CHAPTER 1

Some Further Terror and Peculiar Mark of Infamy

Abstract The story of Tom Otter, a murderer who was executed and gibbeted in 1806, has many striking features. Not least, this form of brutal and bodily post-mortem punishment seems rather anachronistic during a period often described in terms of increasing gentility and humanity. It took place within the legal context of the Murder Act (1752), which specified that the bodies of murderers had to be either dissected or hung in chains. Other aggravated death penalties were applied to those convicted of treason and suicide. A number of common misconceptions about the gibbet need to be corrected.

Keywords Tom Otter · Murder act · Suicide · Treason · Post-mortem punishment

Tom Otter

Tom Otter was not what he seemed. In fact, when he murdered his second wife on their wedding day in 1805, he wasn't even called Tom Otter. A bigamist, a murderer, a corpse and a ghost, Tom Otter was as unreliable as the numerous stories that were told about him from the time of his arrest to the present day. These included the rumour that he had murdered his baby (untrue: his wife was pregnant when he killed her, but had not given birth), that somehow contrived to murder

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another man after his own death by causing his gibbet cage to fall and crush him (also untrue), and that every year on the anniversary of his wife's murder, his ghost would cause the hedge stake with which the bloody deed was committed to appear, covered in gore, at the scene of the crime (a great story, but based on a mid-nineteenth-century fiction).

What we do know about Tom Otter is less sensational and more grim. Thomas Otter was born in the Nottinghamshire village of Treswell in 1782 and married Martha Rawlinson there in 1804, the same year that their daughter was christened at Hockerton. However, the very next year, he found navvying work on the canals of Lincoln. He was at that time calling himself Thomas Temporel, his mother's maiden name and the name under which he was soon to stand trial for murder. While in Lincolnshire, he seems to have quickly forgotten his wife and child in Treswell and taken up with a local girl called Mary Kirkham who, in due course, also became pregnant. To avoid the problem of illegitimacy and the need to support unmarried mothers and bastard children on parish relief, Otter/Temporel was compelled to marry Mary Kirkham on 3 November 1805, when she was about eight months pregnant. The South Hykeham parish register records that their marriage was witnessed by William and John Shuttleworth, the Overseers of the Poor for that parish. This is evidence that their wedding was a so-called "knobstick" marriage—like a "shotgun wedding", this was a forced union intended to compel fathers to take responsibility for their own illegitimate children. Instead of the bride's angry father being the driving force, representatives of the local parish who would have to provide for unsupported women and children were the principal enforcers of knobstick unions. But Tom and Mary's marriage was very short-lived. Later that very same day when the newly married couple were on their way back to Doddington where he lived, Thomas attacked Mary with a hedge stake and killed her at a place called Drinsey Nook.[1]

Tom was arrested the following day and brought to Lincoln castle. Mary's body was taken to the local inn (the Sun Inn in Saxilby) for post-mortem examination. Her body was subsequently buried in the north-east corner of Saxilby churchyard. Otter's guilt was never really in doubt and at his trial, during the March assizes of 1806, he was sentenced to

[1] This history of Tom Otter is much indebted to the excellent work carried out by the Saxilby and District History Group and published at http://www.saxilbyhistory.org/

death and dissection in accord with the 1752 Murder Act. Before the judge left town, the post-mortem part of the sentence was changed to hanging in chains.

Accordingly on March 14, Tom Otter was hanged at Lincoln gaol. After his death, his body was encased in a gibbet cage for which he had been measured before his execution—an experience upon which "all his fortitude appeared to forsake him".[2] His body was then transported to Saxilby and the gibbet cage was hung up on a pole thrity feet high on Saxilby Moor, about 100 yards from the place where Mary's body had been found. A huge crowd gathered to see the body being hung on the gibbet and for many days afterwards the scene was, according to an eyewitness "just like a fair".[3] Another man remembered his father's account: "For several days after the event, the vicinity of the gibbet resembled a country fair with drinking booths, ballad singers, Gypsy fiddlers, and fortune-tellers".[4]

This was not, however, the end of Tom Otter's story. Not only was his gibbet thronged with visitors during the early days, it remained suspended for more than forty years while his remains gradually decayed and fell away. Only a violent storm in 1850 finally brought the gibbet cage down. On that occasion, the lord of the manor, Edwin George Jarvis, recorded in his notebook that he managed to acquire the headpiece, though "the gypsies made off with nearly all the remains",[5] presumably for their value as scrap metal. The headpiece is still kept at Doddington Hall, Jarvis's home and now home to his descendant, Claire Birch.

Given its prominence in the landscape and the memorable circumstances of its erection—one can be fairly sure that the murder of Mary Kirkham and the subsequent execution and gibbeting of Tom Otter must have been among the most dramatic and thrilling—if disturbing—things that ever happened in Saxilby, it is not surprising that the gibbet left enduring traces in the landscape. Though the exact location of the gibbet is not marked, the road on which stands is called Tom Otter's

[2] *The Lincoln, Rutland and Stamford Mercury*, 21 March 1806.

[3] This quotation, and much of the story, is taken from of Edwin George Jarvis's unpublished commonplace book, which is in the possession of Claire Birch of Doddington Hall, Lincs.

[4] George Hall (1900) *The Gypsy's Parson* (London: Marston and Co), p. 17.

[5] Commonplace book of Edwin Jarvis.

Lane, which leads to Tom Otter's Bridge. Nearby are Gibbet Woods and Gibbetwood Farm. Gibbet Lane cottages lie a little way to the southeast.

As well as writing his name and fate permanently into the landscape around the scene of his crime, Tom Otter persists in some pieces of local folklore. The first concerns the malevolent spirit of Otter himself. Legends—now perpetuated mostly on the internet—tell how the weight of Otter's gibbet cage was so great that it fell twice from its post, the second time killing a man who had earlier taunted Otter. Then there is the story of how every year, on the anniversary of Mary Kirkham's murder, the hedge stake with which Otter committed the deed was found to be missing from the wall of the Peeweet (now Pyewipe) Inn and turned up instead in the field where she died, covered in blood. Even when a group of men decided to stay up and keep watch, they all mysteriously fell asleep at the same time and on waking found that the hedge stake had gone to the field once more. In the end, the story says, the hedge stake could be stilled only when the Bishop of Lincoln burned it outside the Cathedral. Another tale is that the Sun Inn, where Mary's body was brought for inquest, is haunted by the ghost cries of Tom Otter's baby.

Interestingly, all of these tales can be traced to a story published in the *Lincoln Times* in 1859 by Thomas Miller.[6] The Lincolnshire Record Office holds the covering letter that Miller wrote when sending his Tom Otter story to the *Lincoln Times*, from which it is very clear that the story is meant to be fiction, with only a small core of historical fact. Nevertheless, the ghosts of Drinsey Nook are a regular fixture in the investigations of paranormal interest groups and Lincolnshire ghost tours.

Post-mortem Punishment

Tom Otter's tale has many commonalities with the later parts of other criminal histories of the long eighteenth century. For the historian or archaeologist, it also raises a number of interesting questions. What were the purpose and meaning of the rather repulsive practice of hanging in chains? What did it actually entail? What effect did it have on the criminal, on the justice system and on the huge crowds who witnessed the event and the even larger numbers who eagerly consumed journalistic or

[6] Maureen James 2011. http://tellinghistory.co.uk/content/additional-information-not-included-lincolnshire-folk-tales-maureen-james-published-history.

fictional accounts of gibbets and their inhabitants? What kind of mental and physical legacy was left by the gibbets which formerly stood by roadsides and on commons all over England? This short volume picks up where most crime historians leave off, when the lifeless (or apparently lifeless) body is hanging from the execution scaffold, and follows the corpse into its gibbet irons where it might remain for many decades. This exploration makes use of archaeological, landscape, folkloric and literary evidence where relevant, but most of its data comes from historical newspaper and archival sources. In particular, it makes use of the invaluable "sheriffs' cravings", which are the expense claims submitted by county sheriffs, usefully detailing the practical elements of carrying out sentences, now stored in the National Archives at Kew.

