady, and her two Servant Maids, Elizabeth Green and Ann Ford.

Reprinted for Thomas Conaway, Edinburgh n.d. 1d.

Rudd, Margaret. The Trial At Large of Mrs. Margaret Caroline Rudd, At the Old Bailey, On Friday, December the 8th, 1775. Elucidated by such Matter as never before transpired, with the Particulars of her first Commitment to Tothill-fields-Bridewell, On the Eleventh of June last, Together with all that passed in Private between the Magistrates and her Counsel, Never Before Made Public; With Proper Strictures and Remarks on the Several parts of the Evidence, By Mr. Bailey, Barrister at Law.

[T.Bell], London, 1775.

Trial (at pp.7-20) similar to, but much shorter than, version (by Gurney) in O.B.S.P., 6 Feb. 1775, pp.3-31. See also, Perreau.

Rydock, William. The Life And Notorious Practices of William Rydock, alias Wreathocke. Who was condemned for Felony in Robbing the Reverend Dr. Lancaster on the Highway, June 11, 1735.

J.Wilford, London, 1736.

Price 1/-. Biography and full account of trial (pp.20-38).

Salvy, Nelly. A Full and True Account Of a barbarous and bloody Murder Committed by Nelly Salvy, a Cook-Maid, who liv'd in a Gentlemans House the upper end of Caple-Street, on the body of her own young Child just Born, the 25th of this Inst. Jan. 1725.

Dublin, 1724 [i.e. 1725].

Saunders, Mary. The Confession, and last Dying-Words of Mary Saunders, who was burnt at Monmouth on Wednesday, the 21st of March, 1764, for the barbarous and inhuman Murder of Mrs. Jones, late of Pincott, near Monmouth, with whom she lived a Servant.

n.p., [1764].

Broadsheet. Brief biography, pleaded guilty at trial, account of her death.

Savage, Thomas. Gods Justice against Murther, or The Bloody Apprentice Executed.

J.Clarke, London, n.d.

Savage, Thomas. A Murder Punished, and Pardoned. Or A True Relation of the Wicked Life, and shameful-happy Death of Thomas Savage, Imprisoned, justly Condemned, and twice Executed at Ratcliff, for his Bloody Fact in Killing his Fellow-Servant, on Wednesday, Octob. 28. 1668. (13th edition).

n.p., London, 1671.

"By R.Franklin, T.Vincent, T.Doolitel, J.Janeway, H.Baker": title-page.

Savage, Thomas. A Warning to Youth. The Life and Death of Thomas Savage; Who was twice Executed at Ratcliff, for the Murder of his Master's Maid-Servant (21st edition).

J.Marshall, London, 1720.

By James Janeway. 22nd edition followed in 1734.

Sellers, John. The Trial of John Sellers, Rd. Footner, and Miss Elizabeth Jones, upon the charge of the Murder of Mr.

Yates; tried Before Mr. Justice Rook, At the Old-Bailey, on Friday, September 16, 1796.

J.S.Barr, London, [1796].

Price 1/-. Summarises evidence of each witness; lengthy account of summing-up.

Shepherd, John, The Life and Singular Adventures of Jack Shepherd. This extraordinary Youth, who was Executed at the Old Bailey on the 22d of November, 1786, was no less than Nine Times in confinement! He practised with great Success the Arts of Picking Pockets and Exchanging hats and Great Coats. He was also a Footpad, a Highwayman, a Housebreaker, a Shoplifter, and a Forger! He was four Times tried for Capital Offences, and twice Convicted; once Reprieved under the Gallows, and soon after Executed for a fresh Offence. His various Robberies, Escapes, and different Contrivances, exceed Credibility; however, the Author of these interesting Memoirs begs leave to assure the Public they are all established Facts. This Account should be placed in the Hands of all Young People; particularly Clerks, Apprentices and Men Servants of every Description, as a Warning to avoid those Practices by which he fell. To which is added, An Appendix, containing several new and interesting Facts, relative to the Three Murderers who were executed in Holborn on Monday, December 18, 1786, with the Confession of Richard Payne (New edn., corrected).

S.Bladon, London, 1786.

Price 18d. see Gentleman's Magazine, LVI, Part II, p.993.

Shepherd, John, Particulars of the Very Singular and Remarkable Trials, Convictions, and Escapes, of John Shepherd. Together with His History from his Birth, &c. In which is included a minute Account of his unparallelled Species of Treachery to his Associate, Leonard Sullivan, who was executed at Maidstone for a Robbery committed in Shepherd's Company.

London, 1786.

Dedicated to Sampson Wright, the Bow Street magistrate. Shepherd fell into bad company and crime soon after going to London as an articled clerk to an attorney: "The artifices of the abandoned are always an overmatch for youth and warm inclinations." (p.5) He had been sentenced

to death once before, but the hanging (at Tyburn) was delayed because the scaffold collapsed and then a reprieve arrived; in fact, he had not been included in the death warrant in the first place. He returned to crime, and was paid 7 guineas by Sampson Wright for informing. The biographer found it "very extraordinary" that at his second trial he had no counsel.

Sheppard, John. A Narrative Of all the Robberies, Escapes, &c. of John Sheppard.

J.Applebee, London, 1724.

Price 6d. By D. Defoe. Published 16 Nov., Daily Journal, 1193, 16 Nov. 1724; see also, 1192, 14 Nov. 1724 in which letter signed by Sheppard - and witnessed by fellow condemned prisoner "Louy Houssart" (i.e. Lewis Houssart, hanged for uxoricide in 1724) - declares that the Narrative appears at his request. A copy was said to have been handed by Sheppard to Applebee at the gallows: Daily Journal, 1194, 17 Nov. 1724. Further editions: Daily Journal, 1194, 17 Nov. (2nd edn.); ibid, 1196, 19 Nov. (4th); ibid, 1197, 20 Nov. (5th); ibid, 1199, 23 Nov. (6th); ibid, 1207, 2 Dec. (7th). Also published in Dublin, 1724. This pamphlet is reprinted in, H.Bleackley & S.M.Ellis, Jack Sheppard, Edinburgh, 1933, pp.159-69. For a bibliography of Sheppard see, Bleackley, pp.127-36; also, this thesis, Chapter 5.

Sheppard, John. A Narrative of the Life and Robberies, and further Surprising Escapes of John Sheppard. To which is prefix'd, exact Draughts of the several Locks he broke, and the Breaches he made in the Rooms through which he pass'd, when he made his last Escape out of Newgate; with a particular account of his being Retaken, and an exact Draught of the Manner he is now fetter'd down in the Stone Room in Newgate.

T.Turner, London, 1724.

Price 2d. "Just publish'd", The Evening Post, 2388, 14 Nov. 1724. Not in Bleackley bibliography.

Sheppard, John. An Epistle from Jack Sheppard to the late L-d C-ll-r of E-d, Who when Sheppard was try'd, sent for him to the Chancery Bar.

n.p., [1725].

A broadside ballad set to the tune "Which no Body can deny". Attributed by Moore to Defoe without any apparent justification. A satire on the corruption scandal that blew up in late 1724 around the Lord Chancellor, the Earl of Macclesfield, who was impeached following irregularities in Chancery: "Those who plunder poor Orphans, pray answer me why?/ They deserve not a Rope more than Blueskin and I?"

Sheppard, John, Authentic Memoirs of the Life and Surprising Adventures of John Sheppard: Who was Executed at Tyburn, November the 16th, 1724. By way of Familiar Letters from a Gentleman in Town, to his Friend and Correspondent in the Country (2nd. edn.).

J.Marshall, London, 1724.

Price 1/-. Reprinted in Bleackley, p.170-95. Although includes an attack on Applebee's rival accounts, implies that there was some link between Applebee and Sheppard. Unlike The History and A Narrative includes an account of the hanging (this largely agrees with newspaper accounts).

Sheppard, John, Harlequin Sheppard. A Night Scene in Grotesque Characters.

J.Roberts & A.Dodd, London, 1724.

By John Thurmond, "Dancing Master". Price 6d. Includes a life of Sheppard. Published "This Day", Daily Post, 1616, 30 Nov. 1724. First performed by the Company of Comedians at Theatre Royal, Drury Lane on 28 Nov.: Bleackley, p.71. "The Scenes being all painted from the real Place of Action", Daily Post, 1616, 30 Nov. 1724.

Sheppard, John, The History Of the remarkable Life of John Sheppard, containing A particular Account of his many Robberies and Escapes.

J.Applebee, London, 1724.

Price 1/-. By D.Defoe. Published "This Day" Daily Journal, 1169, 19 Oct. 1724 (see also, 1168, 17 Oct. 1724). In Daily Journal, 1175, 26 Oct. 1724, advertisement for 2nd edn. apparently of this pamphlet although titled, "The History of the surprising Life and Adventures of John Sheppard", published on 24 Oct.; 3rd

edn. also with this title, Daily Journal, 1181, 2 Nov. 1724. Last advertised in Daily Journal, 1191, 13 Nov. 1724. Reproduced in Bleackley, pp.137-58.

Sheppard, John, Sheppard in AEgypt; or, News from the Dead, Being a Letter from John Sheppard to Frisky Moll, and his Executor. Giving a most entertaining Account of his Arrival and Reception at Styx, with sundry remarkable Adventures as happened to himself, to Blueskin and Houssure the French Barber, and to many other defunct Robbers, Murderers, and Traitors, &c. Together with the Censures passed on the late Night Scene of Harelquin Sheppard, and the Play of Casar in AEgypt, at the Shades. Also a poetic Epistle from Charon to Jonathan W--d; with many other Particulars.

A.Dodd, W.Bristowe & T.Warner, London, 1724.

Price 6d. "Just published", The Evening Post, 1228, 26 Dec. 1724. Bleackley notes a fifth edn in 1724 (p.128). Caesar in AEvgpt, a play by Cibber, had been published two weeks before as was being acted at Theatre Royal, Drury Lane, The Evening Post, 2401, 15 Dec. 1724.

Sherwin, John, The Gotham Swan: or, the Rook's Flight from Gravesend. Being the Remarkable Case of Sherwin and his Wife Written by Himself: In Vindication of their Innocent and Wrongful Sufferings by the False Accusations of Thomas Goodman of West-Smithfield, And the horrible Contrivances of William Silver, Innkeeper, Constable, and Post-Master of Gravesend. As it was given to the Honourable Mr. Justice Probyne, at Maidstone Assizes 23. 1730.

Mrs. Bragg [London], 1730.

Shiel, Dennis, The Case of Dennis Shiel, condemned to die, and now sentenced to be transported for life to Botany Bay.

London, 1810.

By Basil Montagu (1770-1851: see D.N.B.) who was initially convinced of Shiel's innocence, but who later changed his mind.

Shirley, Laurence (Earl Ferrers), An Account of the Execution of the late Laurence Earl Ferrers, Viscount Tamworth, and of His Lordship's Behaviour, From the Time of his being

delivered into the Custody of the Sheriffs of London and Middlesex, Until the Time of his Execution.

London, 1760.

Walpole's accounts fill in many of the gaps in this pamphlet: Lewis, Letters, passim.

Shirley, Laurence (Earl Ferrers), The Trial of Lawrence Earl Ferrers, for the Murder of John Johnson, before the Right Honourable The House of Peers, in Westminster-Hall, in Full Parliament.

London, 1760.

Shrewsbury, Mary, God's Judgment against False Witness. To which is added. An Account of the Execution of Mary Shrewsbury, for the Murder of her Bastard Child.

n.p., n.d.

Moralising tract about John Sims, who falsely accused his maid, Mary Small, of theft, and about Mary Shrewsbury.

Simons, Henry, The Case of Henry Simons, A Polish Jew Merchant; And his Appeal to the Public thereon. Now publish'd, with the Tryal at Chelmsford, for the Benefit of Him and his unhappy Family.

London 1753.

Price 1/6d.

Simms, Henry, Hanging no Dishonour. Being a Modest Attempt to prove That such Persons as have the Honour to make their Exit at the Triple-Tree are not always the greatest Villains in the Nation. In a Letter from Gentleman Harry, Now under Sentence of Death in Newgate. Addressed To Villains of all Denominations in Great-Britain.

London, 1747.

An attack on corrupton in state, army, navy and law: "the Partiality of human Laws, that seem to be calculated for punishing the petty Rogue and rewarding the arch Villain" (p.6)

Simms, Henry, Life of Henry Simms, alias Young Gentleman Harry. From his Birth, to his Death at Tyburn, on Wednesday June 17, 1747.

T. Parker & C. Corbett, London, 1747.

Skinner, John, The Life and Behaviour of John Skinner, Who was Executed August 29, 1746, at Chelmsford in Essex for the Murder of Daniel Brett, (his late Servant) the 23d of May, 1744.

J.Thompson, London, [1744].

Price 3d. Skinner, otherwise "Colchester Jack", failed businessman who turned to smuggling; murder arose from quarrel over contraband goods. Includes lengthy note of affidavits before Essex justice of the peace (pp.4-12), account of trial short (pp.13-4), then short biography.

Slaughterford, Christopher, An Account of the Dying Behaviour of Christopher Slaterford, Executed at Guilford on Saturday the 9th of July for the Murder of Jane Young. Taken by Mr. Keith, Minister in the Marshalsea, during his Imprisonment there. Also a Genuine Copy of the Paper he deliver'd to the Sheriff of Surrey, at the time of his Execution.

J.Morphew, London, 1709.

Similar in style to Ordinary of Newgate's Accounts, although no sermon included. Slaughterford initially acquitted at Kingston assizes, convicted on an appeal at Queen's Bench, hanged at Guildford.

Slaughterford, Christopher, The Full Tryal, Proceedings, and Condemnation, of Christopher Slaughterford, upon an Appeal for the Murder of Mrs. Jane Young, his Sweetheart, at Gullford in Surry; at the Queen's-Bench-Bar at Westminster, on Saturday June the 25th 1709. before the Lord Chief Justice Holt, &c.

n.p., London, 1709.

Summary of trial.

Smith, Capt. Alexander, Memoirs of the Life and Times, Of the

famous Jonathan Wild, Together with the History of Modern Rogues, Several of 'em his Acquaintance, that have been Executed before and since his Death, for the High-Way, Pad, Shop-Lifting, House-Breaking, Picking of Pockets, and impudent Robbing in the Streets, and at Court.

For Sam Briscoe, sold by J.Jackson, J.Isted, J.Crokatt & T.Worrall, London, 1726.

Reprinted as Memoirs of the Life and Times of the Famous Jonathan Wild (intro. M.J.Bosse), New York, 1973.

Smith, Elizabeth & John, Brownrigg the Second; or the Cruel Stepmother The Full Particulars of the Trial and Execution, of John and Elizabeth Smith, At Ipswich in the County of Suffolk. For the Murder of Mary Ann Smith aged Eight years, daughter of John Smith, by a former Wife by cruelly treating, beating, and other wise inhumanly treating her, so that a Mortification took place in her Feet which deprived her of life. To which is added the Trial and Execution of Edmund Thrower, for the Murder of Thomas Carter and Elizabeth Carter At Cratfield in Suffolk, Nineteen Years Ago, And the extraordinary manner in which he was detected.

J.Pitts, London, n.d.

Price 1d. Early C19th.

Smith, Gill, A Full, True, and Genuine Account Of the Uncommon Behaviour of Mr. Gill Smith, Late of Dartford, in Kent, Apothecary; From the Time of his receiving Sentence of Death, to his Execution, on Monday, April the 10th, 1738. Together with the Copy of a Letter, That was sent by his Mother to him, reproaching him with an Attempt to poison her, and his Answer. To which is added, The Genuine Confession, Behaviour, and Dying Words. Of all the seven Malefactors that were Executed at Guildford, on Wednesday, April the 5th, 1738.

