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*Early Modern Crime Literature  
Ideology, Emotions  
and Social Norms*

edited by

Maurizio Ascari and Gilberta Golinelli

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## JEMS first ten years

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In the beginning was Authorship, the source, ownership and control of the *lógos* and its meanings. For we considered that, after being dismantled and transfigured, then in part neglected and finally abandoned, the notions of Authorship and the Author, by the time we planned the first issue of *JEMS*, were again gaining ground. Accompanied by the idea of ‘intention’, Authorship had been, in the first half of the twentieth century, the exclusive territory of textual scholars; then it started to be contested by mid-twentieth-century literary critics, deeply transmuted by French theorists and philosophers, and finally, since the 1980s, it was repossessed by a new generation of textual scholars in the shape of ‘a socialized concept of authorship and textual authority’. And it was an illustrious textual scholar we asked to write the theoretical Introduction to Volume One of *JEMS*, which tackled the issue of Authorship. We probably did not expect to receive from Hans Gabler a text in which the validity of the very ideas of ‘Authorship – authority – authorisation – the author – the author’s will – the author’s intentions’ for scholarly editing were deeply called into question; but this was what we received from him, and what we gratefully welcomed and published. Hans Gabler’s essay was tellingly entitled ‘Beyond Author-Centricity in Scholarly Editing’, it inaugurated volume One of the *Journal of Early Modern Studies* and soon gained the status of a reference text, amply quoted and discussed by other scholars. It also contributed to the prestige of our journal.

But we thought that a historical (*versus* theoretical) contribution on recent developments of the issue of Authorship was also needed. Dario Compagno had obtained a PhD in Semiotics at the University of Siena with a dissertation on the concepts of ‘author’ and ‘intention’ in twentieth-century philosophical and critical thought. We had never met him, but he seemed to be the right person; when invited, he accepted, and willingly and sedulously wrote a further introductory essay for us.

From the start, we thought of the journal as an interdisciplinary venture on early modern European culture that would ideally constitute an arena of discussion for a wide spectrum of themes in various fields of the humanities: literature, language, the visual arts, history, politics, sociology, religion, and cultural studies. The first issue reflects this intention: religious discourse, drama and the stage, the law, and the visual arts were the topics which provided various perspectives from which

questions raised by the issue of Authorship were posed and answers were given. From the start, we have been trying to suggest explorations of various themes, encouraging and welcoming a number of perspectives from which to view them. From the start, we welcomed essays by both established scholars and young researchers, the only criterion for inclusion being quality. From the start, we abstained from following in the wake of fashion, and opted either for well-established topics with a well-established (old or recent) tradition, or for topics that, on the contrary, were little practised or had recently emerged, or re-emerged in fresh guises. We decided to ask the members of the first Advisory Board to contribute to the volume: we wanted to introduce ourselves to our potential readership and show, in a tangible way, how different fields of interest and critical perspectives could fruitfully interconnect and grow. *JEMS* was then at its formative stage and therefore a great amount of attention and effort was centred on the journal's identity and the direction it would take. Ten years afterwards, the volumes show, if taken together, the presence of recurring research strands which testify to this identity and cultural direction.

Interest in Text and Author, Textuality and Authorship obviously prevails in Volume One (2012), not only in the introductory essays mentioned above, but also in contributions on religious discourse, on the uncertain authorship and function of certain accessory theatrical texts, on the vocational practices of actors and lawyers, on the birth of the figure of the Artist-Author, and so on. Issues of Text and Author are also present throughout Volume Five (2016), which was devoted to Shakespeare in the four-hundredth anniversary of his death. In the introductory essay, Roger Chartier discusses the many lives and uses of Shakespeare's texts (collaborative writing, the compilation of commonplace books where parts of his works appeared, prompt books, corrupted copies, the remaining autographs – from the holograph signatures to the text produced by Hand D in *Sir Thomas More*), as well as the 'multiple collaboration' and social authorship of even the published texts. In the same volume, the section on 'Biography and Biographism' explores 'everything and nothing' of what we know, and what we do not know, about the life of William Shakespeare and what has been invented about it: the evidence and the lack of evidence, and the authoring of fabricated lives. In the section entitled 'Authorship, Co-Authorship and Collaboration' and in the one on 'Attribution Studies', are examined some of the most controversial questions regarding the presence of Shakespeare's hand (that of *Hamlet* Q1, that of *Arden of Faversham*, that of *2 Henry VI*, that of Hand D in *Sir Thomas More*, and that of the lost *Cardenio*). The last section of the volume views certain forms of appropriation as forms of imposed, or feigned authorship (from the way in which Shakespeare was collaboratively constructed in *The Passionate Pilgrime*, to the annotations by certain seventeenth-century readers of Benson's 1640 *Poems*, seen as a form of re-contextualisation and re-writing).

The idea of authorship becomes even more problematic when we address the source and authors of the various kinds of inscriptions left mainly on the walls of historic buildings, or of prisons, or on such natural surfaces as rocks. Though authorless, or simply signed by the initials of lost authors, these inscriptions can be seen – and are seen, by a recent trend of research – as memory-keeping writings which, if not examined, will remain, as stated in the Editorial of Volume Nine (2020), 'almost forgotten scribblings that for centuries have been waiting to be photographed, copied, catalogued, filed and studied'. From the words, sentences and drawings carved, or drawn, or painted on the walls of the Palazzo Ducale of Urbino, to certain Medieval graffiti in buildings in the Tyrol, to inscriptions on the walls and windows in Ludwigsburg Residential Palace, to those left by nameless shepherds on the rocks of the Fiemme Valley, they constitute a huge historical authorless archive of 'exposed writings' imposed 'by someone's will', as Italo Calvino said, 'on the gaze of all the others who have no choice but to see them or

receive them'; for they inevitably force the gazer to reconstruct their authors' times, meanings, social condition, and – again – intentions.

Another field of interest, intersecting with the previous one, is the recurring theme of the culture of the people. In Volume Two (2013), 'popular culture' is examined through its impact on the works of William Shakespeare, but in a perspective (that of the influence of popular culture on his works) that runs counter to recent reflections on the so called 'afterlife' (such as performance, film, or advertising), privileging instead Robert Weimann's historical reconsideration of Shakespeare's work as influenced by the tradition(s) of medieval theatre, and Peter Burke's study of the European forms of popular culture from the viewpoint of a social historian. The field, defined as 'elusive, distant and impermanent', comprises the examination of the often authorless 'demotic voices' appearing in the works of Shakespeare, which are explored from a number of standpoints (historical, religious, legal, sociological) in the context that produced them.

The culture 'from below' returns in Volume Four (2015), which addresses the topic of service and servants. Issues are again examined cutting across several disciplinary lines and multiple geographical areas, as well as across texts belonging to several genres and socio-political contexts. The volume is introduced by two essays: the first surveys the state of the art with a particular focus on the representation of servants in Shakespeare's plays, while the second discusses the field of study in more comprehensive historical and cultural terms. The case studies explore various functions of household retainers: their position as scribes or even as independent poets, the legal aspect of their service relationship in disputes over wages or mistreatment, the rhetorical aspect in modes of speech expected from individuals engaged in particular forms of service, the theatrical rendition in the many stage representations of service and servants, the economic, political, and social aspects as expressed in conduct books, as well as issues arising from class and gender identities of servants and masters.

But 'popular' and 'culture' are highly charged words, and by 'popular culture' we do not, or not always, mean the culture made by the people; in other words, we do not always refer to cultural expressions originating from below. This indecision is fruitfully exploited in Volume Seven (2018), which devotes attention to practices of reading and reciting aloud, practices which are defined in the Editorial as 'an insidious territory'. The essays in the volume exploit the proximity of such phenomena as reading aloud (occasionally to illiterate people), or preaching in a piazza, or taking part in a poetic contest, and the more formalized theatrical experience; that is, they do not ignore the fact that the border dividing what is popular from what is elite is signally porous. (Indeed, for Roger Chartier, the alternative 'created by the people/created for the people' is a false problem.) The substantial introductory essay discusses storytelling, memory and the theatre, while the case studies tackle issues which are exemplary of the transition between 'high' and 'low' forms: from chivalric poems, to Italian *cantari*, public preaching, contests of poetry improvisation by women, up to the highly cultured and sophisticated polemic of the Crusca Academy about pronunciation, or the deeply discerning British eighteenth-century treatises on elocution.

The alternative between 'popular' and 'elite' cultural experiences is also present in Volume Eight (2019), which is devoted to certain practices that underpin and surround the writing and performance of plays; that is, as is stated in the Editorial, 'the relationship between performance cultures and practices of writing within and beyond the actual texts of the plays'. Here, too, the porous divide between 'popular' and 'elite' cultural practices and texts is a conspicuous presence: on the one hand, the French vernacular roots of specific theatre practices, the *sacre rappresentazioni*, the use of dramatic woodcut illustrations in printed performative genres, the

afterlife of certain popular, civic, and religious expressions of early modern drama, the vision of the city in Roman demotic theatre, in comic scripts and *zibaldoni*, are explored; on the other, side by side with these peripheral and lesser known domains, the play of refractions which concerns the theatre in the works of essayists, critics, spectators and actors is examined. Furthermore, the issue of Authorship reappears in one of its most sophisticated forms: that of attribution regarding the alleged, and much contested co-authorship between two illustrious playwrights: Thomas Kyd and William Shakespeare.

Letter writing is a form of auto/biography, and also a form of dialogue which develops over time. As is stated in the introductory essay of Volume Three (2014) to this field of study, and to 'its development in different periods and from different angles', 'increasing scholarly attention has recently been paid'. Furthermore, in the early modern period, the culture of epistolarity 'represents a turning point in the social function of letter writing', in that it 'shifted from the public to the more personal sphere'. The introductory essay of Volume Three assessed the state of this comparatively recent critical art; and the case studies present a wide spectrum of particular authors and instances in a multiple perspective: from the historical to the pragmatolinguistic and rhetorical, to the sociological, in a number of different contexts and countries of Europe (especially England, France, and Italy). Here, too, the alternative between popular and elite is present, for studies range from Queen Elizabeth's Italian letters, to the scientific interaction in Henry Oldenburg's letter network, to Michelangelo as letter writer, to the construction of women's epistolary identity, to letter-writing within the Samuel Richardson circle, to a group of letters the Lyon weavers sent to Louis XV, when in danger of being reduced to poverty by a handful of traffickers determined to capitalize on their work. Biographism, therefore, is present, in this volume – unlike what happened as far as the posthumous, and in part imaginary many lives of William Shakespeare – as constructed by the pen of the very subjects whose fragments of life are narrated, enriched by the construction of the circle of their relationships and their development over time.

A special kind of biographism is also to be seen in the (re)construction of the texts' many lives: from the many Shakespearean and other theatrical cases, to the issue of the lost identities that lie behind historical graffiti, to those of unnamed domestic servants in private houses and Courts of justice, where their 'life-cycle service' is to be read between the lines or through their masters' voice.

A different kind of life-cycle is illustrated in Volume Ten (2021): that of criminals. The present volume, which marks the journal's tenth year of life, is devoted to early modern crime literature and illustrates the complex relationships existing in early modern cultures between crime and its representations. As the editors say in the introductory essay, 'crime is not only "constructed" and perceived according to the moral and social codes of specific societies, but it also stimulates imaginative transpositions and even disrupting forms of creativity'. This complex dynamic is instantiated in the essays which compose the volume. Case studies go from the early crime fiction of the 'Original Hoods', to the complex religious and philosophical relationship existing between the concepts of sin and crime, to the issues raised by female criminality, to the 'social' crime of piracy, to Seneca's influence on early modern ideas of crime and punishment, to the sensational representation of crime in the theatre, to the demeanour of constables in catching thieves and the thieves' defensive tactics. Echoes of recurring themes, such as popular culture, biographism and performance permeate the volume, establishing unexpected links with many of the previous issues.

Time is naturally ubiquitous in all the journal's issues. Considered both synchronically and diachronically, it is the precondition of all the themes developed both in the introductory essays

and the case studies. Thus, Volume Six (2017) is specifically devoted to the awesome issue of time, its construction, perception, management and representation(s) in various early modern cultural contexts. The volume is introduced by three major essays which illustrate various ways in which time in history can be read (on the act of reading and time perception, on temporality and history in the Renaissance, and on the notions and experiences of time in women's activities and daily lives). These are followed by a number of case studies going from the gift of dated objects marking the New Year which show the weight of material culture on the perception of time, to the idea of time and 'ennui' and the idea of 'killing time', to establishing a significant biographical and intellectual connection between Giordano Bruno and Michel de Montaigne by examining their understanding of time, to the pedagogical idea of history as *magistra vitae* and its character as example.

A particular feature of *JEMS* we wish to mention are the Appendices which enrich and complete volumes One, Two, Three, Four, and Six with fragments from diverse sources, forms, and genres (poems, plays, treatises, letters, novels, and so on) related to the volume's theme. These compilations will reappear in future issues whenever the volumes' topics are deemed fit for the compiling of such garlands.

Alongside the intersecting investigations carried out in the volumes, *JEMS* has welcomed more in-depth and extensive analyses addressing themes relevant to the journal's aim and scope. Two 'Quaderni' (supplements) have so far been published: the first, by John Denton (2016), is devoted to 'the reception of Classical historical texts in Renaissance England' with particular attention to the perception of Plutarch by Shakespeare 'via vernacular translation' (<<https://oajournals.fupress.net/index.php/bsfm-jems/article/view/7113/7111>>). The second supplement, by Angelo Deidda (2018), investigates the concept of the modern *self*, illustrated through an analysis of Shakespeare's *Sonnets* interconnecting issues of authorship, performance, inwardness and their linguistic and poetic representations (<<https://oajournals.fupress.net/index.php/bsfm-jems/article/view/7114/7112>>).