Principally we are concerned here with the period from the Murder Act of the mid-eighteenth century to 1832, when the last gibbeting took place. Most examples are English and although I will be drawing in occasional examples from the other countries of the British Isles, there is no attempt to look at the global history of hanging in chains. This chapter looks at the legal background to the punishment and briefly considers other forms of post-mortem punishment before asking the question, "Who was hung in chains, and what were the circumstances that made hanging in chains, rather than another means of post-mortem punishment, the appropriate choice?"

Hanging in Chains Before the Murder Act

Hanging in chains predates the 1752 Murder Act and was a widely used punishment in the earlier eighteenth century and the seventeenth century. The same is also true of dissection, both punishments being part of the discretionary repertoire of the judge. However, the genealogies of the two treatments are different. The use of criminal corpses for anatomical dissection was driven principally by the needs of the anatomists. As Richardson has discussed, the earliest regular supply of cadavers for dissection was the result of legislation in the time of Henry VIII specifying that the bodies of four executed felons be supplied to the Barber Surgeons each year. By contrast, hanging in chains is a punishment more related to the bloodthirsty retributive punishments of the late medieval and early modern periods. The display of bodies—or more often of body parts, especially the head—was a common element of punishment for serious crimes such as murder or treason before the eighteenth century

and was carried out in England as part of the sentence for treason as late as 1745–1746 after the Jacobite rebellion.[7] The display of body parts in the medieval and early modern periods was particularly associated with crimes against the State or the political order. Body parts were typically displayed above city walls and gates or on prominent public buildings. The particular geographical specificity of hanging in chains as a post-execution punishment which is tied to the scene of crime was an effective way of perpetuating the memory of an atrocity. This goes some way to explaining its popularity in the punishment of aggravated highway robbery, and the tradition of hanging in chains those who have committed murder on the highway seems to have been established during the seventeenth century. Thomas Randall was punished this way for murder and robbery on the highway in 1696 and added to his spectacular death by dressing all in white for his execution.[8]

The Murder Act

Tom Otter's sentence for murder was not only execution—which was well established as the usual punishment for such a crime—but also the stipulation that after death his body was to be "hung in chains". In the early nineteenth century, the sentencing of Otter's crime was determined by the Murder Act. The 1751 act (which came into force in 1752 and so is often attributed to that year) was called "An Act for Better Preventing the Horrid Crime of Murder" and was known generally as the Murder Act. It was largely superseded by the Anatomy Act of 1832 and was formally abolished in 1834.

The punishment for murder in the middle of the eighteenth century, as it had been for many centuries before, was death. However, by that time, the number of crimes for which the penalty was death was more than 220[9], compared with around 50 capital offences in 1688.[10] When

[7] V.A.C. Gatrell (1994) *The Hanging Tree: execution and the English people 1770–1868 (Oxford: Oxford University Press)*, p. 317.

[8] *Post Man and the Historical Account*, 114, 30 January 1696.

[9] D. Levinson (2002) *Encyclopedia of Crime and Punishment, vol. 1* (Thousand Oaks, CA: Sage), p. 153.

[10] H. Potter (1993) *Hanging in judgement: religion and the death penalty in England from the bloody code to abolition* (Ann Arbor: SMC Publishing), p. 4.

you could, in theory, be hanged for poaching rabbits or going out after dark with a blackened face, the issue of distinguishing the most serious crimes became a problem.[11] Peter King has studied the extensive eighteenth-century public debate about what would constitute an appropriate and effective punitive response to serious and violent crime. Suggestions included ways of exacerbating the pain of execution through, for example, breaking on a wheel, as was widely practised elsewhere in Europe, or torturing to death. Some commentators advocated the use of some kind of *lex talionis*, which follows the principle that punishment should mimic whatever was inflicted on the victim of a crime. Thus, murder by drowning would be punished by drowning the perpetrator; serious assaults might be punished by inflicting a similar wound on the criminal before his or her execution.[12] Alternatively, the punishment of execution could be augmented by spreading the subject of punishment to include the criminal's family. Finally, the punishment might be extended past the point of death by causing an element of post-execution violence or humiliation to be enacted on the dead body of the criminal. In the case of suicides, men who had escaped the dock before death were subject to all those forms of post-mortem punishment.[13] A long period of debate about exacerbated forms of punishment preceded the introduction of the 1752 bill, and indeed the extension of post-execution punishment to crimes other than murder continued to be advocated during the later eighteenth century. In particular, serious attempts

[11] In fact, as historians have shown, during the period of the so-called "Bloody Code", the discretion of the judges and the reluctance of the juries meant that discretionary death sentences for property crime were often avoided or reprieved. This has led King and Ward to suggest that the long eighteenth century in England was in fact the period of the Unbloody Code. See P. King (2000) *Crime, justice and discretion in England 1740–1820* (Oxford: Oxford University Press); P. King and R. Ward (2016) 'Rethinking the Bloody Code in Eighteenth-Centre Britain: Capital Punishment at the Centre and on the Periphery' *Past and Present* (2016); J. Beattie (1986) *Crime and the Courts in England 1600–1800* (Princeton: Princeton University Press).

[12] Peter King (forthcoming) *Punishing the Criminal Corpse 1700–1840: aggravated forms of the death penalty in England* (Basingstoke: Palgrave).

[13] Rab Houston (2011) *Punishing the Dead: suicide, lordship and community in Britain 1500–1830.* (Oxford: Oxford University Press), p. 203; Robert Halliday (1997) 'Criminal graves and rural crossroads' *British Archaeology* 25 (June 1997); M. MacDonald and T. Murphy (1990) *Sleepless souls: suicide in early modern England* (Oxford: Clarendon Press).

were made in the 1780s and 1790s to extend mandatory post-execution punishment to other capital crimes, including burglary, highway robbery and some other crimes.[14]

Both dissection and hanging in chains were part of the customary repertoire of sentences that a judge might specify for serious crimes, but their use had been, before the Murder Act, discretionary. There was no legislation or even guidelines about the appropriate use of post-mortem punishment. Post-mortem punishment seems to have been considered by the legislative and judicial Establishment as both a deterrent and an expression of social sanction, even of collective retribution. Peter King has suggested that simple vengefulness might also have played a larger part than is sometimes assumed.

The Murder Act specified that

> [W]hereas the horrid Crime of Murder has of late been more frequently perpetrated than formerly… And whereas it is thereby become necessary that some further Terror and peculiar Mark of Infamy be added to the Punishment of Death, now by Law inflicted on such as shall be guilty of the said heinous Offence;… Sentence shall be pronounced in open Court, immediately after the Conviction of such Murderer… in which Sentence shall be expressed, not only the usual Judgment of Death, but also the Time appointed for the Execution thereof, and the Marks of Infamy hereby directed for such Offenders, in order to impress a just Horror in the Mind of such Offender, and on the Minds of such as shall be present, of the heinous Crime of Murder.
>
> And after Sentence is pronounced, it shall be in the Power of any such Judge, or Justice, to appoint the Body of any such Criminal to be hung in Chains; but that in no Case whatsoever, the Body of any Murderer shall be suffered to be buried, unless after such Body shall have been dissected and anatomized.[15]

In practice, this usually meant that a judge sentencing a murderer would specify that, following execution, the criminal's body be sent to the

[14] Richard Ward (2014) 'The Criminal Corpse, Anatomists and the Criminal Law: Parliamentary Attempts to Extend the Dissection of Offenders in Late Eighteenth-Century England', *Journal of British Studies*, 53: 4.