A.Ilive, Southwark, 1738.

Price 3d. Murder. Biography, including account of unconcerned behaviour after condemned; maintained his innocence.

Smith, James, The Remarkable Life of James Smith, A Famous Young Highwayman, Who was Executed at Surbiton-Common, near Kingston upon Thames, on Thursday, the 9th Day of September,

1756, for a Robbery in Surrey.

For R.Davis, M.Cooper, London, [1756].

Price 6d. Alleged to have been written by Smith in Kingston gaol (t-p). Includes dying-speech of John Lauden, executed Maidstone 16 Aug. 1756.

Smith, Mary, An Account of A Dreadful Murder committed by Miss Mary Smith, of Thornbury, On the body of her Father, Sir John Smith, by poisoning him, For Love of a Young Man; With an Account of her Trial, and Dying Speech, at the place of execution, which was in Gloucester Market Place at the last Assizes.

Jennings, London, n.d.

Price 1d. "Also an Account how the young Man died for Grief, &c."

Smith, Mary, The Glocestershire Tragedy; being an Account of Miss Mary Smith, of Thornbury, Who Poisoned her father, Sir John Smith, For Love of a Young Man.

Howard & Evans, London, n.d.

A reprint of preceding item.

Smith, Capt. Thomas, Captain Smith's Letter to the World, Whilst under his Unhappy State of Condemnation. Written with his own Hand, and published at his own Request.

Printed by R.Clare for T.Smith, London, 1708.

Hanged for fighting for France (high treason). This is more detailed than Ordinary of Newgate, Account, 18 June 1708, but basically the same story, except that this is slightly more favourable to Smith. The Account does not mention his claim that he tried to get onto an English ship. See A True Copy.

Smith, Capt. Thomas, The Memorial of Capt. Thomas Smith, Late Commander of the Nightingale: Wherein a True State of his Case is deliver'd; with Certificates, proving his Conduct and Services to the Nation.

For T.Smith, sold by B.Bragge, London, [1708].

Price 1d. Published in response to "a False Paper". See A True Copy.

Smith, Capt. Thomas, A True Copy of the Paper Delivered by Capt. Thomas Smith, alias May, to Mr. Robert Clare, in the Presence of the Reverend Paul Lorrain, Ordinary of Newgate, and all the Spectators, at Execution-Dock, on Friday the 18th of June, 1708.

Printed by D.Rogers for Robert Clare, London, 1708.

Says that Memorial and Captain Smith's Letter are by Smith and were both given to Clare who published them while Smith wrote A True Copy. Ordinary of Newgate, Account, 18 June 1708, does not mention the handing over of this paper.

Smith, Thomas, The Trial of Thomas Smith, and John Kennedy, for A Highway Robbery, committed On the Body of John Matthews, in the Parish of Rickmersworth, Herts. on Sunday Evening the 13th of May last. As also, A particular Account of the Circumstances attending the discovery thereof, and of the Persons of the Robbers.

Printed by T.Lake, Uxbridge, 1787.

Describes crime and pursuit led by Swannell, an attorney; he also checked the alibis offered and the character of the prosecutor.

Smith, Thomas, Last Dying Speech of Thomas Smith, jun. John Dennis, Issac Harley, Jun. Wm. Beamiss, sen. and George Crow, Executed for Rioting at Ely, on Friday, June28, 1816.

Birchinall, Bury, [1816].

Price 1d.

Smith, William, An Authentic Account of the Life and Memoirs of Mr. William Smith, an Unfortunate Convict, Executed at Tyburn, in the 3d of October, 1750, for Forgery. In which are inserted some Original Letters, and an Ode never yet published. Also the Speech of Great Prelate, to an Eminent Lady, on her presenting a Petition in his Behalf. The Whole carefully supervised by a Gentleman, late of Trinty-College, Dublin, to whom he commited the Inspection of all his

Letters, Papers, &c. for the Satisfaction of the Public, Written by Himself.

J.Jeffries, London, 1750.

Price 6d. Ordinary's Account (3.10.50, pp.92-9) provides same story, but with more detail and omits the odes. Obtained contributions towards his burial through advert in London Gazetteer (Ordinary pp.98-9).

Speckman, Charles, The Life, Travels, Exploits, Frauds and Robberies, of Charles Speckman, alias Brown, Who was Executed at Tyburn, on Wednesday the 23d of November, 1763.

London, 1763.

An important biography. Includes praise for John Fielding's police plans and an attack on the Ordinary.

Spiggot, William, An Authentic Trial of William Spiggot, otherwise Spicket, John Spiggot, otherwise Spickett, William Morris, William Thomas, otherwise Blink, David Morgan, otherwise Lacey, William Walter Evan, Charles David Morgan, William Charles, and David Llewellin, who were tried on Wednesday, the 28th of March, 1770, at Hereford, before The Honourable Mr. Baron Perrott and Mr. Justice Yates, for the Inhuman Murder of William Powell, Of Glanareth, in the County of Glamorgan, Gent.

C.Pugh, Hereford; W.Owen & R.Baldwin, London, 1770.

An apparently full account: "This Trial could not well be digested in any other Method than by Question and Answer, as the Evidence was mostly given in the Welsh Language." For an annotated copy, together with newspaper cuttings, letters, manuscript copies of the confessions of two of those condemned and newspaper cutting about the trial of Marmaduke Bowen, acquitted as accessory, see, N.L.W. Mss., Castell Gorfod 34 & 35. A fuller version than The Trial (below) includes examinations before justices (see also Hanes Gwyir o Drial), the indictment in full, calling of the jurors, opening speeches by prosecuting counsel, the involvement of the interpreter for Welsh-speaking witnesses and prisoners, and the constant interruptions of the judges to ask questions - none of which appear in The Trial. Although latter has longer extract on legal argument in arrest of judgment and provides summing-up not in An Authentic. In essence An Authentic, Hanes Gwyir o Drial

and The Trial provide broadly same account.

Spiggot, William. A Narrative of The unexampled cases of William Spiggot, William Morris, David Morgan, William Walter Evan, Charles David Morgan and David Llewellin who were executed at Hereford on Friday the 30th of March 1770 for murdering William Powell of Glanareth near the town of Llandilovawr in the County of Carmarthen on the night of Monday the 8th of January 1770.

See, N.L.W. Mss., Castell Gorfod 35.

Spiggot, William, Hanes Gywir o Drial William Spiggot neu Spickett, John Spiggot, neu Spickett. William Morris. William Thomas, neu Blink. David Morgan, neu Eurych Diog. William Walter Evan, Charles David Morgan a'i Fab, a Dafydd Lywelin. Pa rai a driwyd ar Ddydd Mercher, yr 28 o Fawrth 1770, yn Henfordd, o flaen Yr Anrhydeddus Mr. Barron Perrott, a Mr. Justice Yates, am y Glanastra Annynol y Wnaethant ar William Powell, O Lanaraeth yn Sir Gaerfyrddin, Pendefig.

R.Thomas, Llanymddy fri, 1770.

N.L.W. copy has last page(s?) missing. Opens with Welsh version of opening page of An Authentic Trial ([p.iii]), and has the examinations which appear in an English form in An Authentic Trial. Truncated Welsh version of the trial.

Spiggot, William, The Trial of William Spiggot, alias Spickett, John Spiggot, alias Spickett, Wm. Morris, Wm. Thomas, alias Blink, David Morgan, alias Lacy, Wm. Walter Evan, Cha. David Morgan, Wm. Charles, and David Llewllin, for the Murder of Will. Powell, Esq; of Glanareth, In the Parish of Langaddock in the County of Carmarthen; at the Assizes held at Hereford, On Wednesday the 28th of March, 1770; before Sir Joseph Yates, Knt.

Glocester, printed by R.Raikes & sold by S.Bladon (London), C.Badhman & M.Davis (Hereford); P.Davis (Leominster), H.Berrow (Worcester), J.Evans (Carmarthen), "and by the Distributors of the several Newspapers, &c. &c.", [1770].

Spufford, James, The Trial and Execution of James Spufford aged 20 years. Joseph Deeley, aged 18 years Who were capitally convicted at Aylesbury March Assizes of Assaulting and Robbing William Read on the Kings Highway and Executed on

Friday Morning.

n.p., n.d.

Stanley, John. The Life of Mr. John Stanley, Of his Parents: How serv'd by Officers in his Education. How harden'd when a Boy in Spain Gets to be an Ensign in Ireland. How used by Mrs. Old-d. Triumphs over three of Mrs. Needham's Virgins in Clerkenwell Bridewell. Attack'd and admir'd by Thieves. With Captain Faulconer before he was kill'd, but escapes Mr. Winchurch's Sword. Wy forced to turn Knight Errant. Preaches to Strumpets. How he miss'd the Murder of the Watchman in the Strand.

Printed by J.Applebee, sold by T.Warner, London, 1723.

Price 1/-.

Stringer, John. The Trials Of all the Prisoners Who were Try'd, Cast and Condemn'd at the Assizes at Kingston. Also the Dying Words of John Stringer, Who was executed this day at Kennington Common, for the murder of his Wife.

E.Smith, Southwark, [1765].

Published the day of execution. Brief report of name, charge, sentence and Stringer's dying repentance, but no note of the evidence presented.

Surrey, The Proceedings of the Sessions of Oyer and Terminer, and General Goal Delivery, Kingston-upon-Thames for the County of Surrey...

- [22-25 August 1739]: W.Rayner, London, 1739.

Price 3d.

- [28 March - 3 April, 1759]: M.Cooper, London 1759.

Price 6d. Shorthand by Issac Harman, assistant to Thomas Gurney.

Surrey, The Calendar and Sentences of the Prisoners, at the Lent Assizes, at Kingston-upon-Thames, on Monday, the 29th day of March, 1813. With the Trial and Execution of Sarah Fletcher, for the wilful Murder of her New-Born Male Child, at Wandsworth.

Jennings, London, n.d.

Fletcher's crime and her behaviour at the gallows; lists prisoners, indictments and verdicts.

Sussex. The Trials of the Sussex Smugglers, and the Other Prisoners, at the Assizes held at East-Grinstead for the County of Sussex, On Monday, Tuesday, Wednesday, and Thursday, the 13th, 14th, 15th, and 16th of March, 1748-9, before the Honourable Mr. Justice Dennison.

B. Dickinson, London, 1749.

Price 6d. Published "This Day", Whitehall Evening-Post, 486, 23 March 1749.

Sussex. The Whole Proceedings of the Special Commission of Oyer and Terminer and Gaol Delivery, for the County of Sussex, held at Chichester, the 16th, 17th, and 18th of January last; before the Hon. Mr. Justice Foster, Mr. Baron Clive, and Mr. Justice Birch.

C. Davis, A. Millar, M.Cooper, London 1749.

By Wm. Fletcher & Wm. Milton.

Swan, John. Authentick Memoirs Of the Wicked Life and Transactions of Elizabeth Jeffryes, Spinster, Who was Executed on Saturday, March 28, 1752, on Epping-Forest, near Walthamstow, For being, concern'd in the Murder of her late Uncle Mr. Joseph Jeffryes.

Printed & sold by T.Bailey, London, 1752.

B.L. copy has a second title-page: The Whole Tryal of John Swan and ELizabeth Jefferies, for the murder of Her Uncle Mr. Joseph Jeffries, at Walthamstow, in Essex, On the Third Day of July 1751, At the Assizes held at Chelmsford in Essex, on Wednesday the 11th of March, 1752: printed & sold by T.Bailey, London, [1752]. Includes indictment which is not in The Trial at Large (pp.5-6), but latter has fuller account of opening speech (Authentick omits two chunks), also The Trial at Large provides more of witnesses' evidence, some of omission from Authentick are important (compare evidence of Buckle and Gallant, also omits important defence evidence, see The Trial at Large, p.24). Seems to be a

cheap, abridged version of The Trial at Large.

Swan, John, The Authentick Tryals At Large of John Swan and Elizabeth Jeffryes, for the Murder Of the late Mr. Joseph Jeffryes, of Walthamstow. And of Henry Simmons, a Polish Jew.

R. Walker, London, 1752.

Three editions in 1752.

Swan, John, The Authentick Tryals of John Swan, and Elizabeth Jeffryes, For the Murder of Mr. Joseph Jeffryes of Walthamstow in Essex: with The tryal of Miss Mary Blandy, for the Murder of her own Father. To which is added, The Particulars relating to those horrid Murders; the Behaviour and Dying Speeches of the Criminals; and whatever else is to be relied on as a true History of those memorable Offenders.

R.Walker for W.Richards (Oxford), London, 1752.

Trial of Swan and Jeffryes at pp.5-49, biographies at pp.49-74. Although omits opening speech, does include things not in The Trial at Large (see evidence of Buckle), but is generally shorter than, and presents evidence in different order to, the latter.

Swan, John, The Genuine Trial of John Swan and Elizabeth Jeffreys, Spinster, for the Murder Of her Late Uncle Mr, Joseph Jeffreys of Walthamstow in Essex, at the Assizes, On Wednesday, March 11, 1752, Before the Honourable Mr. Justice Wright.

C. Corbett, London, [1752].

Two editions 1752. Trial lasted 13 hours; the Crown had 6 counsel and the defence 2.

Swan, John, The Trial At Large of John Swan and Elizabeth Jeffreys, Spinster, For the Murder of her late Uncle Mr. Joseph Jeffreys of Walthamstow in Essex, On Wednesday, March 11, 1752.

C.Corbett, London, [1752].

Price 6d. The best version, although see The Authentick Memoirs and The Authentick Tryals of John Swan.

Swendsen, Haagen. The Full Tryals Examination and Conviction, of Hagon Swanson, and Sarah Benton.

J.Alkin, London, [1702].

Summarises the evidence in two pages. See The Tryals.

Swendsen, Haagen. The Last Dying Words and Confession of Haagen Swendsen, Who was Convicted and Executed for Stealing Mrs. Rawlins an Heiress, deliver'd by him to Mr. Hainks, Minister of the Queens Bench, and Mr. Ursin, a Danish Minister. Written with his own Hand, and desir'd they might by Printed.

J. Nutt, London, 1702.

Swendsen tried at the Court of Queen's Bench.

Swendsen, Haagen. The Tryals of Haagen Swendsen, Sarah Baynton, John Hartwell and John Spurr. For Feloniously Stealing Mrs. Pleasant Rawlins, A Virgin and Heiress of a Considerable Fortune: with An Intent to Cause and Procure the said Pleasant Rawlins against her Will, to Marry the said Haagen Swendsen. At the Queens Bench Bar at Westminster, Nov. 25. 1702.

Issac Cleave, London, 1703.

Authorised by Lord Chief Justice Holt (verso of t-p). Far more detailed than The Full Tryals with 30 pages, close-printed; authorised by Holt, L.C.J. (verso of t-p) who forbids others to print the trial. Holt, in passing the death sentence: "Your offence hath been in a Nation where Property is better preserv'd than in any other Government in the World. Here it is Death for a man to take away anythng, tho never so small, by way of robbery, how much worse is it for you to take away the Child of a Man, and with her all that he hath gotten by his Industry all his Life time at once; this is most certainly a very great offence against the Publick, being so great a violation of Property, and the injury you have done to this Woman is very great too and cannot be repair'd."

Swendsen, Haagen. The Whole Life, Actions and Conversation, of Mr. Haagen Swendsen the Danish Merchant, From the time of

his Birth, to the unfortunate time of his Death; being Executed on Wednesday the 9th of December 1702, for Stealing Mrs. Rawlins an Heiress.

T.Crane, London, 1702.

Swendsen declares Mrs. Beinton (who was condemned for the same crime) innocent (p.8).