Other 'Quaderni' are now in progress and forthcoming. In the first months of the 'plague year', Firenze University Press invited a few of their journals to contribute to the dissemination of knowledge, both scientific and historical, relevant to all aspects of Covid-19, in the belief that academic journals in any field had a commitment in the global challenge against the pandemics. We adhered to the project, which involved the publication of Online First articles, and launched a call for papers entitled 'Plagues in Early Modern Europe: History, Models, Representations and Metaphors'. Of the many proposals received so far, five have been accepted and four articles have already been published. The articles illustrate the experience of plague epidemics in various historical, national and local contexts, and include the publication of a long-forgotten pamphlet by Sir Thomas Brown (<<https://oajournals.fupress.net/index.php/bsfm-jems/article/view/11931>>); in-depth analyses of the letters exchanged in two different family contexts, that of the actor Edward Alleyn and his wife (<<https://oajournals.fupress.net/index.php/bsfm-jems/article/view/12082>>) and that of the Buonarroti family (<<https://oajournals.fupress.net/index.php/bsfm-jems/article/view/12605>>); and a thorough discussion of a treatise by Daniel Defoe (<<https://oajournals.fupress.net/index.php/bsfm-jems/article/view/12554>>).

*JEMS* was born ten years ago within the humanities research community of the University of Florence, owing to the care and dedication of Beatrice Töttössy, who was then, and for many years, director of LabOA (Open Access Publishing Workshop); its growth and development have been made possible thanks to financial support from the different Departments of the University of Florence with which the journal has been affiliated. The committed team at Firenze

University Press, in particular the executive director and, especially, the managing editor of FUP Journals, have firmly believed in our project and greatly facilitated the dissemination of the journal.

During these ten years of commitment and endeavour, *JEMS* has greatly benefited from the knowledge and wisdom that friends and colleagues from all over the world have generously offered. To them, to the members of the Advisory Board, the guest editors of each volume, the authors of the single contributions, the invisible but hard-working referees, the Editorial Staff and to our unique and elegant Master of the English language go our deepest gratitude and heartfelt thanks. Their dedicated work has fuelled the whole venture and contributed to make *JEMS* an internationally acclaimed journal.

There is one aspect of *JEMS* which distinguishes it from all the other journals: it is entirely produced by students and trainees in the Open Access Publishing Workshop of the Department of Education, Languages, Intercultures, Literatures and Psychology of the University of Florence, in accordance with Firenze University Press. Under the scrupulous, effective and impeccable guide of Arianna Antonielli, they have become experts in digital as well as traditional publishing. We are grateful to each one of them and particularly proud that *JEMS*, in its 'immaterial materiality', is the fruit of the professional expertise they have acquired. Special thanks are due to our indefatigable journal manager, who has been a knowledgeable and patient adviser to us over the years.

Now, as we usher in *JEMS'* second decade, let us cherish its achievements with friends and colleagues and wish our *Journal of Early Modern Studies*, 'in a festival thankfulness', many happy returns.

THE. WELL-WISHING.  
ADVENTVRERS. IN.  
SETTING.  
FORTH.

D.P. P.P.

## PART ONE

### Introduction







## Early Modern Crime Literature Ideology, Emotions and Social Norms

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### Abstract

*Early Modern Crime Literature: Ideology, Emotions and Social Norms* delves into the complex relation between early modern crime and its literary representations in the light of an episteme that was characterised by contrasting ideologies, forms of transgression and their containment. It explores the multi-layered, polyphonic and porous nature of crime literature as dynamised by social and cultural changes, positioning it within a shifting geometry of religious and political conflicts, class and gender divides and negotiations, genres and market forces. It also discusses the unstable status of criminals, ranging from the abject to the ambivalent to proto-mass-cultural forms of personality cult pivoting on deviance from social norms.

Keywords: *Crime Literature, Gender, Ideology, Surveillance, Transgression*

Crime is a litmus test that diagnoses the state of society at multiple levels, a complex phenomenon that can be studied from a variety of vantage points. Already in 1984, in his seminal investigation of the early modern period, social historian J.A. Sharpe set out to trace the connections between ‘patterns of crime, patterns of punishment, the attitudes of ruling groups to such matters, and broader socio-economic change’ (1999, 240). In the following decades, numerous articles and book-length studies have investigated both the domains of early modern crime and punishment, and their contemporary literary representations, for crime is not only ‘constructed’ and perceived according to the moral and social codes of specific societies, but it also stimulates imaginative transpositions and even disrupting forms of creativity.

Establishing a dialogue with this extraordinary wealth of scholarly investigations, the present issue of *JEMS* aims at further exploring this fascinating social, ideological and imaginative territory, combining a literary approach – with its focus on the symbolising power of texts – and a socio-historical

contextualisation. This mode of analysis – which follows in the footsteps of New Historicism, Cultural Materialism, Gender and Postcolonial Studies – is conducive to a critique that effectively interrogates literary works, achieving a kind of ‘thick description’ (Geertz 1993, 6) – an awareness of texts in their relatedness to the societal coordinates that witnessed their birth.

Since literary texts play a role ‘in shaping as well as reflecting social realities’ (Classen and Scarborough 2012, 5), this form of analysis enables us to perceive the formation and circulation of ideas, prejudices and judgements, the pervasiveness of which ultimately translates into their acquiring the solidity of norms and facts. By investigating the conflicting social energies that in the early modern period concurred to a changing perception of crime, the articles collected in this issue of *JEMS* aim to further our understanding of a transitional age that was marked by deep faultlines and sweeping changes. Comprehending the complex socio-cultural dynamics that underlay those ‘class, religious, gender and ethnic divisions’ which ultimately contributed to engender new perceptions of crime and criminals (Reynold and Seagul 2004, 68) is vital to this critical enterprise.

While exploring the connection between recorded crime and the literary imagination at various levels (from street literature to Shakespearean theatre), this collection delves into the ideological import of crime narratives intended as preventive of crime, a form of psychological ‘policing’ that compensated for the absence of organized police forces by reasserting the certainty of mundane and supernatural punishment. Far from being simply a passive tool in the service of power, a loudspeaker that amplified its voice, early modern crime literature is rather revealing of social fissures, a mirror of the self-conflicting kaleidoscope of society. Criminals were routinely stigmatized, but they were also portrayed as flamboyant thanks to their daring, and could even acquire a heroic status, due to the popular sympathy for those who transgressed a social order that was perceived as unjust.

Their status was ambivalent also in other respects, as Hayley Cotter argues in her contribution, where she studies the early modern fascination with maritime crime, as shown by a number of pamphlets, ballads and plays which are paradoxically indebted, for their concrete knowledge of piracy, to the royal proclamations that circulated at the time. This apparent contradiction is mitigated when we think of the pirates’ liminal position, as illustrated by the case of Henry Mainwaring, a figure who straddles the boundaries between piracy, privateering and even sea policing. These ambivalences testify to the complexities of both early modern crime and its literary representations, which became a vehicle for the discourses of power but also catered for the needs of a variety of audiences, addressing their divergent worldviews.

While approaching early modern crime narratives, we should not forget that they reflect a lack of professionalization in the pursuit of crime. Thus, instead of pivoting mainly on detection, they revolve around criminal lives and criminal minds, not to mention self-appointed justice seekers. They testify to a form of social organization in which the state had but imperfectly asserted its monopoly of justice, and punishment was still levied also by common citizens – although the custom of revenge was increasingly condemned – or circumvented through private transactions. On a literary level, the ensuing emphasis on both the plight of victims and the inner turmoil of offenders and revengers partly explains the highly emotional nature of these fictions.

Analysing early modern crime and punishment, and their representations, proves a mind-opening intellectual exercise precisely due to their otherness with respect to our present. As Duncan Salkeld remarks, ‘many “guilty” verdicts were likely to be travesties since sin, prejudice and crime were often conflated, and confessions easily forced’ (2016, 193). The early modern concept of crime definitely overlaps with the religious idea of sin, and Roberta Mullini’s contribution to this issue alerts us to the ways in which, following the progressive affirmation

of newly created nation states, crime actually encroached on the pre-existing representations of sin, tinging them with new practices and meaning. Focusing on early modern Tudor drama, Mullini discusses both its inherent reconceptualization of sin as crime and the ways in which it reflects social and political issues concerning the administration of justice.

More problematically, what some considered as sin was a crime for others, as shown by the religious conflicts between Catholics and Protestants that marked early modern Europe. The case of Jesuit John Ogilvie, who was executed in Glasgow in 1615, is emblematic of the deep rift between competing worldviews and power structures, due to the progressive affirmation of nation states against the supranational authority of the papacy. It is through the analysis of two contrasting accounts of Ogilvie's story – the Jesuit's autobiography vs the Scottish official account of his trial and execution – that Luis Fernando Hernández Arana investigates the clash between the Catholic narrative, pivoting on the universality of dogma and the primacy of sin, and the national-Protestant narrative, which revolves around crime against sovereign authority.

Early modern crime can be described as the shadow, or the negative, of the contemporary social order. It concerns areas of life in which individuals were put under pressure for a variety of reasons – just think of the relevance infanticide had in the early modern range of female crimes – or it can be the product of prejudiced beliefs. In this respect, it not only reflects a variety of social taboos, forms of behaviour that we no longer acknowledge as inherently wrong or anti-social, but it goes so far as to 'construct' them. The case of witchcraft comes to mind, as shown by Simona Laghi's article, which analyses precisely the evidentiary flimsiness of the early modern discourses on witchcraft as crime, expanding on what she regards as Shakespeare's own attempts to discuss the nature of evidence in his plays. Laghi's analysis of selected scenes from *Twelfth Night* and *King Lear* delves into the allusive ways in which Shakespeare's dialogues and tropes gesture back towards these unreliable and sensationalised forms of criminography with a parodic, deconstructive intent.

While this growing interest in evidence and proof is a sign of incipient modernity with which we easily sympathise, other aspects of the early modern prosecution of criminals responded to societal needs and resonated with mentalities that we have simply discarded. In the absence of organized policing, detection was presented as resulting from the synergy of social surveillance and providence. We know how central the ideas of God's omniscience and omnipotence were as a form of psychological policing, as proved by the so-called providential narratives. Leaving aside those early modern crime stories in which the solution is achieved through direct supernatural intervention (from the testimony of ghosts to revelatory dreams, bleeding corpses and other miraculous events), the emphasis is on coincidence as resulting from God's underlying strategy of unveiling. In his seminal *Crime and Mentalities in Early Modern England* (2000), Malcolm Gaskill fully acknowledges the major role providence played in the early modern conception of justice, and reminds us that 'the recession of providence was very gradual, and the formal and semi-formal agencies which were to displace it – associations for the prosecution of felons, foot and horse patrols, stipendiary magistrates, and ultimately metropolitan and county police forces – where slow and faltering in their formation' (265).

While today we live in a society in which surveillance has been professionalised to an unprecedented degree, early modern investigations 'tended to be far more public affairs in which ordinary people fully engaged themselves' (250). This organic mode of surveillance notoriously rested on the potentially unreliable action of unpaid parish constables who served for a year, and of justices of the peace whose belonging to the community endangered their impartiality.

While criminal agency was still mostly presented as stemming from the devil, thus consigning criminals to the sphere of the abject, early modern crime fictions and drama

reveal an increasing ‘psychologisation’ of criminals, investigating both their motives and the devastating impact of guilt. At certain cultural levels, this interest for the criminal overlaps with the conception of the human that the early moderns inherited from classical tragedy, notably with the Aristotelian concept of *hamartia*. Early modern crime literature also refunctionalised the cultural heritage of the classical age with political aims. Samia AL-Shayban’s analysis of William Davenant’s *Macbeth* explores the play’s central theme of ambition as indebted to Stoic thought and as aimed to denounce the recent Civil War while reasserting allegiance to the restored monarchy. Davenant’s adaptation of the Shakespearean tragedy thus acquired a precise political meaning, with the aim to control the Restoration public it addressed.

These reflections on the political role of literature alert us to a theme that underlies this issue at large – the permeability of literature as an imaginative platform that enables a variety of events, ideologies and discourses to circulate, achieving an effect of heightened realism (given the representational coordinates of the time) while turning facts into *exempla*. This mediating power of literature becomes apparent when the focus is on the theme of crime. Many early modern crime narratives can be related to the vogue of news that was fostered by both the invention of print and the translation of foreign materials. Being marketed as ‘true stories’ (often soon after the events they recount) in order to exploit the sensational appeal of real cases, these narratives, which occasionally offered different versions of the same event, often achieved dramatic status as the ultimate recognition of their potential.

At the same time, we should keep in mind that literary and discursive conventions affected the representation of crime, as proved by Filip Krajník’s analysis of a recurring theatrical pattern – the victimization of a sleeping character on the early modern stage. Exploring the popularity of this theatergram Krajník describes it as stemming from the special cultural status sleep acquired in Tudor England through a number of popular medical handbooks. Sleep was perceived both as restorative and as dangerous, due to the mundane vulnerability of the sleeping body, but also to the possibility of dying without repenting, not to mention the influence of demonic agencies on the sleeper. The recurrence of this device in history plays might moreover be discussed as a memento of the physical vulnerability of the sovereign’s body natural, and thus as a subversive reminder of the underlying fragility of the body politic, which the body natural of the monarch both symbolised and was expected to safeguard.