[15] 25 Geo II c. 37. An Act for Better Preventing the Horrid Crime of Murder.

appointed surgeon or anatomist for dissection, or hung in chains. The wording of the Murder Act itself is a little unclear about whether the sentence had to be anatomisation, with the proviso that such a sentence could later be modified to hanging in chains, or whether the judge was empowered at the point of sentencing to specify hanging in chains. At a meeting held on 7 May 1752 for the purpose of resolving any ambiguity, a number of judges argued that hanging in chains should be specified if no surgeon could be found to dissect the body.[16] An initial sentence of dissection was sometimes later changed to hanging in chains at the end of the Session in which the case was tried.

So it was under this legislation that Tom Otter's shocking crime was dealt with. Although the majority of those condemned under the Murder Act in the period between the Murder Act and the Anatomy Act were sentenced to dissection, in a minority of cases the judge specified that the felon be gibbeted, or as it was generally described at the time "hung in chains". Of the 1150 convictions under the Murder Act in England and Wales between 1752 and 1832, 908 (79%) were anatomised and dissected after execution, and 147 (13%) hung in chains. Of the rest, 93 (8%) were pardoned, and two died in prison before the sentence was carried out (Table 1.1 and Appendix y).

Other Post-mortem Punishments: From Customary Sanction to the Full Force of the Law

Dissection and gibbeting were not the only ways in which social sanction was physically expressed through actions on the dead body. Without any recourse to law, there were mechanisms within the local moral economy by which the status of the deceased could be signalled and reproduced. The purity of unmarried girls, and sometimes boys too, was acknowledged by burying them with a "maiden's crant" or decorative crown.[17] The location of the grave was also to some extent indexical of social standing. Disapprobation could be expressed through denial of a

[16] Judges' resolution on the Manner of Sentencing under the Murder Act—National Army Museum Archives, ref. 6510–146(2), 7 May 1752.

[17] Rosie Morris (2013) 'Maiden's garlands: a funeral custom of post-Reformation England', in C. King and D. Sayer (eds.) *The archaeology of post-medieval religion* (Woodbridge: Boydell).

Table 1.1 Numbers hung in chains under the Murder Act

Period	*Hung in chains under the Murder Act*	*Hung in chains for other crimes*	*Total hung in chains*	*Hung in chains in each period as percentage of total, 1752–1826 (%)*
1752–1776	62	28	90	41
1777–1801	67	48	115	53
1802–1826	12	2	14	6
Total	141	78	219	100

grave space in the desirable areas of the churchyard. The unfashionable north side of the churchyard was the customary burial place of non-communicants, unbaptised babies, strangers and criminals. In some parts of Britain, special burial grounds were kept for the disposal of unbaptised children, foreigners, suicides and criminals, although this practice was not widespread outside Ireland and the northwest of Scotland.[18] Though never formalised in law, burial outside the churchyard or in less prestigious parts of the churchyard was part of the moral economy of the community until the twentieth century.

There were, however, four other kinds of prosecution beside murder that could result in some form of post-mortem punishment: high treason; petty treason; piracy and other crimes on the high seas (these were tried by the Admiralty courts); and the most serious property offences, principally highway robbery and robbery of the mail. Post-mortem treatments of those executed for major property crime, when that sentence was passed, were similar to post-mortem treatments of those executed for murder. Capital criminals convicted by the Admiralty courts also faced punishments similar to those convicted of murder, with the notable feature that they were more likely to be gibbeted and that Admiralty gibbetings had some differences in practice to those convicted in assize courts. High and petty treason, however, were punishable during the

[18] E. Murphy (2008) 'Parenting, child loss and the cilline of post-medieval Ireland', in M Lally (ed.) *(Re)Thinking the little ancestor: new perspectives on the archaeology of infancy and childhood* (Oxford: Archaeopress); S. Tarlow (2011) *Ritual, belief and the dead in early modern Britain and Ireland* (Cambridge: Cambridge University Press), pp. 45–52; M. McCabe (2010) 'Through the backdoor to salvation: infant burial grounds in the early modern Gaidhealtachd'. Paper presented at the 32nd Annual Conference of the Theoretical Archaeology Group, University of Bristol, 17–19 December 2010.

long eighteenth century by various kinds of aggravated execution which involved subjecting the body to additional elements of pain and indignity both during and after execution.[19] These post-mortem punishments might more aptly be considered aggravated executions and indeed as the period progressed, some elements of punishment which had previously been carried out on the living body as part of the process of execution were later visited on the newly dead body instead. In addition to these, the crime of suicide—which could not be prosecuted or tried for obvious reasons—was frequently punished by visiting extra humiliations on the dead body.

Crimes Other Than Murder: Treason

Those convicted of treasonable offences were customarily subject to particularly excruciating and slow forms of death. It is widely believed that in Britain treason is still punishable by death. In fact, the death penalty even for treason was abolished in 1998, and no person has been executed for treason in this country since 1946. However, capital punishment remained, in theory, mandatory for high treason even after the death penalty had been abolished for most other offences, evidencing the particular gravity of treason in British law.

Treason offences were divided into high treason, which is treachery against the State or monarch, and petty treason: treachery of a subordinate against their natural or social superior, which would include the murder of an employer by their servant, for example, or of a husband by his wife. It was decided soon after the Murder Act that petty treason came within the purview of the Murder Act, although until the Treason Act of 1791 the traditional means of execution for women convicted of that offence—burning—was used as late as 1788.[20] However, traitors were also subject to special treatments of the body.

Well into the nineteenth century, the official legal punishment for male traitors was to be "hung, drawn and quartered", which involved removing the traitor's body from the scaffold before he was dead and cutting out his entrails before his own eyes. Finally, he was beheaded

[19] Peter King (forthcoming) *Punishing the Criminal Corpse*.

[20] Margaret Sullivan was burned for petty treason in 1788. Gatrell *The Hanging Tree*, pp. 337–38.

and his body divided into quarters, which could be displayed in a public place. For women, including those found guilty of petty treason, the legal execution for treason was by burning at the stake. However, by the eighteenth century, it had become normal practice to kill traitors first by hanging (for men) or strangling (for women), so that then being burned or disembowelled became a post-execution punishment.[21]

The traditional fate of the traitor's body was for his quarters to be disposed "At the King's pleasure". Until the eighteenth century, this generally meant displaying the heads of traitors at city gates or on prominent public buildings. Other body parts, being less recognisable, were less frequently displayed.

During the period of the Murder Act, the display of traitors' heads and quarters was definitely less common in Britain than it had been in the early modern period, and the times and places where it was in more frequent use—Ireland through much of the eighteenth and nineteenth centuries and Scotland in the wake of the 1745 rebellion—were those where the sovereignty of the monarch and the rule of Parliament were most seriously threatened.[22] Following the Jacobite rebellion, there were 79 executions for treason in 1746, in London, York, Carlisle, Brampton and Penrith. Although as traitors their bodies could be decapitated, quartered and displayed, letters at the time show that at least some of those executed in Cumberland were immediately buried.[23] However, 18 of those considered most culpable were brought to London for trial and execution, and their fates are better recorded. Their bodies were hanged, drawn and quartered and then beheaded. Although the bodies appear to have been buried afterwards, at least some of the heads were retained and displayed. Francis Towneley's body, for example, was buried in St Pancras churchyard, but his head was placed on a spike at Temple Bar, next to that of fellow Jacobites George Fletcher and Thomas David Morgan. The head of Thomas Deacon, who was executed the same day, was pickled and

[21] Beattie *Crime and the Courts*, p. 451.

[22] J. Kelly (2015) 'Punishing the dead: execution and the executed body in eighteenth-century Ireland', in R. Ward (ed.) *A Global Gistory of Execution and the Criminal Corpse* (Basingstoke: Palgrave); Rachel Bennett (2015) *Capital Punishment and the Criminal Corpse in Scotland 1740 to 1834*, Unpublished Ph.D., University of Leicester.