Thornhill, Richard, A True Account of the What past at the Old-Bailey, May the 18th, 1711. Relating to the Tryal of Richard Thornhill, Esq; Indicted for the Murder of Sir Cholmley Deering, Bart. (2nd edition corrected).

J.Morphew, London, 1711.

Brief summary of evidence at trial and ruling on law relating to murder. A duel. Thornhill convicted of manslaughter in spite of a summing-up by the judges which indicated they believed the fact amounted to murder.

Timewell, George, The Trial of Mr. George Timewell, Late Secretary to Commodore Mitchell, who was tried on board the Katherine Yacht at Deptford, on Wednesday the 20th Day of July, 1748, For the Murder of Captain Thomas Gregory, Commander of his Majesty's Ship Folkstone; who was killed in a Duel, in the Province of Zealand in Holland, on Monday the 25th Day of January last. Taken in Court by Ralph Carter, Then Clerk to the Judge-Advocate.

R.Griffiths, London, 1748.

Price 1/-. Evidence summarised, but at some length. Timewell requests the withdrawal of prosecution witnesses until required to give evidence (p.4).

Tooley, Jeremy, The Tryals of Jeremy Tooley, William Arch, and John Clauson, Three Private Soldiers. For the Murder of Mr. John Dent, Constable, In the Parish of St. Paul's Covent Garden, March 18. 1708-9. Before the Right Honourable Sir John Holt, Lord Chief Justice of England. To which is added, A Sermon Preach'd at the Funeral of Mr. John Dent. By Thomas Bray, D.D.

London, 1732.

Dent was working for the societies for the reformation of manners.

Towne, Richard. A Particular Account of the Tryal of Richard Towne, Tallow Chandler, for Felony, In Defrauding his Creditors, by conveying away his Goods, Money, and Books of Accounts, and refusing to surrender them to the Commissioners in a Statute of Bankrupt.

J.Morphew, London, 1712.

Price 2d. Published by order of Sir Richard Hoare, Lord Mayor of London. Trial with summary of evidence of each of the main witnesses. This, A True Copy and Ordinary of Newgate, Account, 23 Dec. 1712, all published by Morphew and must be read together.

Towne, Richard. A True Copy of a Paper left by Mr. Richard Towne the Tallow-Chandler, Decmber the 23d, 1712. Written with his own Hand, and by him desir'd to be Published after his Execution.

J.Morphew, London, 1712.

Price 2d. See, Ordinary of Newgate, Account, 23 Dec. 1712, p.6.

Townly, Francis. A Genuine Account of the Behaviour, Confession, and Dying Words, of Frances Townly... Thomas Deacon, James Dawson, John Barwick, George Fletcher, and Andrew Blood...; Thomas Chadwick...; and Counsellor David Morgan... Who were Executed the 30th Day of July, 1746 at Kennington Common, For High Treason.

J.Nicholson, London, [1746].

Price 6d. Jacobites.

Turpin, Richard. The Genuine History of the Life of Richard Turpin, The noted Highwayman, Who was Executed at York for Horse-stealing, under Executed at York for Horse-stealing, under the Name of John Palmer, on Saturday Ap. 7.

J. Standen, London, 1739.

Price 6d. For recent biography see, Derek Barlow, Dick Turpin and the Gregory Gang, London 1973

Turpin, Richard. Life and Trial of Richard Turpin, A Notorious Highwayman containing A Particular Account of His Adventures, from his being first put an Apprentice to a Butcher in Whitechapel, to his execution at York for Horse-stealing. To which is added The Life of Sawney Beane, the Man Eater.

J.Roe & A.Lemoine, London, 1808.

Price 6d. Barlow, Dick Turpin, refers to this as "Precursor of a new wave of Turpin "fictions"." (p.454)

Turpin, Richard. New News; great and wonderful News from London in an Uproar; or a How and Cry after the great Turpin, with his Escape into Ireland.

n.p., [1737].

Poem alleging that Turpin had escaped to Ireland and conferring Robin Hood status on him: "He only taketh from the Rich/ What they well can spare" (p.7).

Turpin, Richard. The Trial Of the Notorious Highwayman Richard Turpin, At York Assizes, on the 22d Day of March, 1739, before the Hon. Sir William Chapple, Knt, Judge of Assize, and one of His Majesty's Justices of the Court of King's Bench (4th edn).

Ward & Chandler, York & London, 1739.

Four editions 1739. 4th edition prefaced by biography of Turpin as reprisal against Genuine; includes a lengthy attack on that work.

Tutty, William. The Want of a Religious Education, and keeping bad Company, destructive to virtuous Principles. A Sermon Preach'd the 20th of March, At Hereford, The Sunday before the Execution of the two Convicts viz. Thomas Bibby, for Robbing the Chester Mail; With a distinct Relation of his breaking out of Newgate: And Thomas Flack, for robbery upon the Highway.

London, 1747.

Tyburn. The Contrast, or Behaviour of Two Criminals Of very

Contrary Principles, Both executed at Tyburn, In the Reign of Charles the second;when Atheism, Infidelity and Licentiousness, were very predominant in High Life; and Enthusiasm and Bigotry were no less prevalent among the Lower Sort of People; With Curious and Useful Remarks Suited to the Present Times. And Some Thoughts on the Most probable State of Existing Spirits after Death.

J.Wren, London, 1761.

Price 1/-. A rambling discussion of science and theology.

Varley, Richard, A Brief Account of the Life and Death of Richard Varley, who was Executed at York, August 28, 1756. Containing his Conversion while under Sentence of Death in York Castle. To which is added A Remarkable Letter, Written by him to som Christian People in York; with another Letter from them, giving their sentiments of his Conversion. Likewise a Word of Advice to Young People, and a Letter which he sent to his Wife on the Day of his Execution.

R. & J.Richardson, York, 1815.

Vine, Rev. Peter, Execution of the Rev. Peter Vine Being an Impartial Account of the Life, Character, Behaviour, and last Dying Words of the Rev. Peter Vine, Vicar of Heartland, Who was Executed at Heavy Tree, Gallows, in the County of Devon, on Monday August 8th, for a rape and Murder, the first committed on the body of a child Eleven Years of Age, belonging to Mrs. Dark, in the aforesaid County, and the second on the Body of Roger Ashton, who went to Apprehend him after he had committed the Fact; with the remarkable Speech he made to the Populace at the place of Execution. Together with a Prayer he made use off, while under sentence of death.

J. Pitts, London n.d. 1d. (Reprinted by T.Evans, London n.d.)

Waller, John, The Life and Infamous Actions Of the Perjur'd Villain John Waller, Who made his Exit in the Pillory, at the Seven-Dials on Tuesday, the 13th Day of this Instant June.

London, 1732.

Walpole, Edward, A Genuine Narrative of the Conspiracy, by Kather, Kane, Alexander, Nickson, &c. against The Hon. Edward

Walpole, Esq. With an Account of their Trial Before the Right Hon. Lord Chief Justice Lee, In the Court of King's-Bench, Westminster-Hall, July 5th. 1751.

A.Henderson, T.Fox, B.Tavoy, B.Dickenson, London, [1751].

Price 6d. Short narrative of attempt to blackmail Walpole and subsequent trial.

Walpole, Edward, The Tryal of John Cather, Adam Nixon, David Alexander, and Patrick Cain, otherwise Kane, at the King's-Bench, in Westminster-Hall, By a Special Jury of Gentlemen, On Friday the 5th of July, 1751, for a Conspiracy against the Hon. Edward Walpole, Esq; In endeavouring to extort Money from him, under Pretence of an Assault with an Intent to commit Buggery on the Body of John Cather; with Copies of the several Records, and original Paapers relating thereto: And at the End of which Trial is inserted a full and impartial Narrative of the Whole of that wicked Conspiracy, particularly That of the Attempt to charge Mr. Walpole with Forgey. To which is Annexed, for the Use of the Gentlemen of the Law, An examined Copy of the remarkable Record on which the Defendants were tried for the said Conspiracy, well worthy of Perusal, the same having been settled by the greatest Men of the Profession.

R.Walker, London, 1751.

Price 1/-. Much fuller account of trial (although summarises the evidence of each witnesses) and surrounding circumstances than the previous item. The attempt to charge Walpole with forgery involved William Smith.

Watson, John, Fatal Love! Or an account of that Cruel and Inhuman Murder which was committed on the body of Mary Johnston, a young Servant Girl, near Blackburn, on Friday last, July 4th 1823, by John Watson.

Printed for John Thom, Edinburgh, [1823].

Price 1d. Same facts as Clarke, Matthew, Execution for Murder!.

Watts, Sir William, Dreadful News from Taunton Dean! God's Judgments against Jealous Persons; being an account of th emost horrid Murder committed by Sir William Watts.

J.Marshall, Newcastle-upon-Tyne, n.d.

Describes the crime, the confession (including a brief biography) and a sermon.

Weavers. A True Narrative of All the Proceedings against The Weavers.

n.p., London, 1675.

Special Commission 16 Sept. 1675.

Webb, John. A Full True and Particular Account of the Trial, Sentence and Execution of John Webb aged Sixty Three. Keeper of a Workhouse in Bedfordshire. For the Murder, of a Male Bastard Child.

J.Pitts, London, n.d.

Price 1d.

Wells, Paul. An Authentick Account of the Life of Paul Wells, Gent. who was Executed at Oxford, Sept. 1, 1749, for Forgery; Notwithstanding the Interest used to get him a Pardon. With an Account of his Crime, and Behaviour from the Time of his receiving Sentence to his Execution. Also the Reasons which prevented him from receiving his Majesty's Clemency. By a Gentleman of C.C.C. Oxon. (2nd edn.).

R.Baldwin, junior, London, 1749.

Price 6d. 1st edn. published "This Day", Whitehall Evening-Post, 572, 10 Oct. 1749. 2 editions 1749. For a copy of "The Last Dying Speech and Confession of Paul Wells" see Whitehall Evening-Post, 563, 19 Sept. 1749. See also, British Museum Add. Mss. 32719, fo. 50, letter from Bishop of Oxford. Walpole alleged that it was "a most trifling forgery" and that Wells was promised a pardon by the judge, but because this judge was attached to the Prince of Wales the King refused it; this act, according to Walpole, "will stamp his name with cruelty"; H.Walpole, Memoirs of King George II, (J.Brooke, ed.), 3 volumes, London, 1985, vol. I, p.106.

Wemms, William. The Trial of William Wemms, James Hartegan, William M'Cauley, Hugh White, Matthew Killroy, William Warren, John Carrol, and Hugh Montgomery, Soldiers, in his

Majesty's 29th Regiment of Foot, For the Murder of Crispus Attucks, Samuel Gray, Samuel Maverick, James Caldwell, and Patrick Carr, On Monday Evening, the 5th of March, 1770.

T.Evans, Boston & London, [1770].

Shorthand by John Hodgson, "published by Permission of the Court" (title-page); apparently verbatim account; trial at Boston, Suffolk.

Westcote, John. An Account of John Westcote, Late Porter To the Right Honourable The Earl of Harrington. In which is laid down Am Effectual Method For preventing Theft and Robbery.

London, [1765].

Weston, George. Genuine Memoirs of the Lives of George and Joseph Weston, Who were executed September 3d. 1782. The first for Forgery; the Latter for Shooting at John Davis, and wounding him in Cock-Lane.

J.Walker, London [1782].

White, Huffey. A True Account of the Life, Trial, and Execution, With the Dying Confession of Huffey White and Robert Kendall, who were executed at Northampton, On Friday, the 27th of August, 1813. For Robbing The Leeds Mail Coach.

Yarmouth, [1813].

White, Samuel. The Full and Whole Tryal of Mr. Samuel White, Merchant, Before the Honourable Sir Charles Hedges, one of the Lords of the Admiralty, and other of Her Majesty's Judges, on Tuesday the 8th of this Instant February, at the Marshals Court in Southwark, for Felony, in procuring the Ship, called the Rainbow, to be sunk at Sea.

J.Bradford, London, 1704.

Acquitted, as was John Elms (charged with murder). Evidence summarised in 2 pages.

Whitney, James. A Full and True Account of the Apprehending James Whitney, The Notorious Highwayman; near Bishopsgate.

Randal Taylor, London, n.d.

Captured by a crowd after a chase.

Wild, Jonathan, Blueskin's Ballad.

n.p., n.d., 1724-5.

Ballad: an attack on the corruption of those in high places.

Wild, Jonathan, England's Ingratitude: or Jonathan Wild's Complaint.

T. Hume, Dublin, 1725.

Poem forecasting that Wild will be missed when people seek to recover their stolen goods: "Then you'll repent, too late then in vain/ Will you wish to have your Jonathan again!"

Wild, Jonathan, The Last Speech Confession, and Dying Words of Jonathan Wilde.

n.p., Dublin, 1725.

On Wild see also, Ordinary of Newgate, Account, 24 May 1725; H.Bleackley, Jack Sheppard, Edinburgh, 1933, pp.199-242; G.Howson, Thief-Taker General: The Rise and Fall of Jonathan Wild, London, 1970.

Wild, Jonathan, Life of Jonathan Wylde.

For H.Woodgate & S.Brooks, London, [1759?].

Not seen; listed as in print in 1759 in the back of The Lives and Adventures of The most notorious Highwaymen, Street Robbers and Murderers.

Wild, Jonathan, Weighley, alias Wild. A Poem in Imitation of Hudibras. To which is annex'd, A more genuine and particular Account in Prose, than any yet published, of the most remarkable Events, and Transactions, of his Life, from the Time of his Birth to his Execution. Also Jonathan's last Farewel and Epitaph, with a Song, never before Printed. By N.P. Many Years his initmate Acquaintance.

For J.Roberts, London, 1725.

Price 6d.

Wild, Jonathan, A True and Genuine Account of the Life and Actions of the late Jonathan Wild, Nor made up of Fiction and Fable, but taken from his Own Mouth, and collected from Papers of his Own Writing.

J.Applebee, London 1725. By Daniel Defoe.

Wild, Jonathan - see also, Smith, Captain Alexander.

Wilkes, John, The Penitent Thief; or a Narrative of Two Women fearing God, who visited in Prison a Highway-man, Executed at Stafford, April the 3d, 1773, with a Letter to a Condemned Malefactor: and a Penitential Office for either a True Churchman or a Dying Criminal. By a Country Churchman (2nd edn.).

n.p., 1773.

By Rev. John Fletcher.

Williams, Renwick, A Full Account of the Trial of Renwick Williams, commonly called the Monster, at the Old Bailey. On Thursday the 8th of July, 1790, For assaulting and wounding Miss Porter, Miss Frost, Mrs Davis, Mrs Godfrey, Mrs Forster, Elizabeth Baughan, and Frances Baughan.

J.Smith, London, 1790.

Shorthand by Nathan Jenkins. Only 32 pages, The Trial at Large is 55 pages; summarises some evidence and omits some. See next item.

Williams, Renwick, The Trial at Large of Rhynwick Williams, at The Old Bailey, July 8th. 1790, before Judge Buller, For maliciously and feloniously making an Assault on Miss Ann Porter, and cutting her Cloak, Gown, Stays, Petticoats, and Shift; with the Pleadings of the Counsel, and Judge Buller's excellent charge to the Jury, verbatim.

R.Butters, London, [1790].

Price 2/6d. Shorthand by E.Hodgson, "Shorthand writer to

the Old Bailey." (title-page). The preferred version, but omits 9 defence witnesses (p.49).

Wilson, Ralph, A Full and Impartial Account Of all the Robberies Committed by John Hawkins, George Sympson, (lately Executed for Robbing the Bristol Mails) and their Companions (2nd edn.).