Early modern crime fiction covers a wide spectrum of genres, often translating into hybrid texts that present multiple and overlapping voices, including both recorded sources and the author. We should not forget, however, the implicit role of the contemporary reader(s) and/or listener(s) to whom the text was originally addressed. Focussing on the ‘listener’ as an interpretative category is particularly useful to investigate those late medieval forms of anonymous and transient crime fiction that hovered between oral and print traditions, being consequently more liable to re-mediations and changes. Indeed, this approach enables us to interrogate ordinary people’s attitude to crime in order to evince their stances on the political and social order and on the inadequacy of the existing forms of control, punishment, and authority. Due to their hybrid nature, late medieval popular ballads are in fact revealing of people’s different reactions to official and clerical forms of oppression. The celebration of criminal actions, or the description of family crimes thus acquire the value of possible tools of resistance against damaging power or authority, as emerges from Stephen Knight’s analysis of late medieval English popular narratives and their consumers. By interrogating four different domains of narratives, Knight shows how they outline different forms of resistance that circulated in the emergent cities and towns, and in more rural areas where these stories continued to be transmitted orally despite the advent of print and the development of the print market. Together with the ‘Robin Hood

ballads' that celebrated the outlaw's rebellion against social and church authority, other ballads tended to justify crimes and related forms of transgression as responding to the legitimate necessity to protect one's own right in the face of wrongful forms of power and control. These texts fully testify to the potential of crime literature as illustrative of the popular attitudes to and/or preoccupations with crime, punishment and other strategies of social control, alerting us to the fact that these phenomena acquire different meanings when viewed from different angles and inviting us to read crime texts with an eye to those who read and consumed them.

It is by drawing from this awareness that the study of Jeanne Clegg interrogates the representations of thieves and constables in Daniel Defoe's *Moll Flanders* and *Colonel Jack*. Taking up a dialogue between conduct books for constables and traditional strategies for apprehending felons, Clegg examines some emblematic episodes depicted in the novels, showing how they reveal the tactics of defence adopted by criminals and the poor to circumvent capture. Profiting from cracks in the organization of surveillance, suspects managed to protect themselves from an imperfectly professionalized system of justice that failed to safeguard constables and officers of the law. In so doing, Clegg demonstrates how these episodes – which were certainly read by a heterogeneous public thanks to the rise of literacy amongst a non-elite audience – might serve both the thieves and the officers, who thus became familiar with the various devices adopted by criminals to juggle the law. The various orders of rogues that populate crime narrative are thus presented as dissenting subjects inhabiting an emergent urban underworld, a space where the social and legal changes in English society were debated from a transgressive viewpoint.

The presence of this 'semi-independent site' (Dionne and Mentz 2004, 2) which, as we have seen, could produce new cultural meanings, giving voice to convicts and felons of every sort, proves to be highly productive when it is the identity of the criminals that comes to be questioned. It is particularly thanks to the integration of the study of gender inside that of crime that transgressions and crimes committed by early modern English women raise important questions. These not only concern the kinds of crime women committed but also how the gender politics of the age conditioned the nature and motivation of these crimes, as well as the methods of detection and punishment of the same. Markers of distinction such as status/class, race, religion and ethnicity played an important part not only when forms of judgment and punishment had to be decided or employed, but also when misbehaviours or transgressions had to be created in order to (re)establish stability and control in the face of vagrants, vagabonds, beggars, masterless men and even strangers. Ian Archer reminds us, for example, that 'strangers provided a suitable scapegoat for all the ills that afflicted Londoners: they were responsible for inflation and increases in house prices; they took away jobs that might be performed by the English; they were poor, and disease flourished among them' (1991, 5).

In a society which considered women's roles and agency in terms of their function within a patriarchal system, 'the woman who committed an act defined as criminal was doubly deviant' (Clark 2003, ix), transgressing those gender roles and boundaries which constructed woman as weak, inferior and thus subject to male authority and control. Early modern conduct books for ladies, pamphlets, sermons, treatises for medical knowledge and practice placed women within an institutional framework that scarcely considered crime or criminality as a real female domain.

'Women have no voice in parliament. They make no laws, consent to none, they abrogate none. All of them are understood either married or to be married, and their desires are subject to their husband', proclaimed an anonymous legal clerk's formulation in *The Law's Resolution of Women's Rights* (in Aughterson 1995, 132), showing how women had no legal rights but were expected to entirely depend on their husband's authority and judgment. This partly explains why, with respect to women's crime, in the few documents on legal procedures or punishments



of the early modern age there is a tendency to engender certain crimes as peculiarly feminine or predominantly domestic. Sandra Clark reminds us, for example, that 'in the restricted range of crimes committed by women which were the subject of reporting in ballads, plays or pamphlets, murder, especially of husbands and of children, was, with witchcraft, the most prominent' (2003, 21). These crimes were regarded as the consequence of behaviours or dysfunctions mainly related to women's defective body and inferior mind, to that porous 'leaky vessel' (Paster 1993, ch. 1) whose openness turned it easily into a site of physical and 'moral' infection.

Molly Ziegler's analysis of the early modern revenge drama, in which revenge tends to be depicted as a male-specific endeavour, focuses on the female body's fluid and contagious nature, reading it as a powerful symbol, a rhetorical tool which allowed female characters to enact forms of vengeance that, although directed by women, did not imply women's physical participation. In so doing Ziegler shows how the different references by female characters to the female body's properties and potentials in Marston's *The Dutch Courtesan*, Shakespeare's *Twelfth Night* and *Titus Andronicus* might be read as strategies of empowerment and thus deeply related to women's *quest* for their identity and agency.

While the few recorded documents and the representation of women in tragedies confirm a general tendency to classify certain kinds of crime as peculiarly feminine, early modern comedies and forms of street literature such as corantos, news writing or official newsletters, reveal how women also participated in other forms of deviance or transgression which 'did not lead to a conclusion on the scaffold' (Clark 2003, 22), but which were equally seen with great concern. Prostitutes, female burglars, pickpockets and cutpurses, often disguised as men, are all liminal characters who inhabit the London underworld of early modern city comedies, transgressing with their behaviours both the legal and the gender system. Jessica Landis examines urban female criminality and unveils the existence of a complex gendered geography of crime, on and off the stage, which indicates a general taste for fictionalized stories of criminal acts as well as a widespread interest in criminal lives and minds. By examining some examples of rogue literature and Ben Jonson's *The Alchemist*, Landis also focuses on the audience's response, showing how the popularity and attractiveness of these stories reflects both a familiar anxiety for the growing urban criminality and an illicit desire to be vicariously involved in this transgressive world.

Once again, this fictional criminalization of women reveals anxieties and concerns such as are 'apt to surface when a culture is undergoing profound changes' (Hilman and Ruberry-Blanc 2014, 5) and when, we might add, a gender struggle enacted by women is gradually taking place in various and often unexpected forms. Emblematic, in this respect, is the famous case of Mary Frith whose transgressive behaviours in terms of gender codes and criminal actions are well documented in court records and fictionalised in popular literature where Frith appears as Moll Cutpurse and as the Roaring Girl. Mary Frith's transnational and transhistorical celebrity is demonstrated by Lauren Liebe's analysis, which explores how a celebrity might be born out of social deviance. By examining Frith's historical records together with her different fictional portrayals emerging from street literature, biographies and comedies, Liebe shows how 'it is possible to determine how Frith's criminal celebrity shaped and was in turn shaped by her literary legacy'. In so doing, Liebe's essay once again confirms the multi-layered aims of crime literature.

In conclusion, the essays collected in this issue of *JEMS* delve into crime as an inclusive category that is discursively mediated and fashioned, alerting us to the dynamic status of texts as being produced at the interface of social energies and discursive practices, power structures and strictures, forms of imaginative transgression and containment. By scrutinizing early modern crime literature through the filter of postmodern disciplines and ideologies, these critical investigations not only highlight its ideologically inflected and shifting nature as the

product and producer of disrupting energy and changes, but they are also indicative of its present significance. The team of critics who, together with the two editors, took up the challenge of directing a renewed critical gaze towards the early modern discourses of crime and criminals did so in full awareness of their relevance to our own understanding of the human experience.

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## PART TWO

### Case Studies



*Sin versus Crime*





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# From Sin and Damnation to Crime and Punishment in Early Tudor Drama

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## Abstract

The article presents some case studies of early sixteenth-century English (and Scottish) drama in search of transformation from the overall religious condemnation of sins to a worldlier idea of crime and punishment. Starting from the sin of avarice and connecting it to the acquisition of illegal wealth and stolen property both on an individual and a political level, it also includes usury among property crimes. Relevant Tudor laws and statutes are taken into account and plays are studied on the background of contemporary legislation. The representation of onstage trial courts is also investigated, showing the change and continuation of legal procedures. Onstage forms of punishment are discussed as well. The analysis shows that the passage from sin to crime and from religious condemnation to earthly punishment, a phenomenon still difficult to perceive for law and social historians, is nevertheless foreshadowed in early Tudor drama, which progressively reflects social and political issues, including the administration of justice.

Keywords: *Crime, Damnation, Early Tudor Drama, Punishment, Sins*

## 1. Introduction

Besides the great northern cycles of mystery plays, which deal with biblical episodes, early Tudor drama includes almost exclusively morality plays and interludes, whose didactic purpose is to show the wiles of evil and the route to Christian salvation. Their plots, more or less standardized from innocence to sin and the subsequent rise to salvation, always present wicked characters that tempt the local representative of mankind. Whether there are several and sundry vices or only *The Vice*, these characters are seldom punished for their actions, the emphasis being mainly on the final victory of good, unless some idea of secular crime accompanies their allegorical stories; in this case mundane justice is also administered. Early Tudor drama is not 'crime literature',

but it can be investigated in order to ascertain its contemporary perception of crime, both on an individual and social level.<sup>1</sup>

This article tries to highlight such aspects in a variety of plays, starting from *The Castle of Perseverance* (c. 1440) down to early Elizabethan drama (Ulpian Fulwell's *Like Will to Like*, 1568, and Thomas Lupton's *All for Money*, 1578).<sup>2</sup> Covering such a long period, it will take into account the religious 'divide' since plots tend to move from the mainly Catholic 'comedies of evil', where penitence and salvation are always possible, to Protestant stories where individual responsibilities are underlined and tragic (or pseudo-tragic) endings are the consequence of evil demerit. Besides religious changes, social preoccupations (like theft, vagrancy and murder) also affect early drama, so that bodily punishment is more and more often portrayed onstage as the aftermath of criminal behaviour. Moral and religious misdemeanour becomes open crime and society reacts to it by adding punishment to a 'simple' moral condemnation. Drama, as 'a mirror held up to nature', portrays these changes: there are trials in *Nice Wanton* (c. 1547-1553), and in *Respublica* (c. 1553); people are put into the stocks and hanged in Sir David Lindsay's *Ane Satire of the Thrie Estaitis* (1540-1554); Newgate is mentioned in many interludes as the place where earthly wrongdoers are imprisoned, and Tyburn is recalled as the notorious locale of death sentence by hanging.

Discussing the problems connected to the definition of crime in early modern England, James A. Sharpe claims that one of the major difficulties for our comprehension, in addition to the lack of extant documentation for certain places and types of court,<sup>3</sup> lies in the often non-existing distinction between sin and crime:

The parish constable sending the unlicensed alehouse keeper to the quarter sessions and the churchwarden sending the adulterer to the church courts would have regarded themselves as participants in the same struggle: disorder and ungodliness were not really separable entities. ... The inhabitants of Tudor, Stuart and Hanoverian England were, to say the least, a little unclear on this matter. Even at the end of the eighteenth century, contemporary opinion held crime to be little different from immorality. (1999, 7)

Law and social historians have researched the extant legal documents of many courts and compared their results with the legislation introduced by the various sovereigns, in order to see whether and how local authorities enforced it. Some have also devoted their attention to gender aspects of the administration of justice against the background of social and economic changes, and found, for example, that 'wives constituted the majority of female defendants accused of assault', and that '[w]omen feature more prominently in the records of some lesser courts, and are much more visible in church court records' (K. Jones 2006, 8). Jones also notes that 'Christian morality and the virtues of honour and self-control clashed with secular values which defined male status and identity by physical aggression and sexual conquest, even for

<sup>1</sup> The word 'vice/s' will later be used to designate evil allegorical characters even though a text does not mention the role specifically. Tyrants' crimes and political murders will not be investigated here because they are not matter for moral plays; they occur, however, in the mystery cycles representing biblical history, and as soon as communal and individual history is brought onstage (e.g. in Thomas Preston's *Cambises*, 1569, and in Richard Bower's *Apus and Virginia*, 1575).

<sup>2</sup> Of course, *The Castle of Perseverance* preceded Tudor times; nonetheless it fits this research for its judicial content.

<sup>3</sup> See Ingram: 'An elaborate system of overlapping jurisdictions existed ... including the great common law and equity courts at Westminster; assizes and quarter sessions; city, borough and manor courts; and a hierarchy of ecclesiastical courts operating at the levels of archdeaconry, diocese and province' (1996, 49).

mature men' (3). As for the economic situations affecting possible criminal behaviour (one must remember, though, that what was often judged as illegal in late medieval and early modern times has now lost all its negative weight), employment decreases due to wars, epidemics, negative weather effects on agriculture, and unequal land distribution caused by enclosures have also been aspects studied by historians. This is not the place to go into further details; nevertheless, what sociologists and historians have highlighted will be kept in mind when trying to analyse whether and how late medieval cycle and morality plays, and Tudor interludes record the secular law of their times. In other words, this article, in spite of the blurred separation of crime from immorality and from religious deviance, intends to investigate very early modern drama in order to spot traits of secular justice besides the omnipresent religious condemnation of vices and sins, and, consequently, traces of earthly punishment beyond the threat of hell and damnation.