[23] Bennett, *Capital Punishment and the Criminal Corpse in Scotland*.

transported to Manchester and Carlisle to be exhibited. Exhibited heads were sometimes rescued: Towneley's head was recovered from Temple Bar and interred in the family vault at Towneley Hall in Burnley.

In practice, after the executions of the Jacobite rebels of 1745, there were only two instances of disembowelling as a formal punishment for treason—those of Francis Henry La Motte in 1781 and David Tyrie in 1782. Although the sentence pronounced continued to condemn the prisoner to be "hanged by the neck but not until you are dead, but that you be taken down again, and that while you are yet alive, your bowels be taken out and burnt before your faces, and that your bodies be divided each into four quarters, and your heads and quarters be at the King's disposal", in practice the executioner had discretion to waive the disembowelling and quartering and to abbreviate other elements. Even La Motte had hanged for nearly an hour before he was disembowelled, so he would have been deeply unconscious, if not dead, by the time that part of his sentence was carried out. Thus, by the late eighteenth century, burning, disembowelling and so on had become effectively post-execution punishments.

Executed in Hampshire in 1782, David Tyrie might have been the last person to be given the full works. Tyrie was convicted of carrying on a treasonous correspondence with the French and had some association with De La Motte, executed the previous year. *The Hampshire Chronicle* reported on 31 August of that year, "His head was severed from his body, his heart taken out and burnt, his privities cut off, and his body quartered. He was then put into a coffin, and buried among the pebbles by the seaside; but no sooner had the officers retired, but the sailors dug up the coffin, took out the body, and cut it in a thousand pieces, every one carrying away a piece of his body to shew their messmates on board". Interestingly, although Tyrie was given the whole medieval gory horror, his head and quarters were not piked and displayed but buried on the shore, a treatment normally accorded to suicides and strangers. De la Motte's treatment was slightly more lenient: his body was only symbolically scored rather than fully quartered. His body was placed immediately in a coffin by an undertaker, but the head was "reserved by the executioner to be publicly exposed".[24]

[24] J. Williams (1781) *The life and trial of F.H. de la Motte, a French spy, for high treason* (London: T. Truman), p. 34. *The Newgate Calendar*, however, says that the head was placed with the body in the coffin.

James O'Coigley, executed in Kent in 1798 for high treason, was beheaded after death, although this was carried out by a surgeon rather than the executioner. Both head and body were immediately put into a coffin and buried.

The old sentences were enacted only a few times in the nineteenth century. The Despard conspirators were decapitated in 1803, though not disembowelled or quartered, and their heads do not seem to have been retained for display after being shown to the crowd.[25] In 1812, two men—John Smith and William Cundell—were hanged and beheaded for treason, following their desertion from the British to the French army. Their heads were shown to the crowd but then returned with their bodies to their friends for burial.[26] The leaders of the Pentrich revolt were executed in 1817. They were sentenced to be hanged drawn and quartered, although in the event quartering was waived. After they were dead, they were beheaded and then "buried in one grave in St Werburgh's churchyard".[27] Finally, in 1820, the Cato Street conspirators were hanged and then beheaded[28] by a surgeon. Three other would-be Scottish rebels were executed at Glasgow and Stirling later the same year; there were no further judicial beheadings in Britain.

The bodies—and heads—of the Cato Street conspirators were not exhibited, nor were they returned to the men's families, who had petitioned to be allowed to claim them. Instead, they were buried within the prison compound, covered in quicklime. The wives' petitions were not purely sentimental or dutiful; according to Gatrell, they proposed to exhibit the bodies commercially to raise money for the conspirators' families.[29] By the time of the Cato Street executions, therefore, the exhibition

[25] C. Oman (1922) 'The Unfortunate Colonel Despard' in *The Unfortunate Colonel Despard and other studies* (London: E. Arnold), pp. 21–22.

[26] *The Criminal recorder: or, Biographical sketches of notorious public characters, including murderers, traitors, pirates, mutineers, incendiaries … and other noted persons who have suffered the sentence of the law for criminal offenses ; embracing a variety of curious and singular cases, anecdotes, &c*, Vol. 2 (London: J. Cundee, 1815), pp. 288–96.

[27] P. Taylor (1989) *May the Lord have mercy on your soul: murder and serious crime in Derbyshire 1732–1882* (Derby: JH Hall and sons), pp. 37–39.

[28] The execution of the Despard conspirators and the Cato Street conspirators is extensively described and discussed by Gatrell in *The Hanging Tree*, pp. 298–321.

[29] Gatrell *The Hanging Tree*, p. 308.

of the heads or the bodies of traitors was not carried out, either for private profit or for public statement.

Interestingly, the only criminals to stand trial posthumously in the post-medieval period were charged with treason. In England, Oliver Cromwell, Henry Ireton and John Bradshaw were tried posthumously for treason in 1661 and, on being found guilty, were exhumed and punished by hanging, beheading and the display of their heads. The remains of Robert Leslie, accused of treason in the Scottish courts in 1540, were allegedly exhumed before the trial, and his bones were brought to the dock, but no similar case happened in England.[30]

The punishment of traitors' bodies can be mostly fitted to a broad tripartite chronological division: first is the medieval and early modern tradition of aggravated execution with extreme pain and, essentially, torture. This was part of a broad European tradition of spectacular pain, famously exemplified in Foucault's description of the death of Damiens the regicide in 1757.[31] This was succeeded in the eighteenth century by a period during which execution by, effectively, public torture gave way to a public execution which reserved the spectacular elements of burning, dismemberment and public display to the treatment of the post-mortem body.[32] Indignity and disintegration of the body (psychological and social distress) thus supplanted pain (physical distress) as the most severe punishment. Finally, over the course of the later eighteenth and nineteenth centuries, public humiliation of the body was succeeded by private and increasingly efficient, physical punishment. The disposition of quarters and display of heads ended, and the practices of gibbeting,

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[30] The case of Robert Leslie was cited in the *Encyclopedia Britannica* of 1904 and is repeated in a number of twentieth-century sources without attribution. Court records of December 1540 seem to suggest only that Leslie's wife and children were summoned to appear in his stead. S. Tarlow (2013) 'Cromwell and Plunkett: two early modern heads called Oliver', in J. Kelly and M. Lyones (eds.) *Death and dying in Ireland, Britain and Europe: historical perspectives* (Dublin: Irish Academic Press), pp. 59–76.

[31] Michel Foucault (1991) [orig. Paris: Gallimard, 1975] *Discipline and Punish* (London: Penguin).

[32] A further twist is that the body removed from the gallows following a strangulation hanging was often still alive though unconscious. The frequency with which hanged 'dead' bodies revived on the dissection table testifies to the inexactitude of pre–long-drop hanging. See E. Hurren (2013) 'The dangerous dead: dissecting the criminal corpse' *The Lancet*, 27 July 2013, Vol. 382, pp. 302–03.

public dissection and eventually public execution of any kind were gradually abandoned between the late eighteenth and mid-nineteenth centuries. Even traitors were thenceforward executed privately by the quick and efficient long-drop method, and their bodies buried within prison walls.

This kind of chronology of punishment is observed in not only the case of treasonous bodies but also other kinds of criminal. The changes are to do with cultural attitudes as well as the law.