J. Peele, London, [1722].

Price 6d. 5 editions 1722-3. Turned Crown evidence against Hawkins (see Hawkins, William) and this is sensational confession. Wilson observes that "several Persons who have saved their Lives this way, have at last been hanged themselves" (p.25). An important work. "there is no Life so gloomy as the Life of an Highwayman; he is a Stranger to Peace of mind and quiet Sleep; he is made a Property of, by every Villain that knows or guesses at his Circumstances" (p.9).

Winchester Tragedy, The Winchester Tragedy A True and Particular Account of a Cruel Inhuman Murder! Committed on the Body of Mary Thomas, near Winchester, in the County of Hants, by John Williams, A Young Farmer in the same Neighbourhood, on Sunday last.

T.Evans, London, n.d.

Price 1d. Three printings published each with different engravings, but the same text.

Winter, Captain Francis, An Account of the Condemnation, Behaviour, Execution, and Last dying Words of Captain Francis Winter.

By J.B. for Randall Taylor, London, 1693.

Price 1d. Manuscript date on B.L. copy 19.5.1693.

Wood, Samuel, Some Particulars of the Life, Trial, Behaviour, and Execution of Samuel Wood, (Aged Thirty,) Who was Executed on Nottingham Gallows, on Thursday, March 16, 1826, for the Wilful Murder of his Wife.

Sutton & Sons, Nottingham, [1826].

Published day of execution: see text. BL has other

broadsheets by Sutton & Sons: see Sanderson and Roe shelved at 1889d3(200), (204).

Wybrants, Bartholomew, The Case of Bartholomew Wybrants, Gent.

London, 1711.

Seeks recovery of money spent in discovering a murder.

COLLECTIONS OF TRIALS AND BIOGRAPHIES

The Annals of Newgate; or, Malefactors Register (4 volumes).

J.Wenman, London, 1776.

By Rev. John Villette, Ordinary of Newgate. Perhaps the most useful of the "Newgate Calendars" since it seems to have been based on primary sources such as the Ordinaries' Accounts and the Old Bailey Sessions Papers.

A Collection of Dying Speeches Of all those People call'd Traytors, Executed in this Reign, from Colonel Henry Oxburgh, to the late Mr. James Shepheard.

W.Boreham, London, 1718.

Price 1/-.

A Complete Collection of Remarkable Tryals of the Most Notorious Malefactors, at the Sessions-House in the Old Bailey, for near Fifty Years past.

London, 1718-21.

4 volumes.

A Complete History of the Lives and Robberies of the Most Notorious Highway-Men, Footpads, Shop-Lifts, and Cheats of both Sexes, in and about London, Westminster, and All Parts of Great Britain, for above an Hundred Years Past, Continu'd to the Present Time.

London, 1713-14.

3 volumes. By Captain Alexander Smith.

A General History of the Lives and Adventures of the Most Famous Highwaymen, Murderers, Street-Robbers, etc. To which is added, A Genuine Account of the Voyagers and Plunders of the most Notorious Pyrates Interspersed with several diverting Tales, and pleasant Songs. And adorned with the Heads of the most Remarkable Villains, Curiously Engraven on Copper.

J.Janeway, London, 1734.

Folio. "a Biographia Britannica for all rogues from the days of Falstaff" (Stauffer, p.232).

A General History of the Robberies and Murders Of the most notorious Pyrates, and also Their Policies, Discipline and Government, From their first Rise and Settlement in the Island of Providence, in 1717, to the present Year 1724.

Ch.Rivington & J.Stone, London, 1724-8.

2 volumes. Volume 2, published 1728 with slightly different title) By "Captain Charles Johnson", i.e. Daniel Defoe, on authorship see, J.R.Moore, Defoe in the Pillory and other Studies, Blommington, Indiana, 1939, pp.129-88; D.Defoe, A General History of the Pyrates (ed. M.Schonhorn), London 1972, pp.xi-xl.

Juryman's Monitor. The Cries of Blood, or Juryman's Monitor. Being an Authentic and Faithful Narrative of the Lives and Melancholy Deaths Of several unhappy Persons, who have been Tried, Convicted and Executed, for Robberies and Murders, of which they were intirely Innocent. Together With a brief Relation of the Means in which the said Crimes were discovered, after the deaths of the several Unfortunate Persons herein related.

J.Cooke, London, 1768.

Price 18d.

The Malefactor's Register; or, The Newgate and Tyburn Calendar.

London, [1779].

5 volumes.

The New Newgate Calendar, being Interesting Memoirs of Notorious Characters, Who have been convicted of outrages on the Laws of England.

London, 1809.

By A.Knapp & W.Baldwin.

Select Trials at the Sessions-House in the Old-Bailey, for

Murder, Robberies, Rapes, Sodomy, Coining, Frauds, Bigamy, and other Offences. To which are added, Genuine Accounts of the Lives, Behaviour, Confessions and Dying Speeches of the most eminent Convicts.

J.Applebee, James Hodges, London, 1742.

5 volumes.

Select Trials for Murder, Robbery, Burglary, Rapes, Sodomy, Coining, Forgery, Pyracy, and other Offences and Misdemeanours, at the Sessions-House in the Old-Bailey, To which are added Genuine Accounts of the Lives, Exploits, Behaviour, Confessions, and Dying-Speeches, of the most notorious Convicts, from the Year 1741 to the present Year, 1764, inclusive.

London, 1764.

4 volumes.

The Tyburn Chronicle; or, Villainy Display'd in all its Branches.

London, [1768].

4 volumes.

A SHORT-TITLE CATALOGUE OF THE LITERATURE OF CRIME WRITTEN BY REV. SAMUEL SMITH

Smith began writing accounts of condemned prisoners at least as early as 1679, when his name appeared on the title-page of An Account of the Behaviour of the Fourteen Late Popish Malefactors (item 1), but it is not until he began his collaboration with George Croom in 1684 that the Account as a serial publication begins. For his part George Croom began publishing in December 1683 what has since come to be called the Old Bailey Sessions Paper. Although this had appeared more or less regularly since at least the late 1670s, Croom had been granted a monopoly by the Lord Mayor of London, Henry Tube (O.B.S.P. 15-16.12.83; also 17-18.1.84; 15-16.5.84). In May 1684 Croom announced that he would also be publishing an account of the dying confessions of all those tried at the Old Bailey, "that the Buyer might not be Cheated by false ones which are commonly Publish'd the same Day." There then appeared, under Croom's imprint, A True Account of the Prisoners Executed at Tyburn, On Friday the 23d of May, 1684. This takes the form of reporting what the Ordinary has said about the prisoners' behaviour, and it is signed at the end by Smith under the statement, "I Subscribed this Narrative" (p. 4). Much of this publication is taken up with explanations for its appearance:

> The Ordinary of Newgate being desired to prevent for the Future all false intelligence concerning the Confessions and Dying Speeches of Malefactors at Tyburn; and considering the Presumption of some in

> Issuing out Publickly, pretended Confessions, hath been prevailed with, to prevent for the Future what Inconveniency may be consequent upon such false Accounts. (pp. 1-2)

The format of this Account was first to outline the condemned sermon, then to discuss the Ordinary's success or failure in bringing the condemned prisoners to repentance, and finally their behaviour at the gallows together with any incidental circumstances. Since Smith's name appears before this final part it may be that he did not write it. At about the same time Smith also wrote for Croom A True Relation Of the Execution of John Smith... And of Edward Jackson (1684). Both men had been condemned at the May sessions at the Old Bailey, but they were not included in the Account because they were hanged three days later on 26 May.

The placing of the Old Bailey Sessions Paper and the Account in the hands of one publisher seems to have been a feature of Smith's period as Ordinary until the early 1690s. David Mallet published the sessions papers which linked up with the two Accounts which have survived under his imprint in September 1686 and July 1687. From early 1688 to early 1689 Croom was the publisher of the sessions paper, but unfortunately if any Accounts were produced none seem to have survived. Langley Curtiss then took over the sessions paper, and the next surviving Account, for October 1689, was published by him. He continued to publish the Account up to and including the issue for June 1693. However, he seems to

have stopped publishing the sessions paper by 1692, and at this point the two publications were divorced. Others took over the sessions paper, with Baldwin eventually emerging with a monopoly in 1692-4, whilst from July 1693 Elizabeth Mallet published the Account, and it was Mallet who provided the continuity between Smith, Allen, Wykes and the early years of Lorrain. Finally, from a manuscript note on the B.L. copy of item 33 it would appear that the price of the single sheet Accounts by Smith was one penny.

The short title catalogue

No bibliography of Smith's work exists beyond the listings in the Union Catalog of the Library of Congress, in the British Library catalogue and Donald Wing's bibilography. Naturally both the library catalogues are incomplete, but also both fail to list all their holdings of works by Smith under his name. Wing's bibliography is the weakest of the three sources; its entries for Smith are generally not long enough to enable identification of a particular work to be made with any certainty, some works are included but not attributed to Smith, however the majority of his Accounts are not included. Finally, Linebaugh, who has provided the only bibliography of Ordinary's Accounts, entirely omits the work of Smith (other omissions from Linebaugh are noted elsewhere in this thesis.

The plethora of pamphlets on the behaviour, confessions

and last dying speeches of people hanged at Tyburn and at other places in London during the period when Rev. Samuel Smith was the Ordinary of Newgate mean that it is often difficult to be certain which pamphlets were by Smith. After 23 May, 1684 identification of the Accounts by Smith becomes easier since he and Croom adopted a policy of using a regular title and subscribing Smith's name at the end of the pamphlet, a practice which was followed by subsequent publishers of the Account. After May 1684 I have only included in the first section of the list those pamphlets, purporting to describe all the hanged or condemned, which have these two features. However, it is clear that Smith was at least involved in the publication of pamphlets on the hanged before May 1684, and it is the identification of these which causes the most difficulty.

The second section of the catalogue contains pamphlets which consist of descriptions or confessions of individual offenders and which were published separately from the Accounts, but in which Smith had a hand: sometimes he was the author, sometimes he claimed only to be the recipient of a paper written by a condemned prisoner which he transmitted to a publisher. The final item in this section is a general account by Smith of the hanging of pirates at Wapping.

Each entry is numbered in chronological sequence within its particular section and is set out as follows: first, the short title; second, the date of the execution referred to in

the pamphlet; third, the publisher; fourth, the number of pages and size of the page; fifth, Library location or locations; finally in brackets are any comments.

Since this is not intended as a comprehensive survey of Library holdings, I have only included at most two locations, one in the United Kingdom and one in the U.S.A.: in the United Kingdom I have noted the copy at the British Library (B.L.) in preference to copies located elsewhere, and in the U.S.A. I have preferred copies located at the William Andrews Clark Library since this contains the largest single holding of Smith's work.

Key to Library Locations:

B.L.	Brtish Library , London
Chetham	Chetham Library, Manchester
Folger	Folger Shakespeare Library, Washington D.C.
Guildhall	Guildhall Library, London
Harvard	Harvard University, Cambridge, Mass.
H.E.H.	Henry E. Huntingdon Library, San Marino, California
U.C.A.	University of California, Davis
W.A.C.	William Andrews Clark Library, Los Angeles

Place of publication: London
Year of publication: if not stated, then same year as execution

I. The Ordinary's Accounts

1. An Account of the Behaviour of the Fourteen Late Popish Malefactors, whilst in Newgate. And Their Discourses with the Ordinary...

   Printed for Tho. Parkhurst, Dorman Newman, Tho. Cockeril, Tho. Simmons, London 1679
   38pp. fol.
   B.L.

2. A True Account of the Prisoners Executed at Tyburn, On Friday the 23d of May, 1684. With their Behaviour in Newgate, since their receiving Sentence at the Old-Bayly and dying Confessions At the place of Execution:

   Geo. Croom
   4pp. fol.
   B.L.

3. The Behaviour of the condemned criminals in Newgate... 17.9.84

   Geo. Croom
   4pp. fol.
   Folger

4. [same title]
   21.1.84/5 [i.e. 21.1.85]

   Geo. Croom
   4pp. fol.
   Folger

5. [same title]
   4.3.84/5 [i.e. 4.3.85]

   Geo. Croom
   4pp. fol.
   B.L. (also Folger)

6. [same title]
   6.5.85

   Geo. Croom
   4pp. fol.
   Folger

7. The true account of the behaviour and confession of the condemned criminals in Newgate. Licensed by Sir Roger L'Estrange. (9 June, 1685)

   Geo. Croom

   [Price 6d. No copy located: entry in Stationers' Register, iii, p.286]

8. The True Account of the Behaviour and Confessions of the Condemned Criminals in Newgate. [23 July, 1685]

Geo. Croom
4pp. fol.
B.L.

[Note: executions were on 24 July, 1685, pamphlet published the day before, see p.4]

9. [same title]
20.1.85

Geo. Croom
4pp. fol.
Folger

10. [same title]
10.9.86

D.Mallet
4pp. fol.
Folger

11. [same title]
4.7.87

D.Mallet
4pp. fol.
B.L.

12. [same title]
23.10.89

Langley Curtiss
s. sh. fol.
B.L.

13. [same title]
26.1.90

Langley Curtiss
s. sh. fol.
B.L.

14. [same title]
26-27.2.90

Langley Curtiss
s. sh. fol.
W.A.C.

15. [same title]
9.5.90

Langley Curtiss
s.sh. fol.
H.E.H.

16. [same title]
12.9.90

Langley Curtiss
s.sh. fol.
H.E.H.

17. [same title]
24.10.90

Langley Curtiss
s.sh. fol.
B.L.

18. [same title]
22.12.90

Langley Curtiss
s.sh. fol.
B.L. (also H.E.H.)

19. [same title]
1-2.5.91

Langley Curtiss
s.sh. fol.
B.L.

20. [same title]
3.6.91

Langley Curtiss
s.sh. fol.
W.A.C.

21. [same title]
17.7.91

Langley Curtiss
s.sh. fol.
W.A.C.

22. [same title]
18.9.91

Langley Curtiss
s.sh. fol.
B.L. (also W.A.C.)

23. [same title]
23.10.91

Langley Curtiss
s.sh. fol.
W.A.C.

24. [same title]
16.12.91

Langley Curtiss
s.sh. fol.
W.A.C.

25. [same title]
2.3.91/2 [i.e. 2.3.92]

Langley Curtiss
s.sh. fol.
B.L. (also W.A.C.)

26. [same title]
15.4.92

Langley Curtiss
s.sh. fol.
W.A.C.

27. [same title]
20.5.92

Langley Curtiss
s.sh. fol.
W.A.C.

28. [same title]
9.9.92

Langley Curtiss
s.sh. fol.
W.A.C.

29. [same title]
26.10.92

Langley Curtiss
s.sh. fol.
W.A.C.

30. [same title]
21.12.92

Langley Curtiss
s.sh.fol.
Chetham

31. [same title]
27.1.92/3 [i.e. 27.1.93]

Langley Curtiss
s.sh. fol.
W.A.C.

32. [same title]
8.3.93

Langley Curtiss
s.sh. fol.
W.A.C.

33. [same title]
8.5.93

Langley Curtiss
s.sh. fol.
B.L. (also W.A.C.)

34. [same title]
16.6.93

Langley Curtiss
s.sh. fol.
W.A.C.