It must be kept in mind that, on the one hand, religious plays are efficacious theatre pieces as modern research and practice have shown, but on the other that they have always had didactic purposes, and that as late as 1562-1568 the Prologue of the interlude *Like Will to Like*, in itself not a religious play, states that its aim is to show 'The advauncement of vertue, and of vice the decay' (Fulwell 1972, l. 18), thus stressing its being in line with the same moral intent as preachers' in the reformation of manners. Moreover, it is worth noticing that the theatricality implicit in the administration of justice as such has always had great relevance in English drama, from the 'Last Judgment' episodes in the mystery cycles to the 'Four Daughters of God' sequence in *The Castle of Perseverance*,<sup>4</sup> to the latter's reappearance in Nicholas Udall's *Respublica*. In a way, the mystery cycle episodes of Christ's trial before Annas, Caiaphas, and Pilate can also be interpreted as the foundations of religious and lay courts in Christian drama, respectively, in the same way as Christ's buffeting and crucifixion represent the antecedents of later onstage punishments.

It would be absolutely impossible to give an account of, or only to mention, the numerous late medieval and early Tudor plays which contain allusions to crime and punishment. The large number of references to prisons and worldly punishment in them may depend on the fact that the times were profoundly and quickly 'a-changing', the state was acquiring central power, towns were growing and becoming more densely populated, with an increase in offences which pushed parliament and the sovereigns to pass stricter and stricter bills in order to contain crime. What follows, therefore, should be considered as a first attempt to investigate the issue through analyses which, in the end, could simply be defined 'case studies', although with a wider reach than the individual texts.

## 2. '*Radix malorum est cupiditas ... and that is Avarice*'

### 2.1 *Avarice, Wealth and the Misuse of Money*

In *The Castle of Perseverance* the protagonist Humanum Genus is tempted by all the Deadly Sins and, after being saved by the intervention of the virtues, has a second fall into the wiles of Avaricia who accompanies him to his death, after affording him 'More and more' (Anonymous 2010a, l. 2761), but without satisfying his thirst for wealth:

<sup>4</sup> For a comprehensive introduction to English medieval drama see Beadle and Fletcher 2008.

Al schalt thou have al redy, lo,  
 At thyn owyn dysposycoun.  
 Al this good take thee to,  
 Clyffe and cost, toure and toun.  
 Thus hast thou gotyn in synful slo  
 Of thyne neyborys be extorcoun. (ll. 2752-2757)

All the property accumulated by Humanum Genus, therefore, can be considered as illegal, gained only by extortion and impairment of his neighbours' possessions. In secular terms, instead of defining this as a sin of avarice, it could be considered a crime against property, and a capital one, given that – at least later, in early modern England – ‘Stealing property worth a shilling or more’ was a ‘hanging offence’ (Briggs *et al.* 1996, 61).<sup>5</sup>

The topic of wealth is at the basis of *An Enterlude of Welth, and Helth*, a mid-sixteenth-century interlude (1565?),<sup>6</sup> which debates the relevance of wealth and health for mankind. Wealth defends his role in society, especially against the accusation of piling riches unlawfully:

Why thinkest thou that all men which hath welth  
 Getteth theyr goodes with brybry and stealeth  
 Thy reporte is nought therfore Helthe  
 I counsell thee to say the best. (Anonymous 1565?, Aiiiir)

The plot shows the decay of both protagonists because of the unruly intervention of two rogues (Ill Will and Shrewd Wit), but in the end Welth and Helth are restored by Remedy for the good of England, while the negative characters, who are called ‘thieves’ more than once, leave the playing area towards prison and – possibly – the stocks:

*Remdi.* They be here yet, to kepe them fast is myne intent,  
 Haue them away both to prison in continent.  
*wyll.* Lo false knaue this is for thy crafty wif.  
 Now fast by the heeles we are lake to syt. (Diiiv)

As can be seen, Remedy acts as a judge who decides how to punish the defendants: no ghostly retribution for them, but public shame in the stocks and prison.

If *An Enterlude of Welth, and Helth* does not condemn riches *per se*, although infamous ways of getting and using them are mentioned, Thomas Lupton's *All for Money*,<sup>7</sup>

<sup>5</sup> The anonymous article ‘Crimes and Violence in the Streets’ (Anonymous 1862, 589), discussing the outbreak of violent crimes in mid-nineteenth century London, presents an issue that might also apply to previous times: ‘Whether it be owing to the keen appreciation of property by the British people, to their dominant commercial habits, or to remoter antecedent circumstances, the fact is undeniable that crimes against the person are not dealt with by English law with anything like the severity which is systematically meted out to crimes against property’ (Also quoted in Barrett and Harrison 2005, 198).

<sup>6</sup> See Grantley 2003, 363-365. Besides showing some xenophobic traits, the play focuses on the ‘values and pitfalls’ of wealth (365).

<sup>7</sup> The full title significantly reads: *A Moral and Pieteful Comedie, Intituled, All for Money, Plainly Representing the Maners of Men, and Fashion of the World Noweadayes*. The Prologue, though, calls it ‘a pleasant Tragedie’ towards its end (Lupton 1578, Aiiiv), thus showing the indefiniteness of genre labels at the time. The moral intent of the play (and its didacticism), however, cannot be denied since the plot has only allegorical characters and clearly exhibits damnation as the end of a sinful life. Moreover, its major character is Sin ‘*being the vyce*’ (Biv). Successive quotes will be taken from the 1985 edition in modernized spelling, which divides the play into six scenes, according to its dramatic structure, and numbers the lines.



a late moral interlude printed in 1578, overtly attacks those who, for their avarice and covetousness, misuse their wealth and are ready to bribe and corrupt. The Prologue, in fact, does not condemn wealth as such, but 'Money ill-used' because it 'is the devil's snare' (Lupton 1985, l. 75). What is of interest here is that the eponymous character, All for Money, is the allegory of a corrupt judge, i.e. of a person in charge of the administration of justice, who definitely breaks his mandate because of his bribability and greed. The character appears only in the fourth scene '*apparelled like a ruler or magistrate*' (4.77, SD), inclined to help only those who are ready to pay for his favours, according to his proclamation: 'So they come from Money, then they shall be heard quickly' (4.104). In this way, he saves the life of a thief who has stolen £200 (i.e. a larger sum than what was considered petty larceny: it was 'grand larceny, a felony, and therefore theoretically a capital crime' punishable with the death penalty; K. Jones 2006, 34). It is then the turn of William with the Two Wives, who, in exchange for money, is in the end rid of his wife, in spite of the bishop's refusal to proceed with that ('But the Bishop doth trouble me', Lupton 1985, 4.247). It appears that a church court is hinted at here, where bigamy and other sexual offences were judged:

The range of sex cases coming before the church courts was impressive. Consider the following sexual offences taken from the Essex church court records: adultery; rape; bigamy; father/daughter incest; mother/son incest; woman dressed as a man; running a brothel; sex before marriage; cuckoldry (not intervening when one's wife openly commits adultery); having sex with an unmarried woman. (Briggs *et al.* 1996, 37)

It is interesting to notice that All for Money assures William that he 'will find means with witness to be proved / That she [the older wife] before her marriage to another was betrothed' (Lupton 1985, 4.261-262), thus referring to the legal practice of collecting testimonies in order to pass judgment (but bribed ones, in this case). Of course, here *All for Money* satirises the misconduct of judges and the way they can easily be corrupted. False testimonies are also mentioned when later old Mother Croote appeals to All for Money in order to compel her young lover to marry her. The judge says that 'A couple of false witnesses must therefore be hired' (4.480), thus stating that trials can be counterfeited and manipulated, if (and only if in this case, for this judge refuses to waste his time listening to poor people) judges and witnesses can be paid.

At the end of the play, after Damnation has taken Dives and Judas to hell because of their covetousness and greed for money (scene 5), Godly Admonition invites the audience to reject 'The inordinate love of money and pride in which many delight, / And all other sins which lead us to damnation' (4.35-36). While on the one hand these words remind us of the atemporal moral and religious bases on which the text rests, on the other they conclude a play that is deeply rooted in its own time. Social problems of the second half of sixteenth-century England surface in various episodes: All for Money accepts bribery from a priest (a Catholic one, supposedly, who – in Sin's words – has 'been a doctor at the ducking of women', 4.338),<sup>8</sup> and from 'Nichol Never out of Law', a franklin who is allowed by the judge to deprive his neighbour of his land, consequently making a poor man of him, if not a beggar and a vagabond, since 'The rich may soon overcome the moneyless and the poor' (4.307). The much-discussed issues concerning the Poor Law Acts, especially beggary, vagrancy, and enclosures, are adumbrated

<sup>8</sup> Sir Lawrence Livingless, the priest, laments that St Paul 'writ too many' epistles, and that now there is 'the new Testament in English' (Lupton 1985, 4.379-380) as a clear sign that he does not adhere to the Reformation. As for 'the ducking of women' the phrase refers to the punishment often inflicted on scolds (generally women), both in the late Middle Ages and in the early modern era (but see Ga. Walker 2003, 110). Scolds were tied in a 'ducking stool' and plunged into a pond or a river.

here (see Pugliatti 2003, ch. 1), even if they are not discussed from a legal point of view. Neither are they presented as possible origins of crimes. Nevertheless, *All for Money* shows the eponymous character ‘*sitting in a chair*’ (Lupton 1985, 4.93, SD), namely as a judge listening to defendants who confess to social misdeeds that were becoming more and more relevant in early Elizabethan society.

## 2.2 *Avarice and State Affairs in Respublica*

Avarice can be a single person’s sin, but it can also undermine whole communities and states. *Respublica*, attributed to Nicholas Udall and written to celebrate Queen Mary’s ascension to the throne, has Avarice ‘*allias policie the vice of the plaie*’ among its main characters (Greg 1952, 1).<sup>9</sup> In the plays that can be considered moralities of state or political moralities – besides *Respublica*, John Skelton’s *Magnyfycence* (published in 1530), John Bale’s *Kynge Johan* (1538) and Sir David Lindsay’s *Ane Satire of the Thrie Estaitis* (published in 1602) – Vice figures corrupt the allegorical representative not of mankind, but of the state (*Respublica*, *Magnyfycence*, *Englande* and *Rex Humanitas*, respectively), with a focus on ‘order and disorder within the State’ (Rossiter 1950, 127). In *Respublica* the title heroine – a widow representing the kingdom – accepts the help of four counsellors who soon reveal their evil intent: they are actually four rogues who, under disguise, bring ruin to the state; their boss is Avarice. Diverging from previous criticism which considered Udall’s interlude as silent on the major, social and religious problems of the time,<sup>10</sup> Greg Walker discusses instead the dense topicality of the text, which could certainly be caught by a court audience. After Edward VI’s reign, when England had suffered from ‘harvest failure ... marked inflation ... price rises and apparent scarcities’ (1998, 175), Mary’s programme to redress the kingdom (and not only as far as her Catholic agenda was concerned) appears in the complaints expressed by People. This is a positive figure, who laments the troubles endured by the Queen’s subjects and blames her evil counsellors for them. In Walker’s words, then, the play does not present ‘simply a timeless commonplace of economic complaint, but a specific allusion to contemporary events’ (177), all of them negatively influenced by the vices’ action.

Since Insolence/Authoritie, Oppression/Restoration and Adulation/Honestie obey Avarice’s commands thus showing little autonomy, only the Vice’s behaviour will be analysed here, especially in the light of his final punishment. In his first speech, Avarice announces that he will take ‘the name of Policie’ (Udall 1952, 1.1.81) to disguise his real intent, i.e. to fill with money ‘all these same purses that hange att my bakke’ at *Respublica*’s expenses (1.1.104). When in 3.3 People laments the miserable conditions of the country, especially the penury of goods and the rise of prices –

... ther falleth of corne and cattall  
wull, shepe, woode, leade, tynne, Iron and other metall,  
And of all þynges, enoughe vor goode and badde

<sup>9</sup> For the problem of Udall’s authorship see the Greg ed. 1952, viii-xvii, and Gr. Walker 1998, 163-195. Alice Hunt particularly stresses the kingdom’s critical situation at Mary’s ascension and the problems raised by the relationship between a female ruler and her male counsellors (2007, 348-349). On Udall’s dramatic production, see Mullini 1996.

<sup>10</sup> David Bevington, for example, speaks of the author’s ‘delicate task’ in reconciling ‘Mary’s courtiers to her program of restitution ... In doctrinal and ritual matters the author avoids inflammatory recriminations.’ (1968, 115). Later he calls the play ‘a timeless pattern of worldliness’ (118).

and as commediens [i.e. commodious] vor us, as er we hadde.  
 and yet the price of everye thing is zo dere  
 as though the grounde dyd bring vorth no suche thing no where. (3.3.666-671)

– he calls the wrongdoers by their true names, trying to make *Respublica* aware of their fraud, without succeeding. *Respublica*, indeed, insists that the person speaking with her is *Honestie*. ‘This is *Honestee*’, she repeats four times (3.3.711, 714, 716, and 717), but evidently *People* is not fully convinced, since he claims – in his ‘west-countified’ dialect (Rossiter 1950, 124) not to trust this counsellor (and the others): ‘chil beleve een still that vaire woordes beeth but tales’ (Udall 1952, 3.3.726). *People*’s strength, however, is not enough to free the country of these evil doers: to bring the plot to a ‘happy’ ending, Udall recoups the Four Daughters of God from the morality play tradition, and makes of them (with the addition of *Nemesis* whom the Prologue has already clearly identified with ‘*Marye our Sovereigne and Quene*’, l. 49) the protagonists of Act V, at whose end the trial and condemnation of the vices take place.