That the disembowelling and beheading of traitors feels anachronistic in the eighteenth and nineteenth centuries is not a new point. It is both in the spectacular pain of prolonged, multi-stage executions and in the superfluity of post-mortem shaming of the body that the traitor's death claims a medieval descent. Yet the extensive, irrational, spectacular punishment of the body was also the core of the post-mortem punishments of the 1752 Murder Act. King's review of the published debate about aggravated forms of capital and corporal punishment demonstrates that, although executions and publically bloody punishments declined in number during the eighteenth century, they actually increased in brutality up until the 1770s. For King, the Murder Act is not an aberration but the culmination of a series of debates. This presents a different kind of eighteenth century, one that is very different from Norbert Elias's civilising journey, and challenges progressivist histories that emphasise the spread of humane and empathetic attitudes.[33]

Crimes Other Than Murder: Suicide

Post-mortem treatment of the body could be used as a means of expressing social sanction for a range of deviant behaviours, including criminality, even without being formalised in law. This is most notable in the treatment of suicide bodies. The practice of giving special burial treatment to suicides was well established in Britain since at least the medieval period. In early modernity, under the influence of puritanical and fundamentalist Protestantism, suicide was considered to be evidence of the sin

[33] Norbert Elias (1994) *The civilising process*. Oxford: Blackwell. Elias offers a long-term history of manners by which self-restraint, circumspection and 'civility' came to characterise social and political relationships over the second millennium AD.

of despair and almost invariably thought to be the result of succumbing to diabolical temptation. By the end of the eighteenth century, however, ordinary people throughout Europe were far more likely to want to see suicide as the result of mental illness and to try to circumvent traditional, religious or legal requirements that suicides be denied normal burial.[34] However, attitudes towards taking one's own life show considerable variation even in the eighteenth century and were affected by the circumstances of the suicide.

Throughout the eighteenth and nineteenth centuries, suicide was considered a crime under both secular and canon law. Those who committed suicide in order to escape the justice of the State were double criminals. Since the means of death had been taken from the State, other forms of punishment were placed upon the suicide, foremost among which were post-mortem punishment of the body and forfeiture of the Estate. As Houston notes, forfeiture was "a token of blame and of 'apology'", but the punishment of the body was both more shameful and more punitive.[35] MacDonald and Murphy's history of suicide records that the normal punishment for suicides until 1823 was forfeiture and profane burial. The 1823 Act ended the custom of profane burial for suicides, but it is noteworthy that profane burial was never a universal and legally enshrined rule: the 1823 act only put a stop to a local customary practice which had already fallen out of use in many parts of the country, as a more sympathetic attitude to suicides gained ground. In fact, Houston contends that profane burial in the form of highway burial with a stake through the body was predominantly a southeast English custom and that widely variable practices are described in provincial newspaper and legal accounts of the disposal of the suicide's body. Houston notes, for example, that in 50 years of the *Cumberland Pacquet* only 3 of 18 suicides reported in the northern counties of England were linked to unusual burials: one staked at a crossroads, one on Lancaster Moor and one buried at Low Water mark. All three are from 1790–1791 and might

[34] MacDonald and Murphy, *Sleepless Souls*. See also the essays in Jeffrey Watt (ed.) (2004) *From Sin to Insanity* (Ithaca: Cornell).

[35] The history of suicide in Britain in the eighteenth and nineteenth centuries has been most comprehensively addressed by MacDonald and Murphy *Sleepless Souls* (1999) and Rab Houston *Punishing the dead* (2010). The literature on the legal, theological and social context of suicide in history is vast and complex; here we concentrate only on the fate of the body.

reflect a particular moment of public anxiety about self-murder. Two more staked burials of suicides from other counties were mentioned in the *Paquet*, and a few more mention unusual locations, but of a total of 209 reported suicides nothing is mentioned of the disposal of the body in the majority of cases.[36]

The prevalence of staked highway burial is hard to estimate. Historical sources have not been systematically reviewed for much of the country and are in any case not always informative. Even where a coroner's court recommended staked highway burial, actual practice is not often attested: to our knowledge, there is no coroner's court equivalent of the sheriffs' cravings that detail actual expenditure. Archaeological evidence is an excellent source but very few suicide burials are known. In particular, highway burials, by virtue of their very exclusion from normal burial places, are not generally anticipated when road development schemes are carried out, and it is likely that many or most have been destroyed in twentieth-century road construction programmes without any kind of archaeological excavation or recording having taken place. The skeletons of bodies buried without coffins rarely survive for two hundred years except as fragments and stains,[37] and if such remains were excavated without archaeological training or using archaeological methods, they would be very unlikely to be noted or recorded. Halliday's short article on criminal graves has little sense of chronology and does not distinguish suicides from other executed criminals.[38] It is interesting, however, that nearly all the cases of crossroads burial he mentions are from the south and east of England. The one Welsh case discussed—reported in the *Gentleman's Magazine* in 1784—was buried on the shore, disregarding the coroner's suggestion that she be given staked crossroads burial.

The desecration of suicides' bodies and the enactment of practices designed to appease the spirit or lay the ghost of a suicide were not ordered or sanctioned by the Church of England, although religious authorities did insist from time to time that suicides not be given full and normal burial rites.[39] Nor, as we have seen, did English law insist on their special treatment.

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[36] Rab Houston, *Punishing the Dead*, p. 203.

[37] Sian Anthony (2015) 'Hiding the body: ordering space and allowing manipulation of body parts within modern cemeteries', in S. Tarlow (ed.) *The archaeology of death in post-medieval Europe* (Berlin: DeGryuter Open), pp. 172–90.

[38] Halliday, 'Criminal graves and rural crossroads'.

[39] MacDonald and Murphy *Sleepless souls*, pp. 42–43.

Houston's contention is that suicide burial customs were regionally and chronologically variable and indeed were not necessarily standard even within a small area. So the degree of "profanity" in a profane burial might be quite varied. Since practice was not specified authoritatively by Church or State, suicide burial might serve a number of purposes. Briefly, these could include the following:

1. Punitive practice as part of the retributive process. To express social sanction
2. Deterrence. In Weever's often-cited words "to terrifie all passengers, by that so infamous and reproachfull a buriall, not to make such their finall passage out of this world"[40]
3. Preventing the ghost of the suicide from returning to trouble the living, through pinning (with a staked burial) or burial at a crossroads (which, it has been suggested, would confuse and disorientate the revenant)
4. Exclusion from the community of the dead. This was enacted spiritually in the exclusion of suicides form normal rites and normative daytime burials and spatially in keeping the place of suicide burial separate from the normative cemetery. They were buried either outside the churchyard or on its inauspicious north side.

Until the decriminalisation of suicide in 1961, all suicides except those who were insane were criminals.[41] But some suicides were criminals twice over. Those men and women who evaded the noose, gaol, transport or other public retribution by taking their own lives were a special—and, it was often opined, particularly culpable—kind of suicide. The most famous criminal suicide of our period was the death of John Williams in Coldbath Prison, London, in 1811, while he was awaiting trial for the Ratcliffe Highway murders (although some doubt has been raised about whether Williams's death was indeed a suicide).[42]

[40] John Weever (1631), *Ancient and Funerall Monuments with in the united Monarchie of Great Britaine, Ireland and the Islands adjacent* (London: Thomas Harper), p. 22.

[41] Suicide Act 1961 (9 & 10 Eliz 2 c 60).

[42] Thanks to Steve Poole for drawing my attention to the possibility that Williams did not take his own life.

John Williams's burial was pure pageant. His body was taken from the prison where he died, laid out on a board next to the blood-stained tools with which he had murdered his victims. The board was put into a cart and followed by a crowd of up to 20,000 people through the streets of London. The route taken by the wagon passed the houses of his victims, at each of which the procession halted. Eventually, the procession reached the Cannon Street crossroads, where the body was stuffed into a grave that was slightly too small and a stake driven through it.[43]

Thinking About Gibbets: The Historiography of Hanging in Chains

"On the edge of the river I could faintly make out the only two black things in all the prospect that seemed to be standing upright; one of these was the beacon by which the sailors steered—like an unhooped cask upon a pole—an ugly thing when you were near it; the other, a gibbet with some chains hanging to it which had once held a pirate".[44]

Hanging in chains, then, was only one way among several of expressing social or judicial censure after death, and it occurred more rarely than staked burial or dissection. However, gibbetings left a cultural mark in the minds and landscapes of those who witnessed one, that was perhaps disproportionate to their frequency.