35. [same title]
26.7.93

E. Mallet
s.sh. fol.
W.A.C.

36. [same title]
20.9.93

E. Mallet
s.sh. fol.
W.A.C.

37. [same title]
23.10.93

E. Mallet
s.sh. fol.
W.A.C.

38. [same title]
20.12.93

E. Mallet
s.sh. fol.
B.L. (also W.A.C.)

39. [same title]
24.1.94

E. Mallet
s.sh. fol.
W.A.C.

40. [same title]
28.2.94

E. Mallet
s.sh. fol.
B.L. (also W.A.C.)

41. [same title]
26.4.94

E. Mallet
s.sh. fol.
W.A.C.

42. [same title]
30.5.94

E. Mallet
s.sh. fol.
W.A.C.

43. [same title]
18-19.7.94

E. Mallet
s.sh. fol.
W.A.C.

44. [same title]
12.9.94

E. Mallet
s.sh. fol.
W.A.C.

45. [same title]
17.10.94

E. Mallet
s.sh. fol.
W.A.C.

46. [same title]
12.12.94

E. Mallet
s.sh. fol.
W.A.C.

47. [same title]
25.1.95

E. Mallet
s.sh. fol.
W.A.C.

48. [same title]
27.2.95

E. Mallet
s.sh. fol.
W.A.C.

49. [same title]
17.4.95

E. Mallet
s.sh. fol.
W.A.C.

50. [same title]
24.5.95

E. Mallet
s.sh. fol.
W.A.C.

51. [same title]
12.7.95

E. Mallet
s.sh. fol.
B.L. (also W.A.C.)

52. [same title]
18.9.95

E. Mallet
s.sh. fol.
W.A.C.

53. [same title]
6.11.95

E.Mallet
s.sh. fol.
W.A.C.

54. [same title]
13.12.95

E. Mallet
s.sh. fol.
W.A.C.

55. [same title]
29.1.95/6 [i.e. 29.1.96]

E. Mallet
s.sh. fol.
W.A.C.

56. [same title]
20.3.96

E. Mallet
s.sh. fol.
W.A.C.

57. [same title]
4.5.96

E. Mallet
s.sh. fol.
W.A.C.

58. [same title]
15.6.96

E. Mallet
s.sh. fol.
W.A.C.

59. [same title]
27.7.96

E. Mallet
s.sh. fol.
W.A.C.

60. [same title]
25.9.96

E. Mallet
s.sh. fol.
W.A.C.

61. [same title]
23.10.96

E. Mallet
s.sh. fol.
W.A.C.

62. [same title]
30.12.96

E. Mallet
s.sh. fol.
W.A.C.

63. [same title]
27.1.96/7 [ie. 26.1.97]

E. Mallet
s.sh. fol.
W.A.C.

64. [same title]
28.1.97

E. Mallet
s.sh. fol.
W.A.C.

65. [same title]
10.3.96/7 [i.e. 10.3.97]

E. Mallet
s.sh. fol.
W.A.C.

66. [same title]
23.4.97

E. Mallet
s.sh. fol.
W.A.C.

67. [same title]
28.5.97

E. Mallet
s.sh. fol.
W.A.C.

68. [same title]
16.7.97

E. Mallet
s.sh. fol.
W.A.C.

69. [same title]
15.9.97

E. Mallet
s.sh. fol.
W.A.C.

70. [same title]
3.11.97

E. Mallet
s.sh. fol.
W.A.C.

71. [same title]
22.12.97

E. Mallet
s.sh. fol.
W.A.C.

72. [same title]
9.3.98

E. Mallet
s.sh. fol.
W.A.C.

73. [same title]
3.8.98

E. Mallet
s.sh. fol.
B.L.

II. Other works

74. The Behaviour and Execution of Robert Green and Laurence Hill, two of the persons condemn'd at the King's Bench Bar, Febraury 11th, for the most notorious and barbarous murther of Sir Edmundsbury Godfrey, the twelfth of October last. Who suffered at Tyburn on Friday, February 21, 1678/9.

Printed for C.L. [London], 1678/9 [i.e. 1679]
8pp. fol.
U.C.A.

75. The Behaviour of E.Kirk

Geo. Croom, London, 1684.
H.E.H.

76. The Behaviour of J.Hutchins, in Newgate, Together with his Dying Words As he was going to be Executed in Fleet-Street, On Wednesday the 17th of December, 1684. For Murdering of John Sparks a Waterman, near Serjeants-Inn London, on Wednesday the 3d, of December

Geo. Croom, London, 1684.
s.sh. fol.
B.L.

77. A True Relation Of the Execution of John Smith, alias Ashburnham, (For Murder) At Stamford-hill near Tottenham; where he was also Hang'd in Chains, On Monday the 26th of May, 1684. And of Edward Jackson, Executed the same Day at Tyburn, for High Treason:

Geo. Croom, London, 1684
4pp.
B.L.

78. The Dying Speech of Robert Frances of Grays-Inn, Esq; July 24 1685. Delivered by his own Hand to the Ordinary, at the Place of Execution, desiring the same might be published

Geo. Croom, London, 1685

B.L.

79. The Confession of George Caswell, Gent. Executed at Tyburn, on Monday the 21st of December 1691 For the Murther of Andrew Hickson. With a True Copy of a Paper delivered by him at the Place of Execution

Langley Curtiss, London, 1691
s.sh. fol.
B.L.

80. The True Account of the Behaviour of Mr. Francis Newland, Who was Executed at Tyburn, on Friday, the 19th of April, 1695. for the Murther of Frances Thomas, Esq.

E. Mallet, London, 1695
s.sh. fol.
B.L.

81. A True Account of the Behaviour, Confession and, Last Dying Speeches of the Pyrates, that were Executed at Execution Dock near Wapping, on Wednesday the 25th of this instant November, 1695

E.Mallet
s.sh. fol.
Chetham (also W.A.C.)

PUBLICATIONS RELATING TO THE ORDINARIES OF NEWGATE

The Accounts listed below are only those which are not included in Linebaugh's list. (Tyburn, PhD Thesis, University of Warwick, 1975)

1. John Allen

A True Copy of the Papers That were Delivered by Mr. William Cress, and Edward Robinson, to the Reverend Mr. Allen, Ordinary; at their Execution, on Friday the 22d. Instant Decemb. 1699, Jer.Wilkins, London, [1699].

Allen, Rev. John, A full and true Account of the Behaviour, Confessions, and last Dying Speeches of the Condemn'd Criminals, that were Executed at Tyburn, on Friday the 24th of May, 1700.

E.Mallet, London, [1700].

The Dismissal of Rev. John Allen:

An Account of the Apprehending and Taking of John Davis, and Phillip Wake.

J.W., London, 1700.

[Allen, Rev. John], Mr. Allen's Vindication; or; Remarks upon a late Scandalous pamphlet, Entituled; A strange and New Discovery, &c.

n.p., London, 1700.

An Account of a New and Strange Discovery; That was made by John Sheirly, alias Davis, & Joseph Fisher, The same Day of their Execution, Relating to the Ordianry of Newgate: With a True Copy of the Petition, that was Presented to the Lord Mayor, by the Prisoners of Newgate, concerning the same, with many other remarkable Particulars.

For the Author, London, 1700.

Capt. Charles Newy's Case, Impartially Laid Open: Or, a True and Full Narrative Of the Clandestine Proceedings aginst Him, As it was Hatched, Contrived, and Maliciously Carried on by Mrs. Margaret Newey, Widdow.

For the author, London, 1700.

[Allen, Rev. John], The Life and Conversation Of the Pretended Captain Charles Newey; Together with some Remarks upon A Scurrilous and Scandalous pamphlet, called, Newey's case.

For author, London, 1700.

An Account of the Confessions, Behaviours, and Dying Words of the Eight Criminals, That were Executed at Tyburn on Friday the 24th of May, 1700. (viz,) John Davis, alias Shirley, and Phillip Wake, for Firing Dr. Sloan's House in Bloomsbury-Square, Joseph Fisher, John Hatchman, John Cooper, John Titt, Thomas Nixon, and James Walters for Fellony and Burglary.

W.J., London, 1700.

See also Allen's Account for 24.5.1700 (above).

2. Roger Wykes

Wykes, Roger, The Confessions, Behaviour, and Dying Speeches of Dromelius... 19th of July, 1700.

For E. Mallet, London, [1700].

s.sh.fol. Not seen: noted in D.Wing, A Gallery of Ghosts, New York 1967, p.5, O C52802 A.

Wykes, Roger, The Confessions, Behaviour, and Dying Speeches, of the Criminals that were executed at Tyburn, on Saturday the 20th of July, 1700.

E.Mallet, London [1700].

s.sh.fol.

3. Paul Lorrain

Lorrain, Paul, The Ordinary of Newgate his Account of the Behaviour, Confessions, and Dying-Speeches, of the Condemn'd Criminals that were Executed at Tyburn on...

6.11.1700
E.Mallet.
s.sh. fol.
Rylands

20.12.1700
E.Mallet.
s.sh. fol.
Rylands

28.1.1701
E. Mallet.
s.sh. fol.
B.L.

25.10.1706
D.Leich.
s.sh. fol.
H.E.H.

15.12.1710
J.Morphew.
s.sh. fol.
B.L.
(Notes that there was no Account issued after the last session because all were respited)

21.4.1711
J.Morphew.
s.sh. fol.
B.L.

27.5.1712
J.Morphew.
s.sh. fol.
B.L.

Other works in which Lorrain is named as author/editor (not included in Linebaugh's main catalogue):

(a) The hangings at Wapping:

The Ordinary of Newgate his Account of the Behaviour, Confessions, and Dying-Words of Captain William Kidd, and

other Pirates, that were Executed at the Execution-Dock in Wapping, on...

13.11.1700
E.Mallet, London 1700
s.sh. fol.
Rylands

23.5.1701
E. Mallet, London 1701
s.sh. fol.
B.L.

A True Account of the Behaviour, Confession and last Dying Speeches, of Captain William Kidd, and the rest of the Pirates, that were Executed at Execution Dock in Wapping, on Friday the 23d of May. 1701.
E. Mallet, London 1701
s.sh. fol.
B.L.
[Probably, though not certainly, by Lorrain]

(b) Other works involving Lorrain as author/editor:

A True Copy of the Paper Delivered by Capt. Thomas Smith, alias May, to Mr. Robert Clare, in the Presence of the Reverend Paul Lorrain, Ordinary of Newgate, and all the Spectators, at Execution-Dock, on Friday the 18th of June, 1708.

Printed by D.Rogers for Robert Clare, London, 1708.

Walking with God: Shewn in a Sermon Preach'd at the Funeral of Mr. Thomas Cook, In the Parish-Church of St. James Clerkenwell, August 13th, 1703.

For the author [i.e. Paul Lorrain], London, 1703.

The Confession of John Peter Dramatti; a Frenchman, Executed at Tyburn, on Wednesday the 21st of July, 1703, for the Barbarous Murther of Frances his Wife, about Bloody-Bridge near Chelsea.

E.Mallet, London, 1703.

A True Copy of the Paper deliver'd by John Smith at the place of Execution, after he had read it to the People there: with a further Account of the several Robberies he committed in

his Life time; which was within the space of eight Days.

J.Downing, London, 1704.

Manuscript note on B.L. copy: date of publication 20 Dec. 1704.

Mrs. Elizabeth Torshell's Letter to the Ordinary of Newgate, containing a particular Account of the Murther committed upon the Body of Mr. Robert Woodcock in Chelsea-fields by Mr. Edward Jefferis lately executed for the same.

Joseph Downing, London, 1705.

A Copy of William Gregg's Paper Delivered by him, to the Sheriffs of London and Middlesex, and Paul Lorrain Ordianry of Newgate, at Tyburn, the Place where he was Rxecuted for High Treason, on Wednesday the 28th of April 1708. Printed from the Original, and Published by Authority.

Printed by T.B. and sold by Benj. Bragge, London, 1708.

The Ordinary of Newgate his Account of the Behaviour and last dying Words of Edward Bird, Gent. Who was Executed at Tyburn on Monday the 23d of February, 1718/9, for the Murder of Samuel Loxton, At the Bagnio in Silver-street, Westminster.

J.Jeffries & S.Briscoe, London, 1719.

Price 2d.

(c) Works supposedly by Lorrain, but almost certainly not his:

The Lawyer's Doom, being an Account of the Birth, Parentage, Education, Life and Conversation of Mr. Edward Jefferies, who was Executed at, Tyburn on Friday the 21st of December, 1705, for the Murther of Mr. Robert Woodcock the Lawyer.

For W.Patem (?), London, [1705].

The Ordinary's Account of the Life, Birth, Death and Parentage Of John Hall, Richard Low, Stephen Bunch, William Davis, and Joseph Montisano.

For B.Briggs, London, 1707.

"Licensed according to Order": title-page. Dated 17.12.1707: p.8. Execution 16.12.1707. Hall, Low, Davis and Montisano also in Ordinary's Account for 17.12.1707.

The Ordinary of Newgate's Account of the Life, Conversation, Birth and Education of Thomas Ellis, and Mary Goddard. Who were Executed at Tyburn, on Wednesday, the Third of March, 1708. With The most Remarkable Passages of their whole Lives and Wicked Actions, from the time of their Birth, to their untimely Death; as also their Tryal, Examination, Conviction and Condemnation, at the Old-Bayly, their Behaviour in Newgate, their Confession, and True Dying-Speeches, at the Place of Execution.

H.Hills, London, 1708.

"Licensed according to Order": title-page.

The Whole Life and Conversation, Birth, Parentage and Education of Mr. William Gregg, Who was Executed on Wednesday the 28th day of April, 1708 for High Treason: With his several Examinations and Confessions before the Committees of Lords. And also his Behaviour whilst under Condemnation in Newgate: And his last Dying Speech and Confession at the Place of Execution. To which is added, The Life of Mr. John Maugeridge the Kettle-Drummer, and Mr. David Bayley.

J.Rogers, London 1708.

The Whole Life and Conversation, Birth, Parentage and Education of Deborah Churchill; Condemn'd some time since for the Barbarous Murder of Mr. William Ware in Drury Lane, and now brought down to her former Judgment. As Also, Her Behaviour, Confession, and last Dying-Words at the Place of Execution.

London, 1708.

The Whole Life and Conversation, Birth, Parentage, and Educations Of Thomas Browning, and Jeremiah Clark. Who was Executed on Tuesday the 27th of May, at Tyburn. Two notorious House-Breakers, with their Tryals, at the Old Bayly, Behaviour under Sentence of Death, and Last Dying Speeches at the Place of Execution, together with the Substance of the Condemn'd Sermon Preacht to them the Sunday before.

Printed by J.Smith, London, 1712.

"Licensed and Entered according to Act of Parliament.": title-page.

Purney, Thomas,

24.5.1725
J.Applebee.
s.sh. fol.
B.L.

Guthrie, James

The Ordinary of Newgate, His Account of the Behaviour, Confession and Dying Words of the Pyrate, who was Executed at Execution-Dock [25.1.1738]

J.Applebee, London 1738

16pp.

The Ordinary of Newgate, His Account of the Behaviour, Confession and Dying Words of James Hall, Who was Executed at the End of Katherine-Street in the Strand, for the Barbarous Murder of his Master John Penny, Esq; On Monday the 14th of February, 1741.

J.Applebee, London 1741

Price 6d. Although not hanged at Tyburn this is numbered at Part IV in his sequence of Accounts for the year.

Taylor, John

The Only Genuine and Authentic Narrative of the Proceedings Of the Late Captain James Lowery, Both Before and after he became Commander of the Ship Molly: As the same was delivered by Himself, in Manuscript, into the Hands of the Revd. Mr. Taylor, Ordinary of Newgate, some short Time before his Execution

T.Parker & C.Corbett, London [1752]

Price 1/-.

Roe, Stephen

The Ordinary of Newgate's Account of the Behaviour, Confession, and Dying Words of Captain Joseph Halsey, Who was executed at Execution-Dock, On Wednesday the Fourteenth of March, 1759, For the Murder of Daniel Davidson.