It is clear that, even if grounded on Christian beliefs and values, *Respublica* deals with worldly and political issues. Because of that, the penalties correspondent to secular trespasses will not include damnation, nor any threat of everlasting hellish pains. *Avarice* is the character who is condemned most severely, although he is finally dealt with by Udall as a modern, comical – albeit very dangerous – *Euclio*, against the backdrop of Plautus’ *Aulularia*. It would take too long to investigate all the amusing micro-episodes in which *Avarice-Policie* is shown as a mean miser, worried because he may be robbed of his wealth by pickpockets and ‘hundred beggers’ thronging in the streets (Udall 1952, 5.5.145), to punish whom he would like ‘two pielouries’ to be ready (5.2.1249), i.e. more instruments for the public shaming of petty thieves. These words expose *Avarice* to ridicule, too, for he, as the major thief in the play, is afraid of petty larceny.

That *Avarice* is a ‘prince of thieves’, well beyond his supposed enemies, is overtly shown in the last scenes, where his thefts and misrule are exposed by *Verity* who, after meeting her sisters *Misericordia*, *Peace* and *Justice*, compels the *Vice* to empty his bags full of money (5.9.1717-1778). The definitive retribution for *Avarice*’s crimes is left to *Nemesis*, the ‘mooste highe goddesse of correccion’ (5.9.1782),<sup>11</sup> who decrees that the *Vice* must ‘make restitution’ (5.10.1899), consigning him into *People*’s hands with the task to ‘deliver hym to the hedd Officer / which hathe Authoritee Iustice to mynister’ (5.10.1908-1909). She also decides the penalties for the others: they must presently be imprisoned ‘vnto safe costodie’ (5.10.1916) and will be later ‘examine[d] and trie[d]’ (5.10.1918), to be then ‘Iudge[d] ... by the laws’ (5.10.1919). In this ‘trial’ in front of what can be interpreted as a royal court with a jury made up of the Four Daughters of God and presided over by *Nemesis* (Queen *Mary* herself, according to the words of the Prologue), political crimes – rather than individual sins – are judged mildly, so to speak, very probably because *Respublica* is an accession-to-the-throne play when the beginning of a new government under a new sovereign is expected to be tolerant and magnanimous, albeit firm in defending rule. At the end of *Mary*’s reign, these themes would have been dealt with quite differently, but no play was ever written on the subject.<sup>12</sup>

<sup>11</sup> On *Nemesis* as an emblem in the play, see Mullini 2007a.

<sup>12</sup> John Foxe’s *Acts and Monuments* has to be taken into account for the Protestant history of the Marian reign (first English edition 1563; see Foxe 2011).

### 2.3 *Abundance, Royal Statutes and Usury in Impacyente Pouerte*

Among other interludes that focus on the issue of wealth and the ways to acquire it there is *Impacyente Pouerte*, published by John King in 1560, whose date of composition, though, remains uncertain.<sup>13</sup> Under whichever monarch it was written, the interlude is interesting for the topic of the present article because, besides showing a tavern episode and characters playing dice (an unlawful game at the time; see *infra*), it deals with Avarice from a so far here unmentioned perspective, that is, usury.<sup>14</sup>

David Hawkes, introducing his study on usury, writes that ‘there is no doubt that usury, its dramatic rise to power, and its grave implications were prominent preoccupations of early modern English people’ (2010, 1): social changes, the money needs of those who aspired to new or more power and, especially, monarchs’ pecuniary necessities to face continuous wars enhanced the role of money lenders, both on a small scale (individuals) and on a larger one (bankers). Witnessing the relevance of money lending in early modern England, most Tudor sovereigns passed various acts against usury, from Henry VII’s ‘Act against Chevizance and Usury’ (3 Henry VII. c. 5, 1488, in Kelly 1835, 125-126),<sup>15</sup> to Elizabeth’s ‘Act against Usury’ (13 Elizabeth. c. 8, 1571, in Kelly 1835, 135-137). Even if the examination of defendants accused of this crime was apparently left to church courts both before and after the Reformation,<sup>16</sup> it is worth noticing that as early as at the beginning of Henry VII’s reign this power was circumscribed to the ‘correction of their souls [of the trespassers]’, while the authority to hold usury trials was bestowed on ‘the Chancellour of England’ and to ‘the justices of the peace of any shire, next adjoining to any citie or borrough’ (3 Henry VII. c. 5, in Kelly 1835, 126). Evidently, though, these laws were scarcely successful if in 1496 the sovereign issued another bill to make ‘more effectual Provision against Usury’ (11 Henry VII. c. 8, 1496, in Kelly 1835, 128-130).

In 1488 Henry VII proclaimed that usurious bargains were ‘to the common hurt of this land, and to the great displeasure of God’ and that ‘the seller, owner, bargainer, or promiser of such corrupt bargains or goods, shall lose, for any such bargaine made by him or his factor, £100’. The state, in other words, appears as injured party and defines pecuniary penalties for something which, nevertheless, continues to be considered a sin ‘to the great displeasure of God’ (3 Henry VII. c. 5, in Kelly 1835, 126). In the same year the King issued another act ‘concerning Exchange and Rechange’ which reserved to law breakers a £20 fine, plus ‘imprisonment of half a yere’. Transgressors were also ‘to be punished by the pillorie or other wise to their open rebuke and shame’ (3 Henry VII. c. 6, 1488, in Kelly 1835, 127-128).

<sup>13</sup> McKerrow, the first editor of the play from whose edition quotations of the play are drawn, places it c. 1550-1558, ‘probably indeed [during] the reign of Queen Mary’, but he soon adds that, these indications being not totally reliable, ‘the general roughness of style and the feebleness of plot would incline one to suspect a much earlier date’ (1911, x). Lois Potter suggests similar dates: 1547-1558 (1980, 197), while Bevington assigns it to ‘the 1540’s or 1550’s’ (1962, 20). The play’s most recent editor, Leonard Tennenhouse (1984, 58), confirms McKerrow’s dates.

<sup>14</sup> I will limit the analysis only to a few aspects of this interlude, but see Mullini 2007b for more, especially for the attempt to redeem the play from previous negative criticism. McKerrow (1911, 46-47) uses the Tudor usury laws to suggest a date for the composition of this interlude ‘not earlier than 1550’ (47). The overall role of usury in late sixteenth- and seventeenth-century English drama is discussed in Hawkes 2010.

<sup>15</sup> All statutes are quoted from Kelly 1835.

<sup>16</sup> Helmholz writes that ‘From at least the twelfth century, prosecution of living usurers in England belonged to the church ... The church was entitled to hear all pleas concerning usury during the lifetime of offenders, and to determine them freely according to the canon law. This remained the basic jurisdictional rule until the Tudor era.’ (1986, 365).

Henry VIII promulgated his own 'Bill against Usury' in 1545 (37 Henry VIII. c. 9, 1545, in Kelly 1835, 130-133), again 'for the avoiding and punishment of Usury, being a thing unlawful', admitting that 'laws [have] been of so little force or effect, that by reason thereof little or no punishment hath ensued to the offenders of the same' (130). This bill cancelled Henry VII's laws and stated that interest should not be above 'the sum of ten pound in the hundred for one whole year', specifying that 'all and every offender and offenders ... shall forfeit and lose for every such offence the treble value of the wares merchandizes and other thing or things so bargained'. Furthermore, any offender was to 'suffer imprisonment of his body and make fine and ransom at the King's will and pleasure' (132). No church court is mentioned in this act, where only a very general phrase can be found concerning the approval of the act itself by 'the lords spiritual and temporal and of the commons of this present parliament assembled' (130). Besides that, the King's Courts alone are empowered to pass judgment and the King to exact compensation (132). The state, therefore, and not the church, laid claim to full power about this issue.

The second paragraph of Henry VIII's bill appears very relevant to the present analysis. In *Impaciente Pouerte, Abundance*, the allegory for wealth and greed, who is so skilful a usurer as to 'make .xl of .xx. in halfe a yeare' (Anonymous 1911, l. 285), reveals at length his ways to make money breed. His behaviour is illegal, but he boasts of it to Conscience, his interlocutor, in particular when mentioning a special strategy of his:

I solde a man as mucche ware, as came to .xl. pound  
 And in an oblygacion, I had hym bounde  
 To pay me at a certayne day  
 And whan the bargayne was made playn  
 Myne owne seruaunt, bought the same ware agayn  
 For the thyrde penny it coste, ye wote what I meane  
 But was not this a wyse waye? (ll. 299-305)

And soon later he justifies himself by protesting that

... this is no synne  
 It is playne byeng and sellyng  
 Lawfull it is for a man to wynne  
 Els ryche shall he neuer be. (ll. 309-312)

It is not difficult to hear in Abundance's words the echo of Henry VIII's bill against usury, when it reads:

And be it further enacted ... That no person ... shall by himself factor attorney servant or deputy sell his merchandizes or wares to any person or persons and within three months next after by his factor attorney deputy or by any other person or persons to his use and behoof buy the same merchandizes or wares or any part or parcel thereof upon a lower price, knowing them to be the same wares or merchandizes, that he before did so bargain and sell upon the pains and forfeitures hereafter limited in this estatute. (in Kelly 1835, 131)

Indeed, Abundance tells of one of his bargains consisting in selling goods for which he got £40 and buying the same once again at a much lower price (a third of what the debtor had paid). The interest applied, then, proves excessively high, revealing this episode as an example of the interlude's general satire of English society, especially of the inability of state legislation to fight usury.

### 3. *Divine and Secular Courts of Justice Onstage*

#### 3.1 *Courts and Judges in the Cycle Plays*

With their robes, sometimes wigs, strict procedures and protocols, trials have always had a theatrical flavour. And theatre, when possible, has exploited the spectacular value of the administration of justice in key sequences in various plots. One could say that the English cycles of mystery plays are the first theatrical appearance of trials on stage: Christ before Annas, Caiaphas, Herod, and Pilate during the Passion events are biblical episodes present in all English cycles. In the same way, 'Last Judgment' episodes play a very relevant role in that they close each cycle and, once again, enact a judgmental procedure, where the jury is presided over by God himself. Of course the verdict, in this case, does not concern secular crimes *per se* and punishment will be everlasting, implying damnation. The findings in favour of heaven or of hell are decreed by God/Christ himself who, for example in The York 'Doomsday' play, '[goes] *ad sedem iudicii cum cantu angelorum*' (Anonymous 2011; 47, l. 217, SD), in order to divide the good from the bad definitely. In the Chester 'Judgement' no seat is mentioned in the stage directions; the Second Demon, though, points to God 'that syttheth as high justice' (Anonymous 1974; XXIV, l. 550), thus hinting at an onstage prop and its function. Furthermore, some characters use legal vocabulary to name the occasion: Jesus calls all souls with 'here you come to your judgment' (l. 358) and is addressed as 'rightuouse judge' twice by the First Demon (ll. 509 and 531). As a counterpart to God's righteousness, Chester also shows a 'Justiciarius damnatus' among the evil souls, the only damned representative of secular justice in all cycles. This damned judge laments his lot by confessing that it is the consequence of his corrupt administration of justice:

Alas, that ever I learned law  
 ...  
 Alas! While that I lyved in land,  
 wrought to worke I would not wond  
 but falsely causes took in hand  
 and mych woe dyd elles.  
 When I sought sylver or rych sound  
 of baron, burges, or of bound.  
 His moote to further ever I would found,  
 were yt never so false. (ll. 293 and 299-308)

By showing the social status of single good and evil souls in this peculiar *Danse macabre* (there are damned and saved emperors, kings, popes and queens), Chester is very precise in condemning unacceptable moral behaviour but also social evils. Therefore, it is no mere chance that there is also a 'Mercator damnatus', a greedy man and a mixture of the moral defects highlighted in the previous paragraphs about the sin of avarice. Besides that, this Mercator also confesses to his being a false judge – 'Ofte I sett upon false assyce', (l. 345) – as can be deduced by his use of the very specific word 'assize', which defines a royal court, of which merchants could be members.<sup>17</sup>

<sup>17</sup> 'Twice-yearly royal court held in each county normally at the county town. Presided over by visiting Westminster judges, it dealt *inter alia* with the more serious criminal cases.' (Barret and Harrison 2005, 324). For criminal trials in the late Middle Ages, but also in the sixteenth century, see Bellamy 1998.

### 3.2 *Mercy, Peace, Truth and Justice as Lawyers in a Heavenly Court*

The 'Annunciation' episode of the N-Town plays includes another type of 'jury', made up of the Four Daughters of God, who succeed in convincing their father to send salvation to mankind, after Adam's transgression in Eden, through Jesus' incarnation. Misericordia and Pax speak in favour of man's salvation like lawyers who uphold a cause, whereas Veritas and Justitia rebut their sisters' claims, stressing man's guilt. In the end, after deciding to ask God his judgment on the case, they embrace according to Psalm 85, 10 – '*Misericordia et Veritas obviamurunt sibi / Justicia et Pax osculate sunt*' (Anonymous 2008; 11, ll. 187-188). The N-Town cycle is the only one that contains this heavenly trial, a thematic trope to be found preferably in morality rather than in mystery plays because of its connection with homiletics.