Given the emotional impact of the real or imagined presence of the gibbet (young Pip's awareness of the pirate's gibbet on the marsh in the first chapter of *Great Expectations*, for example), there is surprisingly little sustained or academic study of the practice. This contrasts with the large body of literature on dissection as a post-mortem punishment.[45] The two most extensive and detailed studies of the practice, William Andrews *Bygone Punishments* (1899) and especially Albert Hartshorne's *Hanging in Chains* (1893), are both more than a hundred years old,

[43] Newgate Calendar (http://www.exclassics.com/newgate/ngintro.htm).

[44] Charles Dickens (1996 [1860–61]), *Great Expectations* (London: Penguin), p. 7.

[45] See Ruth Richardson (1989) *Death, Dissection and the Destitute* (London: Routledge & Kegan Paul); Elizabeth Hurren (2012) *Dying for Victorian Medicine: English Anatomy and its Trade in the Dead Poor, c. 1834–1929* (Basingstoke: Palgrave Macmillan); Thomas Laqueur (1989) 'Crowds, Carnival, and the State in English Executions, 1604–1868', in Lee Beier, David Cannadine, and James Rosenheim (eds.) *The First Modern Society: essays in honour of Lawrence Stone* (Cambridge: Cambridge University Press).

and neither makes any attempt to be exhaustive or systematic or to put the practice into much historical context.[46] Hanging in chains is often mentioned by crime historians as a sentence, but the technicalities of the physical process, the criteria by which gibbets were located in the landscape, and the material impact of their presence have not been subject to analysis, nor have the contrasts between gibbeting and dissection been discussed or explained. This book attempts to draw out the main features of gibbeting, principally during the period of the Murder Act. This chapter reviews the broad historical context of gibbeting under the Murder Act: how frequent was the practice and how did it change over time? What kinds of crime or criminal were most likely to be punished in that way? It also corrects some widespread misunderstandings about hanging in chains. The second chapter is concerned with questions of geography and the events of a gibbeting itself: where were gibbets sited? Which parts of the country were keenest on the practice? How were the precise locations of gibbets determined? What actually happened when a person was hung in chains? What were the technical and material features of the apparatus? The third chapter takes us beyond the original occasion of the gibbeting to look at the afterlives of gibbets—how did they shape the landscape and people's experience long-term? When and why were they taken down and what happened to the remains and the material then? The book ends with some consideration of why this punishment, which seems in some ways anachronistically brutal in the later eighteenth century and certainly was more costly than its alternative (dissection), continued to be carried out.

Who Was Hung in Chains?

Although the Murder Act dealt specifically with murder, gibbeting and dissection were sometimes specified for other crimes too. Next to murderers, the most likely to be hung in chains were those who came before the Admiralty courts (mostly for killing offences, piracy or smuggling), highway robbers and those convicted of robbing the mail (Table 1.2). The practice of hanging highway robbers in chains near the scene of

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[46] W. Andrews (1899) *Bygone Punishments* (London: William Andrews and Co); Albert Hartshorne (1893), *Hanging in Chains* (Cassell, New York).

Table 1.2 Crimes punished by hanging in chains, 1752–1832

Hanging in chains for all categories of offence, 1752–1832		
Offence	Number	Percentage (%)
Murder (including Admiralty cases)	144	64.9
Mail robbery	31	14.0
Admiralty offences (not including murder)	23	10.4
Highway robbery	10	4.5
Burglary and housebreaking	7	3.2
Robbery	2	0.9
Shooting with intent to kill	2	0.9
Animal theft	1	0.5
Arson	1	0.5
Riot	1	0.5
Total	222	100.0

their crime was apparently well established by the time of the Murder Act. As early as 1694, a proposal to formalise the practice had been put to Parliament, and Cockburn has found evidence that by 1770 it was normal for a Post Office official to attend the trial of a mail robber to remind the judge that hanging in chains was the customary sentence in such cases, or to pressure the Secretary of State to order that punishment if the judge was not willing to be guided.[47] Harper says that as a result of intervention by the Earl of Leicester, Postmaster General at the time, after 1753 those found guilty of robbing the mail were to be gibbeted after execution.[48] However, despite the existence of a few personal letters requesting a sentence of gibbeting in individual cases, there is no universal legislation or general guideline extant. There are, however, records of the Postmaster General applying on specific occasions for the body of a mail robber to be hung in chains. For example, Lord Sandwich requested in April 1770 that the body of John Franklin, convicted of the robbery of the Bristol mail, be hung in chains. The judge turned down his request on the grounds that the robbery had not involved violence, but Sandwich went over his head to the High Sheriff to procure an order that Franklin's body be hung in chains near the place where the robbery was

[47] J.S. Cockburn (1994) 'Punishment and Brutalization in the English Enlightenment' *Law and History Review* 12(1): 155–79, p. 167.

[48] G. Harper (1908) *Half-hours with the Highwaymen; picturesque biographies and traditions of the knights of the road (Vol. 1)* (London: Chapman and Hall), p. 206.

committed. Interestingly, in this case, the Postmaster General offers no other reason for his request than that gibbeting "had always been done in cases of mail robberies".[49] It was thus perceived traditional practice rather than any motivation articulated in a legal act that perpetuated the custom of gibbeting mail robbers near the scene of their crime. The most frequent crimes other than murder for which gibbeting was a punishment were all capital crimes which threatened the orderly administration of the capitalist state (although forgery does not seem to have been punished in this way unless the criminal was also found guilty of other serious crimes). It could thus be suggested that crimes against the State were more likely to lead to the spectacular punishment of hanging in chains than private, personal or domestic, but equally serious, crimes against the person or burglary, which might be more likely to receive a sentence of dissection.

Smugglers

In the period immediately preceding the Murder Act, a large number of men were hung in chains for smuggling. Between 1747 and 1752, 50 people were convicted of smuggling in the counties of Sussex and Kent, of whom 42 were hanged, and 16 of those were also hung in chains. There was clearly regional variation at play here also since none of the 23 smugglers convicted in East Anglia over the same period was sentenced to any post-mortem punishment at all.[50]

Interpreting the Murder Act: Dissection or Hanging in Chains?

Whether a convicted murderer should be dissected or gibbeted was left to the discretion of the judge, as was the inclusion of post-mortem punishment in the sentence of those found guilty of other crimes.

The rationale for deciding which people should be dissected and which hung in chains is much harder to understand. When Thomas Hanks was hung in chains in Gloucestershire in 1763 instead of being

[49] State Papers, Southern Department SP 44/89/350.

[50] Zoe Dyndor (2015) 'The Gibbet in the Landscape: locating the criminal corpse in mid-eighteenth-century England', in R. Ward (ed.) *A Global History of Execution and the Criminal Corpse* (Basingstoke: Palgrave).

dissected as originally specified, the local newspaper reported only that such a punishment would be "better".[51] At the Hereford Lent Assizes in 1770, all of the six men found guilty of the murder of William Powell and sentenced to death were destined by the judge for dissection,[52] but ultimately only four were dissected: William Spiggott and William Walter Evan were hung in chains instead.[53] Pamphlet accounts of their crime and trial give no reason for this differential treatment—and the two men gibbeted were neither more nor less culpable than those dissected. A similar situation arose following the conviction of three men—John Croxford, Benjamin Deacon and Richard Butlin—for murder at the Northamptonshire assizes on 31 July 1764. Although the original sentence was that all three should be sent for dissection under the terms of the Murder Act, a warrant from the judge to the sheriff records a subsequent decision that Croxford alone should be hung in chains instead.[54] Indeed, of 16 people sentenced to be dissected in Northamptonshire between 1739 and 1832, at least five were ultimately hung in chains instead. Edward Corbett, convicted of murder at the Buckinghamshire Assizes in 1773, was sentenced to be dissected, but his sentence was amended to hanging in chains because, according to the Assize Calendar, "no surgeon is willing to receive the said body". Similarly, when William Suffolk was executed in Norfolk in 1797, no surgeon came forward to claim the body, so the court ordered instead that it be hung in chains "near as may be where the said felony was perpetrated"[55]; and Thomas Otley, executed for murder in 1752 in Suffolk, was "ordered to be hanged in chains (no surgeon be willing to receive his body) pursuant to the statute in such case lately made".[56] In Suffolk in 1783, James May and Jeremiah Theobald were both convicted of murder and sentenced to hanging and dissection. However, both bodies were instead hung in chains at Eriswell, the scene of crime "at the request of the prosecutor", according to a pamphlet detailing their trial, although no further

[51] N. Darby (2011) *Olde Cotswold Punishments* (Stroud: History Press), p. 24.