Printed by T.Parker for author, sold by M.Cooper, London, 1759.

18pp. Price 6d.

Moore, Joseph

The Ordinary of Newgate's Account of the Behaviour, Confession and Dying Words, of Elizabeth Brownrigg, Who was executed at Tyburn. On Monday, Sept. the 14th, 1767.

M. Lewis & Son, London [1767].

Villette, John

A Genuine Account of the Behaviour, Confession, and Dying-Words of William Hawke and William Jones, Who were executed at Tyburn on the 1st of July, 1774.

H.Turpin, J.Bew, E.Cooke, S.Chandler, London [1774]

24pp.

A Genuine Account of the Behaviour and Dying Words of William Dodd, LL.D. Who was Executed at Tyburn for Forgery, on Friday the 27th of June, 1777 (4th edn.)

For author, sold by J.Bew, London 1777

Price 6d. Criticised in Thoughts of a Citizen of London: see under Dodd, William.

CHAPLAINS OR ORDINARIES AT OTHER PRISONS

(a) Surrey

- at Guildford:

Bannister, Rev. (with Wilson, Rev. W.), A Full, True and Genuine Account Of the Uncommon Behaviour of Mr. Gill Smith, Late of Dartford, in Kent, Apothecary; From the Time of his receiving Sentence of Death, to his Execution, on Monday, April the 10th, 1738.

A.Ilive, Southwark, 1738.

Price 3d.

A Genuine Account of the Behaviour, Confessions, and Dying Words of the Six Malefactors, viz. William Walters, Thomas Williams, Anne Elliott, James Gunnel, Thomas Jones, James Johnson, Who were Executed at Guildford, in the County of Surrey, On Tuesday, the 13th Day of April, 1742.

R.Crouch, London, [1742].

Price 3d.

- at Kingston:

Cooke, Mr. et al, The True Copy Of the Original Paper signed by Mr. Richard Noble, Which he designed for his Last Speech, deliver'd to Mr. Cooke Curate of Kingston and Ordinary of Surry; Another to Mr. Broughton Vicar of Kingston; and a Third to the Reverend Mr. L'Herondel: with A particular Account of his Behaviour some Days before his Execution, by all the aforesaid Clergy-men.

For S.Keble, sold by J.Morphew, London, 1713.

Price 2d.

- at Southwark

Wilson, Rev. William (see also Bannister), A Full and Genuine Account of the Lives, Characters, Behaviour, last Dying Words and Confessions, of the Four Malefactors, that were Executed on Friday the 6th day of this Instant April 1739, at Kennington-Common.

W.Rayner, London, 1739.

Price 3d.

A Genuine Account of the Lives, Characters, Behaviours, Confessions, and Dying Words, of the Six Malefactors, That were executed at Kennington-Common, on Friday the Fourteenth of September, 1739.

W.Rayner, London, 1739.

Price 3d. Rayner also published The Proceedings in which the trials printed.

A Genuine Account of the Behaviour, Confessions, and Dying Words, of the Malefactors viz. James Day, Ann Hazzard, James Harris, Richard Keble, James Hunt, and Thomas Collins. Who were Executed at Kennington-Common, On Thursday the 25th of August, 1743. To which is added, The Solemn Declaration of James Day and Ann Hazzard, relating to the Murder of Simon Pottell, Which they deliver'd to the Rev. Mr. Wilson, Lecturer of St. John, Southwark.

J.Nicholson, London, [1743].

Price 3d.

The Solemn Declaration of Richard Coleman, Who was Executed at Kennington-Common, in the County of Surrey, on Wednesday, April 12, 1749, for the Murder of Sarah Green, Widow, with the Behaviour, Confession, and Dying Words, of the Four other Malefactors, Who were Executed at the same Time and Place.

J.Nicholson, London, [1749].

Howard, Rev. Leonard, A True and Impartial Account of the Behaviour, Confession, and Dying Words of the four Malefactors, Who were executed at Kennington-Common, on Friday, September 6, 1751. Published with the Approbation and Consent of the reverend Leonard Howard, D.D. Rector of St. George the Martyr, in Southwark, who attended them whilst under the Sentence of Death, and in their last Moments.

J.Nicholson, London, [1751].

Price 4d. For appointment see p.8; for criticism see True and Genuine Account of the Confession... of Thomas Jones, and James Welch..., p.3.

(b) Bristol

Penrose, Rev. J., The Reverend Penrose's Account of the Behaviour, Confession, and Last Dying Words, of the four Malefactors who were Executed at St. Michael's Hill at Bristol, on Wednesday the 15th of April, 1741, viz. Samuel Goodere, Esq; Commander of the Ruby Man of War. Matthew Mahony, and, Charles White. All three for the Murder of Sir John Dinely Goodere, Bart. A Worcestershire Gentleman of 4000l, a Year. And Jane Williams, for the Murder of her Bastard Child. With A Copy of the the Papers that Captain Goodere deliver'd to the Rev. Divine who attended him at the Place of Execution.

Printed and sold by booksellers in Bristol and by Eliz. Applebee, London, 1741.

Price 6d.

ASSIZE SERMONS: 1701-1800

Abdy, Stotherd, A Sermon preached at the Assizes holden at Chelmsford, in Essex, On Tuesday, March 16, 1773. Before the Honourable Mr. Baron Perrott, London, 1773.

Alcock, Thomas, The Law not made for a Righteous Man. An Assise Sermon Preached in the Cathedral-Church of St. Peter, Exon, on Tuesday, March 19, 1754, London, 1754.

Alcock, Thomas, The Nature and Obligation of Oaths. An Assise Sermon Preached in the Cathedral Church of St. Peter, Exon, on Wednesday, Aug. 7. 1754, London, 1755.

Ashburnham, William, A Sermon Preached in the Cathedral Church of Chichester, At a Special Assise held there January 16 1748-9, By The Honourable Mr. Baron Clive; and The Honourable Mr. Justice Birch, London, [1749].

Atwood, George, The Rule of doing as we would be done unto Stated and Recommended. A Sermon Preach'd at the Assizes held at Taunton in the County of Somerset, By the Honourable Mr. Justice Eyre, and Mr. Baron Page, On Tuesday, April 2d 1723, London, 1723.

Baker, Samuel, A Sermon Preach'd at the Cathedral Church of St. Peter in York, Before the Right Honourable the Lord Chief Baron Pengelly, at the Assizes Held there March 15. 1728, London, 1729.

Ballard, Reeve, The Rule of Obedience. An Assize Sermon, Preached at Kingston upon Thames, August 18, 1746. Before the Rt. Honourable Sir William Lee, Knt. Lord Chief Justice of England; And the Honourable Mr. Justice Foster, London, 1746.

Bate, James, The Advantages of a National Observance of Divine and Human laws. An Assize Sermon Preach'd at Maidstone in Kt. On the 13th of March 1733-4 Before the Lord Chief Baron Reynolds, London, 1734.

Bealieu, Luke, The Reciprocal Duty betwixt Kings and Subjects, Impartially stated, in a Sermon on Romanus xiii. 1. Preach'd in the Cathedral Church of Gloucester at the Assizes, Sunday, July the 14th, 1706, London, 1706.

Bedford, Arthur, The Doctrine of Obedience and Non-Resistance due to the Higher Powers explained, stated, and vindicated; with proper Inferences from the same, In A Sermon Preach'd at the Assizes held at Taunton in the County of Somerset, On Tuesday the nineteenth Day of March, in the Year of our Lord, 1716/7, before Baron Price and Judge Eyre; being His Majesty's Judges for the said Circuit, London, 1717.

Bedmore, Samuel, A Sermon Preach'd at St. Mary's Nottingham, On Friday the 28th of July 1710. Before the Honourable Sir Littleton Powys, and Sir Salathiel Lovel, Knights, Her Majesty's Justices of Assizes for the County of Nottingham, &c., London, 1710.

Bell, Geo., A Sermon Preach'd at the Cathedral Church of St. Peter in York, Before the Honourable Baron Page, at the Assizes Held there March the 5th 1721/22, York, 1722.

Bisse, T., Jehoshophat's Charge. A Sermon Preach'd at the Assizes held at Oxford July 12. 1711. By the Right Honourable Mr. Justice Powell and Mr. Baron Dormer, Oxford, 1711.

Boldero, John, The Nature and Duty of Justice, in relation to the Chief Magistrate and the People. A Sermon Preach'd at the Assizes held at Northampton, March 13, 1722/3 Before Mr. Baron Gilbert, Northampton, [1723].

Bramston, John, A Sermon Preach'd at the Assizes Holden at Brentwood in Essex, March 5th. 1723/24, London, 1723/24.

Bridges, R., A Sermon Preach'd at the Assizes held at Chelmsford in Essex, Before the Right Honourable the Lord Chief-Justice Willes and Mr. Justice Probyn, July the 20th, 1738, London, 1738.

Brooke, Thomas, The Pleasure and Advantage of Unity. A Sermon preached in the Cathedral Church of Chester, At the Assizes, September 2, 1746, Before the Honourable Mr. Sergeant Skinner, Chief-Justice, And the Honourable John Talbot, Esquire, The other Judge of the County-Palatine of Chester, London, 1746.

Brown, John, The Mutual Connexions between Religious Truth and Civil Freedom; Between Superstition, Tyranny, Irreligion, and Licentiousness: considered in Two Sermons Preached in Septemb. 1746, at the Cathedral Church of Carlisle, During the Assizes held there for the Trial of the Rebels, London, [1746].

Browne, John, The Advantages of Righteousness to a Nation. A Sermon Preach'd at the Assizes Held for the County of Surry, at Kingston upon Thames, March 20th, 1728-9. Before the Honourable Mr. Justice Denton, London, 1729.

Bynns, Ri., Conscience void of Offence. A Sermon Preach'd at the Assizes Held at Stafford, August the 9th. 1710. Before Mr. Justice Blencoe, and Mr. Justice Dormer, London, 1710.

Bull, Robert, A Sermon Preach'd in the Cathedral of Gloucester, on Sunday, July the 18th, 1714. At the Assizes held by Mr. Baron Price, London, 1714.

Burrow, Robert, A Sermon Preach'd in the Metropolitical Church of St. Peter in York, On Sunday, July 20, 1729. At the Assizes held at York Before the Honourable Mr. Justice Page, and Mr. Baron Hale, London, 1729.

Cardale, George, Peace, Good-Will, and Forgiveness of Injuries recommended, in an Assize Sermon, Preach'd at St. Martin's in Leicester, on Thursday, July 24, 1755 (2nd edn. with additions), London & Leicester, [1755].

Carter, Benjamin, A Sermon Preach'd at the Assizes Held at Chelmsford in the County of Essex, On Thursday, March the 14th, 1716. Before the Honourable Mr. Justice Dormer, London, 1717.

Cattell, Thomas, Human Laws obligatory upon the Conscience. A Sermon Preach'd at the Assizes Held at Lancaster By the Right Honourable Lord Chief Justice Eyre, And the Honourable Mr. Justice Reeve; On Saturday, August 25, 1733, London, 1734.

Chishull, Edward, The Duty of Good Subjects, In Relation to Publick Peace. Being a Sermon Preach'd at the Assizes at Hertford, on August the 11th, 1712, London, 1712.

Clayton, John, The Necessity of duly Executing the Laws against Immorality and Profaneness, Set forth in a Sermon Preach'd at the Assizes Held At Lancaster, before the Honourable Sir Lawrence Carter, Knt. One of the Barons of his Majesty's Court of Exchequer, London, 1736.

Cocks, Richard, Nothing but Religion can secure our Peace and happiness in this Life, as well as that which is to come. There is no Peace, saith my God, to the Wicked. A Sermon Preached at the last Warwick Assizes Before the Honourable Chief Baron Dodd and Judge Pratt, London, 1715.

Coleire, Richard, Kings and Judges the Viceregents of God. A Sermon Preach'd July 31, 1729. At the Assizes Holden at Kingston upon Thames in the County of Surrey, Before the Right Honourable The Lord Chief Justice Eyre, London, 1729.

Collins, Richard, The Paths that lead to Peace. A Sermon Preach'd at the Lent-Assizes Holden at Rochester in Kent, Before the Right Honourable the Lord Chief Justice Parker, and the Honourable Mr. Justice Tracy, March the 13th. 1714, London, 1715.

Collins, Thomas, An Assizes Sermon Preached in the Minster at York On Sunday, 16th March, 1794, York, 1794.

Conybeare, John, The Penal Sanctions of Laws Consider'd. A Sermon Preach'd at St. Mary's in Oxford, At the Assizes, Before the Honourable Mr. Justice Reynolds; and Before The University; On Thursday, July 20th. 1727, Oxford, 1727. (2nd edn. published 1727.)

Cornewall, Fred., Zeal for Religion recommended: In a Sermon Preach'd at the Assizes at Salop, August the 4th, 1710, London, 1710.

Cott, John, A Sermon Preach'd at the Parish Church of Chelmsford, On March 1, 1769, at the Lent Assizes, before The Honourable Sir S.S. Smythe, Knt. One of the Barons of the Court of Exchequer, London, 1769.

Cowper, John, Good Men need not value Evil Treatment. A Sermon Preach'd in the Cathedral Church of Chester, At the Assizes, Tuesday August 28th, 1711. Before Sir Joseph Jekyll, Knight, Chief Justice, and John Ward, Esquire, second Judge of Chester, Chester, [1711].

Cowper, John, A Sermon Preach'd at the Assizes held at the City of Carlisle, August 5. 1752. Before Sir Thomas Birch, and Baron Legg, Newcastle-upon-Tyne, 1752.

Cox, Thomas, The Influence of Religon in the Administration of Justice. A Sermon Preach'd at the Assizes, at Chelmsford in Essex, July 21, 1726. Before The Right Hon. Sir Robert Raymond, Lord Chief Justice of the King's-Bench; and Mr. Justice Reynolds, London, 1726.

Coxe, William, A Sermon on the Excellence of British Jurisprudence; preached on the tenth of March, 1799, in the Cathedral Church of Salisbury, before the Judges of Assize, Salisbury, 1799.

Crewe, Joseph, The odious nature of Unfaithfulness in general, with some particular aggravations of its guilt, and preservatives from it. A Preach'd at Stafford, August 22, 1756, at the Assizes Held there by the Right Honorable The Lord Chief Baron Parker, And the Honorable Mr. Justice Clive, London, 1756.

Dagge, Jonathan, Ad Magistratum. A Sermon Preach'd at the Assizes Held for the County of Cornwal, at Launceston, March the 31st. 1709, Exon, [1709].

Dampier, Thomas, A Sermon Preach'd before the Honourable and Right Reverend Shute, Lord Bishop of Durham, The Right Honourable Sir Archibald MacDonald, Lord Chief Baron, and the Honourable Sir Alexander Thompson, one of the Barons of His Majesty's Exchequer, At the Assizes, Holden at Durham, the Twenty-Third of July, MDCCXCIII, Durham, [1793].

Dannye, Robert, A Sermon Preach'd at the Assizes Held at York, March 17th, 1717/18. Before the Honourable Baron Montague, and Baron Fortescue, York, 1718.

Debord's Lewis, The Duty of Praying for Kings, or Governors. In a Sermon Preach'd at the Assizes Holden at Brentwood in Essex, March 21. 1723, London, 1723.

De Luzancy, H., A Sermon Preach'd at the Assizes for the County of Essex, held at Chelmsford, March the 8th 1710, Before the Honourable Mr. Justice Powell, London, 1711.

Dod, Thomas, The Rule of Equity. A Sermon Preach'd at the Assizes held at Oxford, March 14. 1716/17. By the Right Honourable Mr. Justice Blencow. and Mr. Baron Montague, Oxford, 1717.