The Four Daughters of God feature in *Respublica* as already shown, thus indicating the cultural weight of a long tradition. In this morality of state, though, at stake there is not mankind's salvation but the redress of a very earthly entity, i.e. the kingdom as a whole. Before the sixteenth century, however, they play a decisive role in the Catholic *Castle of Perseverance* when, after Humanum Genus' death in the clutches of Avarice and the consequent peril of his soul, they discuss whether the representative of mankind can be saved in spite of all his sins, just because on his deathbed he invoked God's mercy:

*Misericordia*. ... Therefore, my systyr Rytwysnes,  
Pes, and Trewth, to you I tell,  
Whanne man crieth mercy, and wyl not ses,  
Mercy schal be hys waschyng-well: (Anonymous 2010a, ll. 3142-3145)

They prolong their dispute from l. 3129 to l. 3521, after which they kiss and go to God to support man's cause. More than in the political morality they display their rhetorical and argumentative skills as if they were before a jury to speak in favour or against somebody or something. Actually, there is a jury, of which God is the only and supreme judge. To him Veritas, who with Justicia/Righteousness has spoken against mankind, summarises her point of view: 'I pray thee, Lord, as I have space, / Late Mankynd have dew dystresse / In Helle fere to be brent.' (ll. 3307-3309). Justicia's words are not very different: 'Lete hym lyn in Hell lake, / Dampnyd for evere and ay.' (ll. 3390-3391). On the opposite side Peace and Mercy defend Humanum Genus, always trying to convince their sisters:

*Pax*. ... For if ye, Ryth and Truthe, schuld have your wylle,  
I, Pes, and Mercy schuld evere have travest.  
Thanne us betwene had bene a gret perylle  
That oure joyes in Hevene schuld a ben lest.  
Therefore, gentyll systerys, consentyth me tyll,  
Ellys betwene oureself schuld nevere be rest.  
Where schuld be luf and charité, late ther cum non ille.  
Loke oure joyes be perfyth, and that I holde the best,  
In Heveneryche blys.  
For ther is pes wythowtyn were,  
There is rest wythowtyn fere,  
Ther is charité wythowtyn dere.  
Our Fadyris wyll so is. (ll. 3522-3533)

And the Father, ‘*sedens in trono*’ (l. 3560, SD) that is not only God’s throne but also his seat as ultimate power as a judge, proclaims his verdict:

Fayre falle thee, Pes, my dowtyr dere!  
 On thee I thynke and on Mercy.  
 Syn ye acordyd beth all in fere,  
 My jugement I wyl geve you by  
 Not aftyr deservynge to do reddere,  
 To dampne Mankynde to turmentry,  
 But brynge hym to my blysse ful clere  
 In Hevene to dwelle endelesly,  
                   At your prayere forthi. (ll. 3561-3569)

Apart from the practical result of the sisters’ eloquence and power of argumentation (Humanum Genus’ soul will be saved from hell), this morality play portrays the development of a trial case, with a defendant (man), two prosecutors and two defence attorneys, a court and its judge. The administration of justice, albeit in this case on an allegorical level applied to man’s afterworld, on the one hand reveals its fascination as a highly theatrical practice and, on the other, its social plausibility even in the drama of the first half of the fifteenth century.

### 3.3 Mankind: *Mocking the Court*

In the morality play *Mankind* (c.1470) the four vices Mischief, Nowadays, Nought and New Gyse, helped by the devil Titivillus, attack the innocent Mankind to bring him to damnation, so that he arrives at the brink of suicide when he learns that Mercy, his good advisor, has been hanged for stealing a horse. The news is fake, and, in the end, Mercy reappears to save him. Part of the vices’ destructive action takes place during a trial arranged by the vices, after which Mankind will be judged. The indictments against Mankind, of course, come from the vices’ point of view, i.e. Mankind is accused for his good behaviour and the trial itself will soon show satirical traits. The play is interesting as it shows how late fifteenth-century legal procedures and their language were imitated and parodied in drama.

Refusing New Gyse’s advice to report ‘Mankyndys name in yowr bok’ (Anonymous 2010b, l. 663), Mischief adds: ‘I wyll not so; I wyll sett a corte. / Nowadays, mak proclamacyon, / And do yt *sub forma jursys*, dasarde!’ (ll. 664-666). The use of Latin imitates the official *formulae* of legal proceedings, while later dog Latin will be employed to warp their authoritative weight. ‘the cort of Myschyff’ (l. 668) turns out to be similar to a manor court, where local offenders were usually tried in the presence of various officials (see Briggs *et al.* 1996, 33-37; Barrett and Harrison 2005, 27-31). In the play, Nought is called to be one of them (a steward), and there will also be an audience made of ‘All manere of men and comun women’, all invited by Nowadays in his cry (Anonymous 2010b, l. 667), evidently also addressed to the spectators watching the play. During the trial Nought writes, that is to say, he keeps a record of the proceedings (‘*Nought scribit*’, l. 672. SD), but evidently he is not very good at writing since, when he hands the record to Mischief, the latter exclaims: ‘Here ys *blottybus in blottis*, / *Blottorum blottibus istis*. / I beschrew yowr erys, a fayer hande!’ (ll. 680-682). Mischief’s disparaging remarks about Nought’s handwriting (possibly all full of stains, according to the various dog-Latin declinations of ‘blot’) are soon followed by his attempt at reading this ‘goode rennyng fyst’, as Nowadays defines his companion’s signs (l. 683):<sup>18</sup>

<sup>18</sup> The note corresponding to this line in Eccles’ edition of *Mankind* reads that this ‘is the only instance of the phrase in *MED* [Middle English Dictionary]’ (1969, 225).



*Mischief*. Take hede, sers, yt stoude you on hande.  
 [*He reads*] *Carici tenta generalis*.  
 In a place ther goode ale ys  
*Anno regni regitalis*  
*Edwardi nullateni*  
 On yestern day in Feverere — the yere passyth fully,  
 As Nought hath wrytyn; here ys owr Tulli,  
*Anno regni regis nulli!* (ll. 686-693)

Nought's extremely bad Latin (*Mischief*'s sarcasm is clear when he calls him 'owr Tulli [Cicero]', l. 692) also results in phrases very difficult to understand. An explanation is offered by Eccles (1969, 225) in a note to this speech: since 'Edward IV reigned from 1461 to October 1470, and from April 1471 to 1483', Nought's words may be an 'allusion to Edward being "no king" when the play was written', besides parodying the opening procedures of a court session. Topicality, then, seems to surface in the text, albeit comically blurred. Another apparently incongruous line might have topical value: 'In a place ther goode ale ys' (Anonymous 2010b, l. 688) might allude to the performance taking place in an inn where good ale is sold, but also to the possible presence of ale-tasters among the audience, i.e. of those appointed to control well-ordered food and drink sale in a community. In any case, whether ale-tasters or simply spectators, those in the audience are assured that there is no current problem concerning ale.<sup>19</sup>

After his trial, *Mankind* is condemned to commit criminal and violent actions which go from sexual offences to theft and murder. *Mankind* has to obediently answer 'I wyll, ser' every time he is ordered to misbehave. The sequence arrives at an end soon afterwards with *Mercy*'s return and the protagonist's subsequent salvation.

The main interest of what is described above lies in the inclusion of a secular court session and, furthermore, in the overt reversal of the respect generally due to such institutions, while preserving the structure of the trial itself, although in a parody. Very probably the original audience of *Mankind* consisted of the same 'manere of men and comun women' (l. 667) as those who assembled at the sessions of a manor court, where 'In general, all adult males (i.e. all males over 12) were required to attend. Numbers attending manor courts could be considerable.', as Briggs *et al.* write (1996, 34), so as to let us guess that even ordinary people knew how this type of court worked, and therefore could possibly enjoy its parodic burlesque in the play. Besides that, the spectators might also have taken part in one of these courts either as defendants or as plaintiffs. In other words, they were able to recognize the procedures and their comic distortion.

### 3.4 Nice Wanton: *A Secular Trial*

Printed in 1560, the '*preaty interlude called, Nice wanton*' had very probably been written for the child-king Edward VI and performed at court by a boy company (and therefore addressed to a Protestant audience). Its main characters are Xantippe, the mother, and her three children: 'according to Calvinist principles, two males, one damned [Ismael], the other elect [Barnabas], and one female [Delila] who is retrieved from damnation by God's promise of mercy' (King 1993, 95). It deals with the issue of the education of youth: the 'Three braunces of an yll

<sup>19</sup> John Shakespeare, William's father, was appointed official borough ale-taster of Stratford in 1556 (Bryson 2007, 34). Southern (1973, 143-145) is in favour of a performance inside a Tudor hall, whereas Tydeman (1986, 31-52) analyses *Mankind* as taking place in an inn-yard.

tree' (Anonymous 1560, titlepage), Xantippe's children grow up in the same family but react very differently to life, so that Ismael and Delila at once show their inclination to evil. Delila, disfigured by a venereal disease, will find a helpful – and preaching – hand in Barnabas, while Ismael, accused of very serious offences, is condemned to be hanged in chains during a trial which takes place completely on stage.<sup>20</sup>

After Barnabas has hosted his sister in his house and left the stage, Daniel enters. This character, with the name of the biblical prototype of the good judge (from the apocryphal story of 'Susannah and the Elders'),<sup>21</sup> soon declares:

As a iudge of the countrey here am I come,  
Sent by the kynges Maiesty, Iustyce to do:  
Chiefly to procede in iudgement of a Felon,  
I tary for the verdite of the quest ere I go.  
Go baily, know whether they be all a greed or no  
If they be so, byd them come away  
And bring their prisoner, I wold hear what they say. (Biiir)

The order is given to Baily Errand, who in fact is the Vice Iniquity and who immediately tries to bribe Daniel in favour of Ismael:

If your Lordshyp would be so good to me,  
As for my sake to set hym free,  
I could haue .xx. pount in a purse,  
Yea, and your Lordshyp a right faire horse,  
Well worth ten pound. (*Ibid.*)

But Daniel is not a 'Justiciarius damnatus' and rejects Baily Errand with indignation, asserting that the defendant 'shall haue the law / As I owe to god and the kyng obedience and awe.' (*ibid.*). It is interesting to see that the King is mentioned as the supreme authority together with God, that is, the administration of justice derives from a secular power which defines communal rules ('the law').

Ismael's trial is then shown on stage in detail, and its various phases are appropriately (and quite fascinatingly to modern eyes) worded by Daniel. The judge, indeed, first asks the jury, consisting of twelve men, whether they 'Be ... all agreed in one' (Biiiv).<sup>22</sup> They are 'all true men', Darius says and, on receiving a positive answer, he questions them 'to gyve verdyte directly / Whether Ismael therof be gilty or not gilty'. To our modern ears these procedures sound well known, as if we were in a twenty-first-century courtroom. In this respect *Nice Wanton* is really a very special interlude, a text which signals the emergence, in drama as well, of the central power of the law and the substitution of the latter in place of a simply personal and individual moral and religious judgment. There are no witnesses in this case, since Ismael's crimes (and not sins) are already clear: he is 'intided by .xii. men, / Of Felony, burglary, and murdre'. No modern process

<sup>20</sup> 'Hanging in chains' means that, after the execution, the corpse was 'left exposed as a further punishment' (Barret and Harrison 2005, 53). See *infra*.

<sup>21</sup> Daniel reverses the jury's wrong sentence in Thomas Garter's *The Commodity of the moste vertuous and Godley Susanna* (1578). Susannah is saved and the Elders, her slanderers, are condemned; according to a SD they are executed on stage ('Here they stone them', Eiiiv). The Vice Ill Reporte is hanged.

<sup>22</sup> In early modern criminal trials, juries 'always consisted of twelve men, no more and no less. By implication their verdicts had to be unanimous.' (Briggs *et al.* 1996, 23).

of crime detection is necessary, neither would it be historically accurate to ask for one. What the trial still needs in order to be concluded is the judges' pronouncement, which soon comes: 'Gilty (my Lord) and most guilty'. It is now Daniel's turn again, as in a modern well-ordered courtroom exchange between the judge and the representative of the jury, to issue the sentence:

The lorde haue mercy vpon the,  
 Tussh, holde thy tonge and I warrant the  
 Thou shalt go to the place thou camst fro,  
 Tyl to morow .ix. of the clocke, there to remain,  
 To the place of execution then shalt thou go  
 There be hanged to death, and after again,  
 Being dead, for ensample, to be hanged in a chain.  
 Take hym away, and se it be done. (*Ibid.*)

Daniel's closing remarks also sound quite familiar to our ears: after Ismael and Baily Errand (i.e. Iniquity now out of his disguise) are sent to prison and taken away, Daniel leaves the stage saying 'If no man haue here, more matter to say / I must go hence some other way.' (Biiir), thus closing the session.

*Nice Wanton* is an almost unique case because of the detailed presentation of a court session and the rich legal vocabulary it contains. Even if isolated, this interlude, which was probably revised for a performance at Elizabeth's court (Grantley 2003, 255), testifies to the relevance of legal procedures in mid-sixteenth-century English culture, and also to the transition, albeit slow, from exclusively religious accusations to social crimes that, as such, had to be dealt with on a secular and legal level.

#### 4. 'Criminal' Places, Unlawful Games, and Onstage Punishments

In the Catholic morality play *Mankind* those who should be judged and punished are, indeed, the vices. But no jury sits for them and their role as representatives of evil is overshadowed and forgotten because of *Mankind's* foregrounded redemption. However, the vices, albeit through their grotesque gesticulation and language which appeals to the audience,<sup>23</sup> have proved to be rogues already condemned in various ways. New Gyse arrives on stage with a noose round his neck, explaining that he has escaped hanging by a hair's breadth: 'I was twychyde by the neke; the game was begunne. / A grace was, the halter brast asonder: *ecce signum!* / The halff ys abowte my neke; we hade a nere rune!' (Anonymous 2010b, ll. 615-617). His companion Mischief, on the other hand, 'ys a convicte, for he coude hys neke-verse.' (l. 619): Mischief, having been able to read the 'neck verse', thus obtaining the 'benefit of clergy', is safe from the death sentence. The two vices' crime is horse theft (the same one they falsely impute to Mercy), an indictment that, being considered a grand property felony, English law punished with the death sentence until the beginning of the nineteenth century.