[52] *General Evening Post*, 31 March–3 April 1770, issue 5690.

[53] *Independent Chronicle*, 11–13 April 1770, issue 85.

[54] TNA E389/243/410.

[55] TNA E389/250/79 (Assize Calendar Norfolk 21 March 1797).

[56] Sheriffs' Cravings Suffolk 1752.

explanation of this decision is given.[57] The same happened nine years later at the same assize court in the case of Roger Benstead,[58] again with no reason given, although a contemporary account notes that this part of the sentence seemed to affect the condemned with a greater dread than any other aspect of the sentence, including the execution itself.[59] In 1794, John and Nathan Nichols, father and son, were both found guilty of the same murder, also in Suffolk, and originally both sentenced to be sent to the surgeons.[60] However, after execution, the older man's body was hung in chains whereas the younger man was dissected.[61]

In researching this book, we were for some time puzzled by the frequency with which the judge appeared to have changed his mind about what kind of post-mortem provision should be applied. We encountered numerous cases where before the judge left town he directed that an offender should be hung in chains rather than dissected. Such voltes-faces never occurred the other way round (from hanging in chains to dissection). The initially mystifying practice of substituting the gibbet for the scalpel at what appeared to be the last minute was explained by another piece of documentary evidence. The discovery of a recorded meeting of all circuit justices shortly after the passage of the Murder Act shows this practice to be an interpretation of the consensus reached there that the proper sentence was normally to be hanging until dead followed by delivery to a surgeon for dissection and anatomisation. The order to hang in chains was to be made as an amendment to the sentence delivered in open court.[62] On many occasions, this seems to have occurred as part of the "dead letter"—the instructions left by the judge at the end of an assizes listing which sentences

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[57] *The Trial at Lage of Jeremiah Theobald, otherwise Hassell, and James May, otherwise Folkes* (Ipswich: Shave and Jackson) 1783.

[58] Richard Deeks (1984) *Some Suffolk Murders* (Long Melford: R&K Tyrell), pp. 10–11.

[59] *The trial of Roger Benstead the elder* (Bury St Edmunds: P. Gedge) 1792, p. 14.

[60] *The trial of John and Nathan Nichols, (Father and Son)* (Bury St Edmunds: P. Gedge), p. 8.

[61] Diary of William Goodwin, surgeon, of Earl Soham Suffolk. Suff RO HD 365/3 vol. 2, from 1791.

[62] Judges' resolution on the Manner of Sentencing under the Murder Act—National Army Museum Archives, ref 6510–146(2), dated 7 May 1752.

of execution were to be actually enacted and who was to be reprieved. The letter would be informed by representations made to the judge based on local knowledge of the accused or attitudes towards their crime. Decisions in the dead letter were not usually explained.

In most cases, then, no reason for hanging in chains rather than gibbeting is given. Where a reason is stated, it relates to those cases where hanging in chains was a pragmatic response to the absence of any surgeon willing to take the body for dissection. Whereas some kinds of body were in high demand for dissection—young and fit ones, large ones, female ones and unusual ones—old, small, white, male ones were less valuable. This may be the reason that no woman was ever hung in chains under the Murder Act—since women were much less likely to be accused of or condemned for murder, female bodies were only rarely available to medical science under the terms of the Murder Act. The bodies of executed women whose crimes fell under the Act were therefore highly prized for dissection. When John Swan and Elizabeth Jeffryes were both convicted of the same murder in 1752, only Swan was hung in chains, but Jeffryes's fate is unclear[63]; and whereas William Winter was hung in chains near Elsdon in Northumberland, the two women convicted alongside him, Jane and Eleanor Clark, were both dissected. Similarly, the decision to hang John Nicholls in chains and dissect his son Nathan might also indicate that the younger, fitter body was of greater interest to surgeons than the body of an old man. In 1759, Surrey surgeons rejected the body of Robert Saxby altogether because he was too old; he was therefore hung in chains instead.[64] Medical interest might also have influenced the post-mortem fate of John Pycraft, who was executed for murder in Norfolk in 1819. Pycraft was affected by some kind of dwarfism. His measurements are given in the *Bury and Norwich Post* of 25 August 1819 as 4'2" in height, with legs of 18", arms of 13.5" and his skull circumference as 23.5". His body was sent for dissection

[63]The trial of Swan and Jeffryes took place just before the Murder Act came into force. They were both found guilty—Swan of petty treason and Jeffryes of murder—and both hanged, but it seems that Jeffryes's post-mortem fate was neither the gibbet nor the scalpel. *The Authentick Memoirs of the Wicked Life and Transactions of Elizabeth Jeffryes* (2nd edn., London, 1752) claims that her body was taken away by her friends, as does the *London Evening-Post*, 28–31 March 1752.

[64] *Whitehall Evening Post or London Intelligencer*, 11 August 1759, issue 2091.

and his skeleton retained by the Norfolk and Norwich Hospital museum where it was catalogued under his own name.[65]

Given this context, it is surprising that Toby Gill, “Black Toby”, was hung in chains rather than dissected after his conviction for murder in 1750. Convicted for the murder of a local girl, Ann Blakemore, Gill, who was a drummer in Sir Robert Rich’s regiment, was gibbeted at Blythburgh in Suffolk. Gill was described at the time as “a black” and would normally therefore have been of interest to the surgeons.

The Rise and Fall of the Gibbet

For clarity, the term gibbet here is used to describe the whole structure used to display the corpse of a criminal, including post and arm, chains and cage. The framework from which execution by hanging took place is called a scaffold or gallows. During the eighteenth and nineteenth centuries, the terms gibbet and scaffold were sometimes used interchangeably; and “gibbet” could be used loosely to describe the whole edifice, or just the standing post, with the chains and cage described either in those words or together as “irons” or “chains”. Variation in the technology and design of the gibbet is discussed in the next chapter. A typical gibbet, however, would comprise a wooden pole of up to twelve metres fixed securely into the ground. It would have a cross arm at the top projecting on one side or sometimes on both sides to make a T shape, usually braced with supporting cross struts. From the end of the arm, a substantial iron hook or socket projected from which was suspended the gibbet cage on a short length of chain. The cage itself was often anthropomorphic and was always made of iron.

The peak popularity of gibbeting in England and Wales was during the mid-eighteenth century, just before the Murder Act in 1752. Figure 1.1 shows the number of gibbetings annually rising to a peak in the 1740s and then declining rapidly. After 1800, there were very few gibbetings in England and Wales; there were no gibbetings at all for property crime after 1803 and very few for murder. Only two people were hung in chains in the 1810s outside the Admiralty courts, and one in the 1820 s. Another man sentenced to be hung in chains in 1827 near Brigg, Lincolnshire, had his sentence remitted following a petition by the

[65] NRO NNH 29/2 Catalogue of the Norfolk and Norwich Hospital Museum.