Dodwell, William, The equal and impartial Discharge of Justice, with Respect both to the Guilty and the Innocent recommended. A Sermon Preached at St. Mary's in Oxford, at the Assizes, Before the Honourable Mr. Justice Foster, and Baron Smythe, On Wednesday, July 16. 1755, Oxford, 1755.

Downes, Henry, The Necessity and Usefullness of Laws and the Excellency of our Own. A Sermon Preach'd at Northampton before Mr. Justice Powell and Mr. Baron Lovel at the Assizes held there July the 13th 1708, Oxford, 1708.

Dubourdieu, John Armand, Ely Trembling for the Ark of God: or, The Religious Duty of being Concerned for the present State of the Protestant Religion, Incumbent upon all, but chiefly upon the Clergy and the magistracy. A Sermon Preach'd at the Assizes held at Chelmsford in Essex, on July 15, 1714. Before the Right Honourable Sir Thomas Parker, Kt. Lord Chief Justice of England, and Sir Littleton Powis, Kt. One of the Judges of the Queen's Bench (2nd. edn.), London, 1714.

Durnford, Thomas, The folly of thinking the former Times better than the present. A Sermon Preach'd in the Cathedral-Church of Winchester, at the Assizes Held there August 3. 1715, London, 1715.

Eden, Robert, The Connexion of Publick, and Private Happiness. A Sermon Preach'd at the Assizes held at Winchester by the Hon. Mr. Justice Burnet, and Mr. Serjeant Hussey, On Wednesday, July 13, 1743, London, 1743.

Eden, Robert, The necessary and unchangeable Difference of Moral Good and Evil. A Sermon Preach'd at the Assizes held at Winchester by the Hon. Mr. Baron Reynolds and Mr. Baron Clarke, On Wednesday, March 2, 1742-3, London, 1743.

Eustsance, Evan, The Evil and Folly of being given to change: Set forth in an Assize-Sermon Preach'd at Monmouth, On Friday, August the 7th, 1747. Before the Right Honourable the Lord Chief Baron Parker, And the Honourable Mr. Justice Abney, London, 1747.

Fenton, Thomas, Of Going to Law. A Sermon Preach'd at the Assizes Held at Winchester By the Honourable Mr. Justice Page and Mr. Baron Carter, on Thursday, March 6. 1728-9, London, 1729.

Fisher, John, The Guilt and danger of Perjury. A Sermon Preach'd at the Assizes held at Northampton by the Right Hon. Lord Chief Justice Willes, and Hon. Mr. Justice Clive, On Thursday, August 2, 1753, London, 1753.

Forster, John, Two Sermons Preached at Huntingdon Assizes, March 16, and July 13, 1755. Before The Hon. Mr. Justice Foster, The Hon. Mr. Justice Birch, The Hon. Mr. Justice Clive. Wherein is shewn, That a Nation's Happiness depends on the Support of Government by Religion, and of Religion by Government, Cambridge, 1755. The first sermon is at pp.3-23 and the second at pp.25-46.

Forster, John, Religion and Loyalty inseparable. A Sermon Preach'd at the Assizes held at Wisbeach, In the Isle of Ely; August 22, 1764. Before Mr. Serjeant Forster, Chief Justice of the said Isle, Cambridge, 1764.

Forster, William, A Sermon Preach'd in the Cathedral Church of Durham Before the Honorable Sr. Richard Adams, Knight, One of the Barons of His Majesty's Court of Exchequer. At the Assizes Held there July 24, 1755, Durham, 1755.

Fothergill, George, The Importance of Religion to Civil Societies. A Sermon Preach'd at St. Mary's in Oxford, at the Assizes: Before the Honourable Mr. Justice Fortescue-Aland, and Mr. Justice Lee; and Before the University: On Thursday, March 6th. 1734-5 (2nd. edn.), Oxford & London, 1735.

Fursman, John, A Sermon Preach'd at the Assizes Held At Launceston for the County of Cornwall, On Thursday Aug. 18. 1715. By the Honourable Mr. Justice Powis and Mr. Justice Eyre, Exon, 1715.

Gardner, William, Principles of Religion Recommended. In a Sermon Preach'd at the Assizes held at Kingston Upon Thames. On Thursday, August 4. 1726. By the Right Honourable the Lord Chief-Justice Raymond, And the Honourable Mr. Justice Reynolds, London, 1726.

Garnett, J., A Sermon Preach'd at St. Mary's Church in Cambridge, before the University, The Right Honourable Sir William Lee, Knt. Lord Chief Justice of England, and Sir Lawrence Carter, Knt. One of the Barons of the Exchequer; At the Assizes held July 14. 1741, Cambridge, London & York, 1741.

Geree, John, The Excellency of a Publick Spirit. A Sermon Preach'd in the Cathedral Church of Winchester, At the Assizes held there, on Thursday, July 4. 1706, Oxford & London, 1706.

Gibson, Edm., A Sermon against Speaking Evil of Princes, and those in Authority under them: Preach'd at the Assizes held at Croydon in Surrey, March 7th 1705/6 Before the Right Honourable The Ld Chief-Justice Holt, and Mr. Justice Tracy, London, 1706.

Gibson, Edm., A Sermon Of the Growth and Mischiefs of Popery: Preach'd at the Assizes Held at Kingston in Surrey, Sept. 5th 1706, London, 1706.

Grace, Job, Judicium Augustale. A Sermon Preach'd at the Assizes held at Northampton: August 2d, 1709, London, 1710.

Hancock, Thomas Saul, A Sermon Preach'd at the Assizes Held at Rochester Before the Honourable Mr. Justice Reeve, On Wednesday March the 12th, 1734-5, Maidstone, 1735.

Haslewood, John, A Sermon Preach'd at the Assizes held at Kingston upon Thames, on Thursday March 13th, 1706/7. Before Mr. Justice Tracy, London, [1707].

Haslewood, John, A Sermon Preach'd at the Assizes Held at Kingston upon Thames on July the Twenty Fourth, 1707. Before the Right Honourable the Lord Chief Justice Holt, and Mr. Justice Tracy, London, 1707.

Hawatayne, William, A Sermon Preach'd at the Assizes at Hertford, July 16. 1716. Before The Right Honourable the Lord Chief Justice Parker, and Sir Littleton Powis Knight, one of the Judges of the King's-Bench, London, 1716.

Heathcote, Ralph, Morality and Religion essential to Society. A Sermon Preached at the Assizes Held At Leicester, On Thursday, August 12. 1756, London, 1756.

Horne, George, The Influence of Christianity on Civil Society. A Sermon Preach'd at St. Mary's in Oxford, at the Assizes: Before the Honourable Mr. Justice Nares and Mr. Baron Eyre; and Before the University; On Thursday, March 4, 1773, Oxford, 1773.

Horne, Thomas, A Sermon Preach'd at the Assizes held at Kingston upon Thames, on Thursday, March 12. 1712/13. By the Right Honourable the Lord Chief Justice Parker, And the Honourable Mr. Justice Tracy, London, 1713.

Howard, L., The Advantages of a Free People, and 111 Consequences of Licentiousness, consider'd, in a Sermon Preach'd in the Parish-Church of Croydon, In the County of Surry, At the Assizes held there, Before the Honourable Sir Thomas Abney, Knt. One of the Justices of his Majesty's Court of Common-Pleas, on Friday the 22d of March, 1744-5, London, [1745].

Howard, Leonard, The necessary and becoming Qualities of a Magistrate, described and exemplified in the Person of Job. A Sermon Preach'd in the Parish Church of Kingston upon Thames, In the County of Surry; at the Assizes held there, Before the Honourable Mr. Justice Parker and Mr. Justice Wright: On Friday the 13th of August, 1742, London, 1742.

Hudlestone, Curwen, The advantage of an impartial administration of justice. A Sermon Preach'd at the Cathedral Church in Carlisle, At the Assizes held there August 29, 1753. Before The Hon. Mr. Baron Legge, and Mr. Serjeant Eyre, London, 1754.

Hurd, Richard, The Mischiefs of Enthusiasm and Bigotry: A Sermon Preach'd in The Cathedral Church of Norwich, at the Assizes, On Wednesday, 29 July, 1752, Before the Honourable Sir Thomas Parker, Knt. Lord Chief Baron of the Exchequer. And Sir Martin Wright, Knt. One of the Justices of the Court of King's Bench, London, Cambridge, Ipswich & Yarmouth, 1752.

James, Hugh, A Sermon Preach'd at the Assizes Held at Norwich, August the Fourth, 1707, London, [1707].

Jones, Charles, Against Hypocrisie. A Sermon Preach'd at St. Mary Magdalen's in Taunton, Before the Honourable Mr. Justice Powis, And the Honourable Mr. Baron Bury; At the Assizes held there, March 20. 1704/5, London, 1705.

Jones, Charles, Against Indifference in Religion. A Sermon Preach'd in the Cathedral Church of Wells, Before the Right Honourable the Lord Chief Baron Ward, and the Honourable Mr. Baron Price, At the Assizes held there, August 15. 1705, London & Taunton, 1705.

Jones, Edward, The Characters of a Good, and a bad Prince: A Sermon Preach'd in the Cathedral of Salisbury, at the Assizes Held for the County of Wilts, Before Mr. Justice Pratt, and Mr. Justice Montagu, March the 11th. 1715/16, London, 1716.

Jones, Walter, A Sermon Preach'd at the Cathedral-Church Of Worcester, at the Assizes held there August the 21st, 1720, London, 1720.

Kennet, White, Christian Honesty Recommended. In A Sermon Preach'd at the Assizes Held at Chelmsford, for the County of Essex. On the 23d of March 1703/4. Before The Right Honourable the Lord Chief Justice Holt, and Mr. Justice Nevil, Her Majesties Judges; and Sir Thomas Webster, Bar. High Sheriff of that County, London, 1704.

Lambe, Henry, The Duty of Living Peaceably as Men, Neighbours, Subjects, and Christians, Consider'd. A Sermon Preach'd in the Cathedral Church of Winchester; at the Assizes held there, March 7th. 1716/17. Before the Honourable Mr. Baron Price, and Mr. Justice Eyre, London, 1717.

Laughton, John, The Testimony of a Good Conscience, the truest Ground of Rejoicing. A Sermon Preach'd at the Assizes Held at Leicester, before Mr. Justice Dormer, March the 28th 1712, London, 1712.

Laurence, John, Christian Religion the best Friend to Civil Government. A Sermon Preach'd at Stafford, Before Mr. Justice Blencow and Mr. Baron Price, at the Assizes held there Aug. 21, 1717, London, 1717.

Law, Edmund, Litigiousness Repugnant to the Laws of Christianity. A Sermon Preach'd at the Cathedral Church in Carlisle, At the Assizes held there August 10. 1743, Cambridge, 1743.

Leng, J., The Advantages of Government, and the Duty of preserving it. A Sermon Preach'd at the Assizes Held At Kingston upon Thames, March 22. 1715. Before the Right Honourable Thomas Lord Parker, Lord Chief-Justice of the King's-Bench; And Mr. Justice Tracy, London, 1716.

Lever, John, A Sermon Preach'd at the Assizes held at Lancaster, The Eleventh day of August, 1771, before the Honourable Sir Henry Gould, Knt. one of His Majesty's Justices of the Court of Common-Pleas; The Honourable Edward Willes, one of His Majesty's Justices of the Court of King's-Bench; The High-Sheriff and Grand Jury, Manchester, [1771].

Lovell, Edw., The Duty and Obligation of Praying for his present Majesty, enforc'd from Scripture, and the antient Practice of the Church. A Sermon Preach'd At the Assizes held for the County of Surry, at Kingston upon Thames, on Wednesday, Aug. 6, 1718, before the Right Honourable the Lord Chief Justice Pratt, and the Honourable Mr. Justice Powis. Wherein The Objection against Praying for his Majesty is consider'd and refuted, and the Nature and Benefit of Prayer in general is explain'd and laid open, London, [1718].

Marsden, Robert, Zeal for the Duty's of the Christian Religion as Establish'd in the Church of England; in opposition, both to the Additions of the Church of Rome, and the Prejudice of our Dissenters. A Sermon Preach'd at the Assizes Held at Nottingham. On Friday the 24th of July, 1713. Before the Right Honourable the Lord Chief Justice Trevor, And the Honourable Mr. Baron Price, London, 1713.

Marsh, George, A Sermon Preach'd at the Cathedral Church of St. Peter in York, Before the Right Honourable Sir Peter King, Knight, Lord Chief Justice of the Court of Common-Pleas, and the Honourable Mr. Baron Gilbert, At the Assizes Held there July the 9th, 1722., York, [1722].

Meredith, Theophilus, A Discourse delivered in the Cathedral Church of Hereford, before the Honourable Mr. Justice Ashurst, Mr. Baron Burland, and the Grand Jury, at the Assizes for the County of Hereford, Held on Saturday, the 30th of July, 1774, Hereford, [1774].

Millechamp, Richard, The Unreasonableness and Danger of Grudging. A Sermon Preach'd at Gloucester, Before Mr. Justice Powell, and Mr. Justice Gould: at the Assizes held there by Mr. Justice Gould: March the 7th, 1707/8, London, 1708.

Moody, Samuel, The Impartial Justice of Divine Administrations: a Sermon Preach'd at the Assizes; held at Chelmsford in Essex, March the 10th, 1735-6. Before the Honourable Mr. Justice Denton, and Mr. Justice Probyn, London, 1736.

Moss, Robert, A Sermon Preach'd at the Assizes Holden at Kingston upon Thames, On Wednesday 30th of July, 1712. Before the Right Honourable the Lord Chief Justice Parker, And the Honourable Mr. Justice Tracy, London, 1712.

Moss, Thomas, The Importance and Necessity of Christian Moderation. A Sermon, Preach'd at the Cathedral in Worcester, On Sunday, March 7, 1779, at the Assizes held by Mr. Baron Perryn, and Mr. Justice Buller, Worcester, Wolverhampton, Stourbridge, Dudley, [1779].

Myonnet, John, The Nature and Advantages of Civil Liberty. A Sermon Preach'd at Kingston upon Thames, August 15, 1734. At the Assizes held there for the County of Surrey. Before The Right Honourable the Lord Chief Justice Eyre, and the Honourable Mr. Justice Probyn, London, 1734.

Nasmith, James, A Sermon Preach'd at the Assizes holden at Wisbeach, before Edward Gwillim, Esq; Chief Justice of the Isle of Ely, The 28 July 1796, Cambridge, 1796.

Newcome, Richard, A Sermon Preach'd in the Cathedral Church of Winchester, before the Hon. Mr. Justice Page and Mr. Baron Comyns; at the Assizes held there, On Wednesday, March 13, 1727/8, London, 1728.

Newton, Joseph, A Prudent Enforcement of the Penal Laws against Immorality and Profaneness recommended; in A Sermon Preach'd at the Assizes held at Reading, Berks, By the Honourable Mr. Justice Birch, and Mr. Baron Adams, On Tuesday, March 4. 1755, Oxford, 1755.

Offley, Walter, A Sermon Preach'd In the Cathedral-Church of Chester, on Tuesday the 1st of October, 1717, at the Assizes Held there, London, 1717.

Oliver, John, A Sermon against Atheism; at the Assizes held For the County-Palatine of Chester, August 28. 1710, London, 1710.

Ollyffe, John, A Sermon Preach'd at the Assizes at Aylesbury in the County of Bucks, April the 6th, 1709, London, 1709.

Osborne, George, The Civil Magistrates Right of inflicting Punishment. The End of Penal laws, and the Necessity of a due Execution of them. A Sermon Preach'd At Kingston, August the 10th 1732, at the Assizes held there, Before the Right Honourable the Lord Chief-Justice Raymond, And the Honourable Mr. Baron Carter, London, 1733.