References to secular punishments become more frequent in later interludes. Penalties, though, are often just presented as threats or are narrated as taking place off stage (as in *Nice Wanton*), generally accompanied by the mention of London prisons and hanging places. The name 'Tyburn' occurs many times, and so does 'Newgate'.

<sup>23</sup> See R.C. Jones 1973 for the relationship between the Vice, his discourse, and the audience.

#### 4.1 *Onstage Hanging in Ane Satire of the Thrie Estaitis*

Sir David Lindsay's *Ane Satire of the Thrie Estaitis*, too complex a play to be discussed here at length, goes against the grain because it shows punishment on stage, and a capital one at that.<sup>24</sup> It is a long morality of state (4671 lines) which debates the political and religious situation of Scotland on the verge of the Reformation for which the text takes definite sides. Towards the end of the play a parliament is called to proclaim acts in favour of Rex Humanitas and of the Commonweal, and to judge the evil characters Common Thift, Dissait (Deceit), Falset. The text provides extended stage directions which explain how the three will be punished:

- 1) l. 3999: *Heir sal the Sergeants lous the presoners out of the stocks and leid them to the gallows.*
- 2) l. 4045: *Heir sal Thift be drawin up or his figour.*
- 3) l. 4117: *Heir sal Dissait be drawin up or ellis his figure.*
- 4) l. 4219: *Hei sall he [Falset] luke up to his fallows hingand.*
- 5) l. 4231: *Heir sall thay festin the coard to his neck with ane dum countenance: thairefter he sall say*
- 6) l. 4271: *Heir sal he be heisit up, and not his figure, and ane Craw or an Ke salbe castin up, as it war his saull.* (Lindsay 1979)

Of necessity, the stage must be equipped with some stocks from where the prisoners are freed in order to reach the gallows, which must be visible to the audience as well. All the criminals are guilty of grand felonies (theft for the homonymous character, and evil and serious deceit for the two others, whose names reveal their guilty behaviour). They are hanged one after the other, so that both the onstage audience (the parliament meeting there) and the external audience are shown multiple executions, like those which took place all over the kingdoms of Scotland and England.

All characters pronounce last speeches, but contrariwise to what one might expect, that is, words similar to those penitent and moralizing ones of which seventeenth-century chapbooks will be so full, something different is pronounced by the three condemned rogues. Common Thift, for example, after mixing sorrow and scatology (the text's contemporary spectators must have been quite accustomed to watching terrified felons soiling themselves when on the scaffold), names many accomplices of his and says goodbye to everyone, foreseeing the same death for them. Neither does Dissait show any sign of repentance: on the contrary he boasts of his deceitful life especially in merchandising. Lastly Falset, who pronounces the longest speech, narrates how the nearby villages and their inhabitants will fare worse because of his death, since he will not be there to teach brewers to water their ale, goldsmiths to tamper with gold in order to mix it with meaner metals, etc. Then he speaks to Dissait, already dead – one can imagine – on the gallows. Finally, already with the noose round his neck, he aims his satirical speech at politicians, clergy, and corrupt judges, who 'sall with me be bund in Baliels bands' (l. 4255). His very last words are a misogynous attack.

Besides the satirical content of these three speeches, what is very interesting is the stage action implied by the directions listed above. Two dummies must certainly be hoisted up; however, while SD 2 and 3 refer, even though in an intriguingly ambiguous way, to 'figures' being lifted instead of the characters/actors, SD 5 announces that, in the case of Falset, the

<sup>24</sup> Although the play is Scottish, it is discussed here for its representation of crude onstage punishments. Readers can find information and vast research on this play in Gr. Walker 1998, 117-162, and 2013, 63-90. *Ane Satire* was performed at Linlithgow in 2013 as part of the 'Staging and Representing the Scottish Renaissance Court' project (see <<http://stagingthescottishcourt.brunel.ac.uk/>>, accessed 1 February 2021).

rope has to be tightened to *his* neck, and, more dangerously, SD 6 stresses that he '*and not his figure*' is to be drawn up. How this was possible the text does not explain, but the players' long performing practice surely offered tricks to make the audience 'see' a real execution, without any peril for the actor. What is significant, for the present research, is to see that *Ane Satire* does not only speak of the death penalty, as happens in other texts, but also shows it realistically to its audience, thus creating a strong connection between external reality and theatre.

A final point: the SD after l. 4271 (6) adds that a '*Craw or an Ke* [jackdaw] *salbe castin up, as it war his saull*'. The use of live animals was fairly common in late medieval drama (one can remember Noah's raven and dove sent out of the ark after the Flood in the mystery cycles), but here, while reminding the audience of a known theatrical device, either of the mentioned birds represents Falset's damned soul going to hell. One might say, then, that the worldly meaning of public executions as the definitive punishment inflicted by human justice in retribution for social evils and crimes, still overlapped, and was obscured by, the concept of sin.

#### 4.2 *Gaming, Drinking, and Whoring*

In *Mankind* the protagonist, after being slyly convinced by Titivillus to leave the path of virtue, proclaims his will to go to an alehouse (Anonymous 2010b, l. 609) where he will find a nice girl to kiss; some lines later he is subjugated by the vices and commanded to commit crimes ('robbe, stell, and kyll', l. 708), and ordered to go 'wyth us to the all-house' (l. 711). In a short time, then, the word 'alehouse' is pronounced twice in the text to underline Mankind's degenerating phase. Taverns and alehouses had a very dubious reputation indeed in the late Middle Ages, being judged the dens of iniquity, not only because people might get drunk there, but also because ill-reputed patrons might be met, and unlawful games played there. Tavern haunting, then, was considered sinful from the religious point of view, but it also became a social problem that the law tried to remedy. In 1541 Henry VIII issued a statute (33 Henry VIII. c. 9) which, even if originally born 'for the advancement and maintenance of Archery' which men had to practise instead of playing games, actually aimed at prohibiting common pastimes like 'tennis-play bowls ... dicing table or carding' and 'any other new unlawful game hereafter to be invented or made'. Transgressors 'using and haunting any of the said houses [where unlawful games were played] and plays and there playing [had] to forfeit for every time so doing six shillings eight pence' (in Evans *et al.* 1836, 270). The law, which had been preceded by other legal measures for the same purpose, applied only to apprentices, servants and labourers (not to noblemen and landowners) to limit their 'dangerous' leisure activities. Once again, though, it is not difficult to see that secular interventions to regulate a social problem are not easily distinguishable from religious principles: Henry's statute itself reads that, as a consequence of the violation of previous bills, 'great impoverishment hath ensued and many heinous murders robberies and felonies were committed and done, and also the divine service of God by such misdoers on holy and festival days not heard or solemnized to the high displeasure of Almighty God' (*ibid.*).

In many interludes London is mentioned as the most dangerous place of all, not only for its taverns and stews, but also for the opportunity the city offered to commit sins/crimes. In *The Worlde and the Chylde* the vice Folye, after explaining that his origin is England and London his 'chefe dwellynge' (Anonymous 1999, l. 569), succeeds in corrupting the protagonist Manhode and in drawing him into town. Folye mentions Holborn and Westminster, notorious for their inns and stews, and for hosting many lawyers ('For I am a servaunt of the lawe', adds Folye, l. 575), presented generally as bribable in the satirical attacks of the play. Later Manhode will

triumphally rejoice at being led 'to London to lerne reuell' (l. 702). At the end of the interlude, the now aged protagonist confesses his trespasses:

In London many a daye  
 At the passage I wolde playe.  
 I thought to borowe and neuer pay.  
     Than was I sought and set in stockes;  
 In Newgate I laye vnder lockes.  
 If I sayd ought, I caught many knockes. (ll. 787-792)

In Age/Manhode's words we understand, besides his admission of wrongdoing in playing dice ('passage'), that debtors, too, were imprisoned in Newgate, where they might be shackled and beaten (depending on the prisoners' social conditions; see Davidson and Happé 1999, 104). It is quite remarkable to read that the protagonist was 'sought', namely that representatives of the law searched for criminals in order to arrest them on the basis of secular laws. In other words, crimes were prosecuted and a religious confession of sins was not enough, even if in the context of the play the repenting Age/Manhode, now renamed Repentaunce, will be saved by Perseuerance.

#### 4.3 *A Nests of Vipers*: Hick Scorner

Two very early interludes, *Youth* and *Hick Scorner* (the latter an adaptation of the former), represent profitable case studies for this research.<sup>25</sup> In both plays the young protagonist is enticed by vices into a sinful – and criminal – life, which is as usual mainly narrated or alluded to. The 'baddies' in *Youth* 'speak the language of criminals, and show conventional familiarity with gambling and taverns, and with Newgate and Tyburn. Their leader is Riot ... [who is] the embodiment of criminal tendencies' (Happé 1972, 22). One might say that in *Hick Scorner* there is no positive hero given that Free Will and Imagination, joined by a third disreputable character, the title 'hero',<sup>26</sup> are evil examples of what is worst in society through most of the interlude: only at the very end do the positive characters succeed in bringing them to repentance. As a portraiture of the depravity of English society, their words often partake of the language of crime and punishment so much so that it is not easy to find another interlude so rich in references to criminal life, even more than Riot's. What follows is just a brief analysis of the play in search of the moments when the rogues' underworld stands out at its worst.

At his arrival on stage Free Will boasts that he 'can fight, chide and be merry' (Anonymous 1980, l. 163) and laments having lost money 'at the stews' side' (l. 184). It is the first occurrence of the word; it is also present later when, speaking of his mother, he says that she was 'a lady of the stews' blood born' (l. 707), and in Imagination's speech when this character anticipates future pleasures ('At the stews we will lie to-night', l. 405). Free Will's father is not much better: he was a 'knight of the halter' (l. 708), a 'title' which is a transparent metaphor for a person condemned to be hanged. Indeed hanging – and Tyburn, its related location – is mentioned

<sup>25</sup> For the printing history of these two interludes and the possible political meaning of their topical allusions recalling events in Henry VIII's early reign, see the exhaustive introduction in Lancashire 1980, 1-95. Lancashire claims that *Youth* was very probably composed between 1513 and 1514 (but printed later in the 1530s), and that *Hick Scorner*, printed c. 1515-1516, was very likely written in 1514, since it 'in turn adapts *Youth*' (18). With *Hick Scorner* as political satire deals Gr. Walker 1991, 37-59.

<sup>26</sup> Strangely enough, Hick Scorner disappears from 'his' play after l. 545 (out of 1028 lines).

throughout the text. It features as the final destiny of thieves, robbers and murders, but also as an event to tell stories about, including Imagination's bragging that he and his lineage will never suffer this punishment because 'we be clerks all and can our neck-verse' (l. 266).

The characters' criminal adventures are narrated with a wealth of details, with special reference to possible real instruments of punishment used in prison. So, there are not only stocks, but 'gyves' as well (l. 478), and 'fettters' (l. 690), which are renamed 'hose rings' (l. 515) by the villains. In the play there is, though, one episode which is shown and not simply told: the good character Pity is falsely accused by the rogues of stealing £40 from Imagination's purse and is bound hands and feet on stage. He will be released by Perseverance and Contemplation (the other good characters), who, in addition, urge him to

Go and seek them [Free Will and Imagination] through the country,  
In village, town, burgh and city  
Throughout all the realm of England.  
When you them meet, lightly them arrest  
And in prison put them fast. (ll. 622-626)

Pity, therefore, will turn constable and arrest the culprits. A real hunt for the criminals is envisaged here: our modern detection strategies and techniques are still far ahead of course, but secular justice, as early as in a 1510s allegorical play, is shown as something feasible and, evidently, practised in some measure in the country.

##### 5. *Brief Conclusion*

Early modern people were accustomed to watching capital executions and public punishments as part of their daily life, this exposure aiming at discouraging crime, especially offences against the monarchy, religion and property, but also against what is now considered very petty crime. Therefore, there would have been no further need for them to be shown the consequences of misbehaviour performed by actors onstage. Furthermore, what Harrison wrote in his long and atrocious list of 'sundrie punishments appoynted for malefactors' in Britain (1577, 107r) witnesses that law and judgment were quite efficient in the country, thus attesting the general awareness of these issues. Nevertheless theatre kept dealing with law and justice administration, and with murder, perhaps aspiring to a mixture of entertainment and catharsis, even though in early Tudor times nobody had written yet about the power of the stage in checking and revealing personal wrongdoing, and in 'catch[ing] the conscience of the King' (Shakespeare 1982, 2.2.601).

In all the early modern texts investigated here religion has almost always been seen at the basis of any judgment of felony and misdemeanour. However, in spite of the difficult separation of sin from crime in the culture of the time, contemporary drama shows how secular justice was taking steps towards its own independence from moral and religious attitudes, and how the law tried both to forestall crime and to inflict earthly penalties. Certainly, it remains true that '“Crime” meant many things to our ancestors; they did not share our aggregated concept of the word, especially as a form of behaviour readily distinguishable from sin', writes Malcolm Gaskill, adding later that 'until the nineteenth century ... contemporaries tended to think less in terms of crime, than individual sins carrying their own particular social meaning' (2000, 28) Theatre, as has been shown, represents this continuity of social and judicial mentality, offering, though, glimpses of change.

Shakespeare's and Ben Jonson's great law courts in *The Merchant of Venice* and in *Volpone*, respectively, and other cases of onstage justice administration and punishment were not far off.