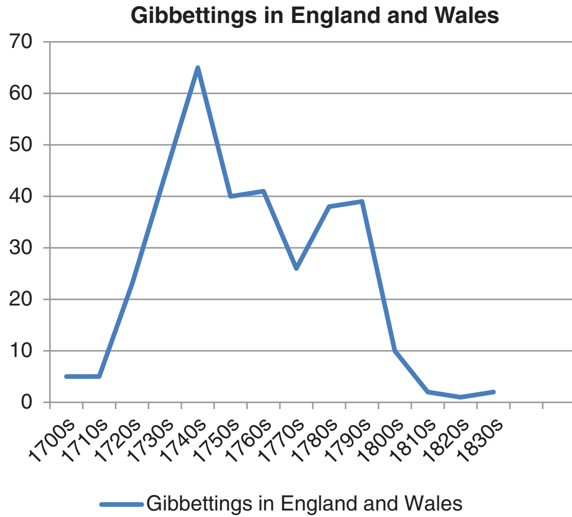

Fig. 1.1 Number of gibbetings per decade in England and Wales, 1700–1832

local inhabitants.[66] The two sentences of gibbeting passed in the summer of 1832, which turned out to be the last hurrah for hanging in chains in Britain, were probably based on a misinterpretation of the Anatomy Act, passed earlier that year, which removed the option of anatomical dissection for convicted murderers. In fact, the more usual alternative of burial within prison grounds was already in use, but it is possible that judges used to passing sentence of dissection believed that gibbeting was the only possible sentence that remained open to them for convicted murderers. There was also a widespread misapprehension at the time that the power to hang in chains had been given to the courts by the Anatomy Act, when the truth was that such powers had never been revoked but had largely fallen into disuse until, in 1832, the Anatomy Act banned what was generally the preferred option. The gibbetings of William Jobling and James Cook that year aroused considerable media interest and a general outcry among the educated classes.

In 1834, the practice of hanging in chains was formally abolished, two years after Parliament ordered that the gibbet of James Cook be taken

[66] Andrews *Bygone Punishments*, p. 73.

down from a road junction on the edge of Leicester, only three days after being hung up there. By that stage, there was a very strong feeling that hanging in chains was barbaric and ill-suited to a civilised age. A journalist of the *Leicester and Nottingham Journal* on 18 August 1832 reflected presciently on the dismantling of Cook's gibbet:

> we are glad that the disgusting *sight* has been removed considering it, as we do, the revival of a barbarous custom which a more humanized age has long exploded from the statute book. That the application should have been made in the case of one of the most brutal murders ever committed, is singular; but it will be attended with one important effect. James Cook will be the last murderer that will be sentenced to be hung in chains, since no Judge can hereafter think of awarding the punishment to ordinary murderers while the most atrocious delinquent of that description has been *ungibbeted* by an order bearing the King's sign manual.

It is worth noting, however, that disgust at the sight was not sufficiently widely shared to prevent crowds of more than 20,000 attending Cook's gibbeting.[67]

During the debate accompanying the first presentation of the motion to end gibbeting in 1834, one M.P. pointed out that a judge in Ireland had "only the other day" ordered a murderer to be dissected, despite the official cessation of that form of post-mortem punishment two years earlier, because he considered it "preferable" to hanging in chains.[68] The history of gibbeting in Ireland follows a different trajectory to the English story. Hanging in chains was still widespread in early nineteenth-century Ireland, perhaps because it was valued as an exemplary punishment for crimes with an element of sedition or those judged to threaten the orderly functioning of the State. In England, these include the crimes of piracy, smuggling and mail robbery; in Ireland, crimes which imperilled the tenuous grip of British control were more likely to be punished by spectacular treatments of the body, such as hanging in chains. The landscape of County Louth in Ireland, notable to the British as a breeding ground of sedition and a threat to the authority of the State, was described around 1816 as being "studded with gibbets" containing the remains of Ribbonmen, a group of anti-English Irish Catholics, set

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[67] *Leicester and Nottingham Journal*, 18 August 1832.

[68] Hansard *HC Deb 13 March 1834, vol. 22, cc155–7.*

up near the homes of those convicted (in Carleton's vivid account, the tarred sacks containing the remains of the executed Ribbonmen attracted so many flies that the sound of buzzing could be heard some distance away).[69] Although the overall capital conviction rate in Ireland was lower than in England, executions which severely damaged the body and caused extensive pain were comparatively more frequent. Bodies were gibbeted in Ireland fairly commonly during the eighteenth century, despite public unease which Kelly attributes both to disgust at the smell and sight of decaying bodies, especially in built-up areas, and to religious and ethical scruples. It may be that ambivalence about the post-mortem exhibition of the body was more pronounced in Catholic countries, although there is no doctrinal reason why this should be the case.[70]

Some Common Misconceptions

The technical and geographical details of gibbeting will be reviewed in the next chapter, but first it is worth correcting or clarifying some widespread misapprehensions about hanging in chains, arising mostly from popular or secondary sources.

Myth 1: Gibbeting Is the Same as Execution by Hanging

While gibbet can be a synonym for gallows or scaffold, gibbeting refers only to the practice of displaying the dead (or, exceptionally, dying) body in a suspended device. In this book, I refer to the structure used for carrying out executions by hanging as the scaffold or gallows and use the term gibbet to refer only to the cage and its pole. Sometimes, particularly in parts of southern England, criminals were executed at the scene of their crime, although this practice had declined in popularity by the time of the Murder Act.[71] When this happened, the criminal would be

[69] W. Carleton (1894) *The life of William Carleton being his autobiography and letters; and an account of his life and writings, from the point at which the autobiography breaks off*, edited by David J. O'Donoghue, p. 134.

[70] J. Kelly (2015) 'Punishing the dead: execution and the executed body in eighteenth-century Ireland', in R. Ward (ed.) *A Global History of Execution and the Criminal Corpse* (Basingstoke: Palgrave).

[71] S. Poole (2008) 'A lasting and salutary warning': incendiarism, rural order and England's last scene of crime execution'. *Rural History* 19: 163–77.

hanged from a temporary scaffold and then taken down, encased in a gibbet cage and hoisted back onto the same structure.

Myth 2: Gibbeting Involves Leaving People to Die in an Iron Cage

Popular reconstructions of gibbets—such as occur in local ghost walks, computer games and theme parks—often misrepresent the gibbet as a kind of oubliette, where condemned prisoners were left to die of thirst or exposure. There is no evidence that by the eighteenth century this ever happened in Britain. *The Old Englander* reports that in France malefactors might be sentenced to hang in chains for two days *before* execution, being left bareheaded and fed only on bread and water, and then executed on the third day.[72] There are cases of gibbeting alive known from the Caribbean during the plantation period, always in regard to a slave found guilty of a treasonous crime.[73]

Myth 3: There Were Traditional Gibbeting Sites

Many larger towns had a traditional place of execution, especially those in which assizes were held, usually on land close to the county gaol. Larger cities might have a permanent gallows, although several larger towns, including Bath for example, did not have any traditional place of execution. Gibbet locations, as opposed to scaffolds for execution, were generally determined by other factors such as proximity to the scene of the crime, public visibility and the ease of maintaining public order in the large crowds that often attended a gibbeting.

Myth 4: Gibbets Were Occupied by a Series of Bodies

Some of the gibbets used by the Admiralty courts seem to have occupied customary locations and to have hosted a series of bodies. The gibbet cage now in possession of the London Docklands museum, which was

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[72] *Old Englander*, 25 January 1752.

[73] William Beckford, *Remarks Upon the Situation of the Negroes in Jamaica* (London, 1788), 93; Trevor Burnard *Mastery, Tyranny, and Desire: Thomas Thistlewood and His Slaves in the Anglo-Jamaican World* (Chapel Hill: University of North Carolina Press, 2004), p. 151.

almost certainly an Admiralty one, shows signs of repair which would be redundant on a single-use artefact. However, most cases of hanging in chains as a result of sentences passed by the assize courts involved making a special gibbet-cage fitted to a single individual which then stayed *in situ* with the remains of that particular criminal until the gibbet finally fell or was removed, which was often many decades later (see discussion in Chap. 3). Gibbet irons were not normally reused. This made the costs of gibbeting a single individual very high. The details of exactly how and where a gibbeting took place are considered further in the next chapter.

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