Osborne, George, Doing Good the best Preservative against the Fear of the Civil Power. A Sermon Preach'd at Kingston, July the 30th, 1730. At the Assizes held there, Before the Right Honourable the Lord Chief-Justice Raymond, And the Honourable Mr. Justice Probyn, London, 1730.

Osborne, George, Righteousness the Exhaltation of a Nation. A Sermon Preach'd at Guildford, March the 24th, 1732. At the Assizes held there, Before the Right Honourable the Lord Chief Justice Eyre, And the Honourable Baron Thompson, London, 1732.

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Pennington, John, King Jehoshaphat's Charge to his Judges, and St. Paul's Spiritual Charge to Civil Magistrates, Two Sermons Preach'd At Huntingdon-Assizes, London, 1728. Contains: (1) "King Jehoshaphat's Charge to his Judges; or Justice without Corruption or Partiality, recommended. In A Sermon Preach'd at the Assizes Held at Huntingdon, Before the Rt. Honourable The Ld. Chief Justice Raymond, And the Honourable Mr. Justice Tracy; On Sunday, July the 18th, 1725; (2) St. Paul's Spiritual Charge to Civil Magistrates. Showing Their Duty in Defence of Christianity. A Sermon Preach'd at the Lent-Assize Held at Huntingdon, before Mr. Baron Hale; on Sunday, March the 24th, 1727-8.

Peploe, Samuel, A Sermon Preach'd At the Assizes held at Lancaster, The 7th Day of April, 1710, London, 1710.

Periam, George, The Means of redressing, and the Duty of forgiving Injuries consider'd. A Sermon Preach'd at the Assizes, Held for the County of Bucks, at Buckingham, Before the Honourable Mr. Justice Clive, and Mr. Justice Birch, On Tuesday, July 8. 1755, Oxford, 1755.

Pinnell, Peter, An Assizes Sermon Preach'd at Maidstone, in the County of Kent, March 20, 1749-50. Before the Hon. Sir Thomas Denison, Knt. One of the Judges of his Majesty's Court of King's-Bench, London, 1750.

Place, Conyers, A Sermon Preach'd at Dorchester During the Time of the Assizes, March the 18th 1705, London, 1705.

Potter, John, A Sermon Preach'd at the Assizes Held At Taunton, March the 25th 1712. Before Mr. Baron Bury, and Mr. Justice Eyre, London, 1712.

Potter, John, A Sermon Preach'd at the Assizes held at Wells, August the 27th, 1712. By the Right Honourable the Lord Chief Baron Ward, And the Honourable Mr. Baron Price, London, 1712.

Pyle, Thomas, The Wisdom of a Government in distributing Punishment or Mercy to State-Criminals. A Sermon Preach'd at the Lent-Assizes Holden at Thetford in Norfolk Before the Lord Chief Justice King, On March 23. 1715/16, London, 1716.

Randolph, Herbert, Legal Punishment consider'd. A Sermon Preach'd at the Assizes Held at Rochester; Before the Honourable Mr. Justice Denton, On Wednesday March the 12th 1728/9, London, 1729.

Randolph, Thomas, The Certainty of a Future State Asserted and Vindicated against the Exceptions of the late Lord Bolingbroke: in a Sermon Preach'd at St. Mary's in Oxford, at the Assizes Held there by the Honourable Mr. Justice Birch, and Mr. Baron Adams, On Thursday, March 6. 1755, Oxford, 1755.

Rawson, Joseph, Righteousness the Exaltation, and Sin the Reproach of a People. In a Sermon Preach'd at the Lent Assizes, holden at Chelmsford in Essex, Before the Honourable Mr. Justice Eyre, On March 11. 1713/14, London, 1714.

Raymond, George, Christian Loyalty; with the Duty of Ministers relating thereunto. A Sermon Preach'd at the Assizes, at Bury St. Edmonds in Suffolk, March 26, 1716. Before the Right Honourable Sir Peter King, Lord Chief Justice of His Majesty's Court of Common Pleas, London, 1716.

Raymond, George, Honour and Conscience call'd upon: Or, The Duty of Faithfulness and satisfying Trust urg'd, in a Sermon Preach'd at the Assizes at Bury St. Edmonds In

Suffolk, March 23. 1707/8. Before the Right Honourable, Sir Edward Ward, Lord Chief Baron of Her Majesty's Court of Essex, Norwich, 1708.

Reeves, William, A Sermon Preach'd at the Assizes Holden at Abingdon, In the County of Berks, July 14. 1713. Before the Honourable Sir Littleton Powis and Sir Robert Eyre, Knts. Justices of the Court of Queen's-Bench at Westminster, Oxford, Reading & London, 1713.

Ridley, Glocester, The Blessings of Religion to Civil Societies. A Sermon Preach'd at the Assizes held at Thetford, For the County of Norfolk, On Friday, March 23, 1753. Before the Honourable Sir Thomas Dennison, Knt. One of the Justice of his Majesty's Court of King's Bench, London, Norwich, Cambridge & Ipswich, 1753.

Ridley, Glocester, The Difference and respective Use of the Moral, Civil, and Ceremonial Law. A Sermon Preach'd at the Assizes held at Norwich, On Wednesday, August 15, 1753. Before The Right Honourable Sir Thomas Parker, Knt. Chief Baron of his Majesty's Court of Exchequer; And the Honourable Sir Martin Wright, Knt. one of the Justice of his Majesty's Court of King's-Bench, London, Norwich, Cambridge & Ipswich, 1753.

Rights, The Rights of Government not incompatible with the Rights of Man. A Sermon Preach'd at the Assizes held at Chelmsford, in the County of Essex, before Hon. Mr. Justice Gould, and Mr. Justice Wilson, August 1, 1791, London, [1791]. (This work is anonymous.)

Rotherham, John, The Influence of Religion on Human Laws. A Sermon Preach'd at St. Mary's in Oxford, At the Assizes, Before the Honourable Sir Sydney Stafford Smythe, knt. One of the Barons of His Majesty's Justices of the Court of King's Bench; and before the University, Thursday, March 3, 1763, London, 1763.

Sacheverell, Henry, The Communication of Sin, A Sermon Preach'd at the Assizes held at Derby, August 15th 1709, London, 1709.

Sacheverell, Henry, The Nature and Mischief of Prejudice and Partiality Stated in a Sermon Preach'd at St. Mary's in Oxford, at the Assizes Held There, March 9th, 1703/4, Oxford & London, 1704.

Sacheverell, Henry, The Nature, Obligation, and Measures of Conscience, Deliver'd In A Sermon Preach'd At Leicester, at the Assizes Held There, July 25th, 1706, Oxford & London, 1706.

Savage, John, Security of the Establish'd Religion, the Wisdom of the Nation. A Sermon Preach'd at the Assizes Held at Hertford, August 7. 1704. Before the Right Honourable The Lord Chief Justice Holt and Mr. Justice Gould, Cambridge, 1704.

Scurlock, David, The Office of Governors described; and the Duty of Subjects recommended In A Sermon Preach'd at the Assizes held at Abingdon in Berks, On Tuesday March 7, 1726-7. Before the Honourable Mr. Justice Fortescue, and Mr. Justice Denton, London, 1727.

Seward, Thomas, The Folly, Danger, and Wickedness of Disaffection to the Government: An Assizes Sermon Preach'd at Stafford On Sunday, August 19, 1750. Before the Lord Chief Baron Parker, and Mr. Justice Burnet, On occasion of the late Seditious Riots in that County, London, 1750.

Sherard, Bennet, The Advantages of Righteousness in a Nation. A Sermon Preach'd at the Assizes held at Leicester, August 11. 1720. Before the Right Honourable Mr. Justice Tracy, and Mr. Baron Price, London, 1720.

Shuckburgh, George, A Sermon Preach'd at the Assizes Held at Hertford, On Monday, March 21, 1714/15. Before the Right Honourable The Lord Chief Justice Parker, And the Honourable Mr. Justice Tracey, London, 1715.

Simpson, Bolton, The Superior Excellency of the Righteous, or Moral Character. A Sermon Preach'd at the Assizes held at Winchester, Before the Honourable Mr. Baron Reynolds, and Mr. Baron Clarke, On Wednesday, February the 29th, 1743-4, London, Oxford & Winchester, 1744.

Skerret, R., The Wisdom and Benefit of Consideration. Set forth in a Sermon Preach'd at the Lent-Assizes holden at Reading in the County of Berks, March 11. 1716/17. Before the Honourable Mr. Justice Blencoe, and Mr. Justice Montagne, London, 1717.

Skerret, R., Three Sermons Preach'd in the Year 1715-16 Before the Right Honourable the Lord Mayor of the City of London, And at the Assizes holden for the County of Essex (3rd edn.), London, [1716?].

Skinner, William, A Sermon Preach'd at the Great Sessions at Brecon, On Saturday, March 30. 1754. Before the Honorable John Hervey Esq. One of His Majesty's Justices of the Great Session for the Brecon Circuit, Oxford, 1754.

Slade, Joseph, Gallionism truly Stated: Or, The Duty of the Magistrate with respect the Religion A Sermon Preach'd at the Assizes held at Reading, in the County of Berks, July 18. 1721. Before the Right Honourable The Lord Chief Baron Bury, and Mr. Baron Montague, London & Reading, 1721.

Smalbrooke, Richard, Of true Christian and English Courage. A Sermon Preach'd in the Cathedral-Church of Hereford, at the Assizes held at Hereford, August the 14th 1715. Before Mr. Justice Blencoe, and Mr. Justice Dormer, London, 1715.

Smith, Elisha, The most Noble Duty of a Publick Spirit. A Sermon Preach'd at the Cathedral Church of Lincoln, On the 19th of July, 1724. At the Assizes, London, 1724.

Smith, Joshua, The Divine Favour the only Security of a People. An Assizes-Sermon Preach'd in the Cathedral-Church of Winchester, on Thursday, February 28th 1705/6, Oxford & London, 1706.

Smith, William, The Gospel an actual Friend to the Liberties of Mankind. An Assizes Sermon Preach'd at Lancaster, Before the Honourable Sir Thomas Dennison, Knt. One of the Justice of the King's Bench, And the Honourable Charles Clarke, Esq. One of the Barons of the Exchequer, On Thursday the 31st Day of July, 1746, London, [1746].

Squire, F., Wickedness, High-treason: or, All vicious Subjects Enemies to their Governors. Prov'd in a Sermon Preach'd at the Assizes held at Taunton in County of Somerset, March 18. 1717, London, 1718.

Stamper, Thomas, The great Necessity, and proper Methods, of National Justice. A Sermon Preach'd at Kingston on Thames, March 23d, 1721. At the Assizes held there Before the Honourable Mr. Justice Tracy, London, 1721.

Stephenson, John, A Sermon Preach'd at Stafford, on Wednesday, March 27. 1723. At the Assizes held there, London, 1723.

Sterne, Laurence, The Abuses of Conscience: set forth in a Sermon, Preach'd in the Cathedral Church of St. Peter's, York, at the Summer Assizes, before the Hon. Mr. Baron Clive, and the Honourable Mr. Baron Smythe, On Sunday, July 29, 1750, York, 1750.

Sykes, Arthur Ashley, A Sermon Preach'd at the Assizes held at Brentwood in Essex, August 7. 1728. Before the Right Honourable The Lord Chief Justice Eyre, and Mr. Baron Hale, London, 1728.

Tew, Edmund, The Queen of Sheba's Notions of Government, consider'd, in a Sermon Preach'd at Calisle Assizes, On Wednesday, September 22, 1750. In the Cathedral Church of that City, before the Honourable Mr. Baron Clive and Mr. Baron Stafford-Smyth, Newcastle-upon-Tyne & London, [1750].

Thorp, Robert, A Sermon Preach'd at the Assizes, at Newcastle-upon-Tyne, August 2, 1768, holden by The Honourable Sir Henry Gould, Knt. one of the Justices of the Court of Common-Pleas, and The Honourable Sir Joseph Yates, Knt. one of the Justices of the Court of King's-Bench, Newcastle-upon-Thames & Berwick-upon-Tweed, 1768.

Trapp, Joseph, The Nature, Usefulness, and Regulation, of Religious Zeal. A Sermon Preach'd at St. Mary's, Oxon. Before the Honourable, Mr. Justice Fortescue Alland, and Mr. Baron Thompson; and before the University of Oxford:

At the Assizes held there, on Thursday Aug. 2d. 1739: London, [1739].

Trapp, Joseph, The Practice of Confounding the Distinction between Good and Evil Consider'd, and Expos'd. In A Sermon Preach'd at St. Mary's in Oxford, before Mr. Justice Powell, and Mr. Justice Gould; And Before the University of Oxford, at the Assizes Held There, March 4. 1707/8, Oxford, 1708.

Turner, Thomas, The Sacred Nature of an Oath, and the great Sin of Perjury. An Assizes Sermon Preach'd at Guildford in Surrey, August 23, 1754. before the Right Honourable Sir Dudley Rider, Knt. Lord Chief Justice of all England; And the Honourable Mr. Justice Foster, London, 1755.

Ward, Abel, An Assize Sermon Preach'd in the Cathedral Church at Chester, on Monday the 19th of April, 1756: before the Honourable William Noel, Esq; Chief-Justice, and the Honourable Mr. Justice Talbot, Manchester, [1756].

Watson, Richard, Christianity consistent with every social Duty. A Sermon Preach'd at the University Church in Cambridge, at the Assizes, before the Honourable Sir Richard Adams, Knt. One of the Barons of his Majesty's Court of Exchequer; on Thursday, March 9, 1769, Cambridge, 1769.

Waugh, John, A Sermon against Revenge: Preach'd at the Assizes at Kingston upon Thames, in Surrey; On Tuesday August 13th, 1717. Before the Honourable Mr. Justice Powis, London, 1717.

White, Richard, A Sermon Preach'd at the Assizes held at Chard, for the County of Somerset; before Sir James Montagu, Kt. one of the Barons of the Exchequer. April the 3d. 1716, London, 1716.

White, Thomas, A Sermon Preach'd at the Assizes at Aylesbury in the County of Bucks, March 5. 1705/6. Before the Right Honourable The Lord Chief Baron Ward. And at Chelmsford in the County of Essex, March 14. 1705/6. Before the Right Honourable The Lord Chief Justice Holt, and Mr. Justice Tracy, London, 1706.

White, Thomas, The Happiness and Duty of British Subjects. A Sermon Preach'd at the Assizes at Hertford, March 11. 1716/7, Before The Honourable Mr. Justice Dormer, London, 1717.

Whitfield, William, A Discourse of Christian Liberty. A Sermon Preach'd at the Assizes held at Guildford, July 20th, 1703. by The Right Honble The Lord Chief Baron Ward and Mr. Justice Tracy, London, 1703.

Wibbersley, John, A Sermon Preach'd at St. Nicholas's Church, in Newcastle, at the Assizes, Before the Honourable Mr. Justice Birch, and Mr. Baron Legge. On Tuesday, July 28. 1752, Newcastle-upon-Tyne, [1752].

Willett, John, The Nature and Mischiefs of Hypocrisy. A Sermon Preach'd at the Assizes, Before Mr. Justice Blencowe, and Mr. Justice Gould, at St. Mary's Church in Oxford, July the Fifteenth, 1708, Oxford & London, 1708.

Wynne, Thomas, The Evidences of an Over-ruling Providence, in defeating the Conspiracies of Cunning and Ungodly Men, represented in A Sermon Preach'd At Ruthin, in the County of Denbigh. At the Assizes held there, September 24. 1722, London, [1722].

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