There would still be judges (some of them corruptible); there would still be lawyers (some of them bribable); and truth would still be sought (even if not always found).

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# Between Sin and Crime The Contrasting Hermeneutics of J. Ogilvie's Trial and Execution according to the *Relatio incarcerationis* and *A true relation of the proceedings against John Ogilvie*

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## Abstract

The article explores the relationship between the old conceptualization of crime, inherited from Scholasticism, and the new – modern – conceptualization of crime through the controversial case of the Jesuit John Ogilvie, executed in Glasgow in 1615. It contextualizes the two main published accounts of his arrest, trial and execution, the autobiographical account known as the *Relatio incarcerationis* and the Scottish official account of Ogilvie's trial and execution, *A true relation of the proceedings against John Ogilvie*. These two accounts represent two different worldviews. The Catholic narrative insists on the universality of dogma and is based on the theological conception of sin. The national-Protestant narrative considers it a crime of treason to deny the full authority of the king in his own nation and bases its conception of the crime on the legal rather than theological ground. By showing the contrasting elements of these worldviews, the article evidences the development of these two different conceptions of crime. The complex process of the transitional conceptualization of crime in the early modern period demands first a broader analysis to understand the conceptual evolution that took place after the Renaissance period.

**Keywords:** A true relation of the proceedings against John Ogilvie, *Early modern conceptualization of crime*, *Early modern conceptualization of sin*, *John Ogilvie*, *Relatio incarcerationis*

ambiguo lapsu refluitque fluitque  
occurransque sibi venturas aspicit undas  
et nunc ad fontes, nunc ad mare versus apertum  
incertas exercet aquas.  
Ovid, *Metamorphoses*, VIII, 163-166

## 1. *Introduction*

It is not easy to try to explain in the space of one article the conceptualization of crime from the perspective of a Scottish Jesuit priest, executed for treason in 1615, and the conceptualization of crime in the Calvinist Scotland of James VI and I,<sup>1</sup> who was trying to strategically align his government. The difficulty, but also the opportunity, increases precisely because we have both the Jesuit's autobiographical account and the official record of the trial and sentence. The accounts offer two different interpretations of the same events and two different conceptions of what should be considered 'criminal'.

From an even broader perspective, the fact that Ogilvie's death is located at the beginning of modernity, while Europe was going through a cultural metamorphosis inherited from the Renaissance, makes this case a particularly interesting object of study. In addition, Ogilvie was the only Scottish Catholic martyr of the post-Reformation period. All of this presents great challenges to any scholar who seeks to articulate the facts and context in such a way as to bring to light the contrast between the two world views that are embodied and confronted in this case.

Although this necessarily imposes some limits on our study, we cannot give up the effort to try to understand the facts and ideological currents, and their context in an organic and articulated way.

When the Jesuit Matthias Tanner published the lives of three hundred and twelve Jesuit martyrs in 1675, he began John Ogilvie's account by explaining its controversial and complex context from a Catholic perspective: 'Regnum Scotiae Fidei Catholicae quondam tenacissimum, pestilente Calvini haeresi, sub eadem quibus Anglia tempora, depravari caepit; donec Jacobo Stuarto Rege ad sceptrum Angliae assumpto, in unam coronam coalescens, perfidiae penitus cessit. In eo . . . natus est Joannes Ogilbeus' (82).<sup>2</sup> It is therefore also necessary to outline the political framework within which the controversial motives that led to John Ogilvie's hanging can be understood. Implicit in his trial is the conflict between the Society and the Kingdom of Scotland, and between the Catholic faith and the Protestant confession, and – in the historical collision between the two – there are also other problems, no less important, that arise owing to the changed cultural context.

In fact, we cannot ignore the wide-ranging cultural and scientific transition that was taking place at the beginning of the seventeenth century.<sup>3</sup> Astronomy left the geocentric theory aside and adopted heliocentrism. Aristotle's scientific methodology based on logic was replaced by experimental science. Aristotelian physics was displaced by new theories that embraced the possibility of vacuum, inertia, and other modern physical concepts. Politically, there was a shift from papal universalism to royal absolutism, such as that presented by James VI in his *Basilikon*

<sup>1</sup> With the exception of the bibliographical entry for his *Political Works*, where the author appears as 'James I', I will refer to King James VI and I simply as James VI, given that the facts we are discussing pertain mainly to Scotland. I wish to thank B. Killoran, M. Sternhagen and Professor C. Kennedy for their help; and Professors A. Kennedy and S. Dropuljic for their advice.

<sup>2</sup> The Kingdom of Scotland, which had once been faithful to the Catholic faith, began to be corrupted by the pestilential Calvinist heresy at about the same time as England, until it finally gave in to perfidy when King James Stuart came to the English throne by uniting the two in a single crown. In this kingdom John Ogilvie was born. All translations from Latin, Spanish and Italian are mine.

<sup>3</sup> The new cultural map had a difficult and complex evolution, rather than a lineal one. Its progress can be expressed in the words of Ovid's *Metamorphoses* quoted in the epigraph of this essay, when the author describes the dynamic movement of the Maeander river (VIII, ll. 163-166): 'it flows backwards and forwards with ambiguous flow / and moving forward contemplates the waves that are coming to it / and it drives the uncertain waters / now to the springs of water, now into the open sea'. Therefore, it can be said that modernity is characterized by this progressive movement between the old worldview (*ad fontes*) and the new one (*mare apertum*) which was arising from the metamorphic rebirth of knowledge and science.

*Doron* (1599). Similarly, the concept of crime that was rooted in the scholastic theology of sin began to lose its theological roots<sup>4</sup> and was transplanted into the field of law ‘as commanded’, in accordance with the philosophy of the English philosopher Ockham, *bonum quia iussum*.

In this article, therefore, I will deal with the religious, political, cultural and legal context of John Ogilvie’s case in order to illustrate in a more integrated way the two contrasting conceptions of crime that emerge from the aforementioned accounts and from the personalities of the two main protagonists, the Jesuit, Ogilvie, and the Archbishop of Glasgow, John Spottiswoode.

Since this is a non-fictional event that clearly shows various motivations at play, I will also briefly discuss the impact of the precarious situation of Scottish Catholicism on the Catholic Church, and of Ogilvie’s death within the minority Catholic community and the Scottish nation, being aware that the ultimate motive for the Jesuit’s execution in 1615 is still a matter of debate.

To understand these aspects as a whole, we must remember that this case places us before two different narratives, one Catholic and the other national-Protestant. From the Catholic perspective it is a case of religious persecution, while from the national-Protestant view, it is a case of the monarch needing to deal harshly with all opposition to his legal, political, and religious authority. Both perspectives are inserted in a social theocratic vision, although the ultimate authority according to Ogilvie was not the king, but the pope. For the king, on the other hand, the pope was an intruder and an impostor. The Catholic vision is framed in continuity with the Council of Trent; the embodiment of this approach in the person of Ogilvie further accentuates this position, given that the Society of Jesus, in its humanistic, philosophical and theological tradition, had placed itself at the forefront of the defence of the Catholic faith. Such a vision contrasts sharply with that of John Spottiswoode, who was a promoter of Erastian episcopacy, which was in favour of the political vision of King James VI.

There are two correlated – and apparently antinomic – levels that help to frame Ogilvie’s case: the political and religious level, and the legal and theological level. Each of these elements makes it possible to understand a different aspect of the context of John Ogilvie’s trial under Archbishop Spottiswoode. Like various threads of a web that converge into the hub, these four elements, without being exhaustive, are interconnected and allow one to discover a central point which is historically significant from a political, juridical, theological and religious point of view.

Let us briefly examine the contrasting perspectives on these different levels. From the political point of view, there is a contrast between the Catholic attempt to achieve the conversion of James VI and influence the Scottish nobility, and the king’s desire to send a clear political message of national identity, linked to his jurisdiction. At the religious level, there is a confrontation between the Catholic confession, sustained by submission to the pope, and the Calvinist faith, which prefers to exclude all mediation with God, including the pope. For the persecuted, the sentence is martyrdom, while for those who exercise justice it is only rightful punishment for the crime of treason. Also at the juridical level, there is a contrast, since Ogilvie believed himself to be innocent, and spiritually subject only to the pope; while the proceedings record that the reason for his condemnation is treason for not recognizing the total authority of

<sup>4</sup> It is necessary to distinguish today between sin and crime, between the morality of acts and the conception of crime (see Bernard *et al.* 1998, 4-5). Sharpe writes about the lack of distinction between sin and crime in early modern England: ‘[they] were unused to the idea of any clear-cut division between sin and crime. This suspicion is strengthened by the way in which contemporary commentators were addicted to the idea that minor sins and vices, if uncorrected, might lead all too easily to major crimes ... When dealing with a society which regarded such conduct as the usual first step towards a career of serious crime, historians are obviously obliged to attempt to fit contemporary ideas on sin and its correction into their terms of reference’ (2013, 8-9; see also Prodi 2000, 259-267).

James VI. Finally, from the theological perspective, there are two opposing views: the Catholic view, which defends martyrdom, and the Protestant view, which finds in *sola Scriptura* sufficient and well-founded reasons to obey the king and be subject to a national faith.

Viewed from today's cultural perspective, this article sheds some light on the history of Scottish criminology in the early modern period.<sup>5</sup> At the same time, it catalyses at a glance the various elements that were at stake on a socio-political level in Scotland, embracing many of the ideologies and cultural changes of the time. Furthermore, it also sheds light on the current situations of religious pluralism and inter-faith dialogue by showing the vast complexity of any issue that seems to be *merely* religious, but which is actually socially relevant. Every religious issue is permeated by *trans-religious* problems.

The current study is limited to the aforementioned sources, since we will take as our primary reference points the autobiographical account of John Ogilvie and the official records of his trial in which John Spottiswoode's hand probably played a role. In addition to this methodological limitation, it is important to emphasize that this article has little in the way of historical contributions, since it is concentrated on the theoretical articulation of the various aspects of Ogilvie's case.

In order to have a more integrated understanding of this study, we must not lose sight of the four levels on which we rely as pivots: the political, religious, juridical, and theological perspectives. In an era of cultural metamorphosis, as was the time of Ogilvie, the boundaries between one aspect and another, between one view and another, oscillated frequently. Therefore, although all these elements help to clarify certain historical issues, they cannot give an exact and distinct account of it in the Cartesian way: the coordinates of history are always dynamic.

Considering this ideological oscillation of history's pendulum, as well as the evident *continuum historicum* which transcends every change of era, the two narratives will be presented separately: the Catholic one by John Ogilvie, based on his own account, and then, the national-Protestant, one based on the record of Ogilvie's trial, and then finally a critical synthesis of both.

First, I will explore the cultural, philosophical, institutional and religious context of John Ogilvie's trial in order to situate his own autobiographical account of imprisonment and conviction within this context. Secondly, I will contextualize John Spottiswoode's legal, political and religious sphere and present his role and intervention in John Ogilvie's trial. Thirdly, we will analyze the complex legal-theological hermeneutics of Scottish criminal law in the case of John Ogilvie, in order to gain a clearer understanding of the relationship between different conceptions of crime and their social consequences. In the conclusion, I will summarize some of the corollaries mentioned above and give an overall view that will allow us to frame the study of Ogilvie's case in a more integrated way.

## 2. *The Catholic Narrative: 'What you are asking me does not pertain to the King, because I haven't committed any crime'*

### 2.1 *John Ogilvie and His Autobiographical Account*

John Ogilvie was born into a Calvinist family in Scotland, around 1579. When he was seventeen, while studying in northern Europe, he converted to Catholicism. Three years after

<sup>5</sup> It is known that Scottish criminological studies on the early modern period are much less developed than the English ones (see A. Kennedy 2016, 1).

his conversion Ogilvie made an important step in his life by joining the Society of Jesus, one of the most important and influential Catholic religious congregations at the time of the Counter-Reformation.

Ogilvie's entrance into the Society of Jesus was a fundamental aspect of his very Catholic identity. From November 5, 1599 until his death on February 28, 1615, Ogilvie was an active member of the Society. Considering that he died very young and that his entry into the Society took place only a few years after his conversion, his eleven years of formation and his five years of ministry as a Jesuit priest are crucial to understanding both his own world view and the outlook of post-Tridentine Scottish Catholicism.<sup>6</sup>

In 1613, he was sent to Scotland as part of the Jesuit mission to serve Scottish Catholics who were in need of priests.<sup>7</sup> Already in 1584 Archbishop James Beaton – the last bishop before the Reformation, who was formally restored to his see in Glasgow in 1598 until his death – had requested Pope Gregory XIII to send Jesuit missionaries to Scotland: 'They write from Scotland that the harvest is great, the labourers few, and that it is desirable to send some to them for the purpose of keeping the Catholics firm, and assisting those who are ready to return' (Forbes-Leith 1885, 196-197).

Ogilvie's clandestine ministry<sup>8</sup> was carried out mainly in the cities of Edinburgh, Renfrewshire, and Glasgow. It was in Glasgow, in late 1614, that Andrew Boyd betrayed the Jesuit priest, although he had had little contact with Ogilvie.

John Ogilvie was arrested, according to the Julian calendar, on October 4, 1614 and was hanged in Glasgow for treason on February 28, 1615. According to the Gregorian calendar, he was arrested on October 14, 1614 and died on March 10, 1615.<sup>9</sup>

During the months in prison, Ogilvie spent most of his time under the direct supervision of the Archbishop of Glasgow, John Spottiswoode, successor to the Catholic James Beaton. During those months, he began to write a Latin account of the time he spent in detention and especially of the dialogues he had with Archbishop Spottiswoode, his interrogators and examiners. This account is known as his *Relatio incarcerationis*; the complete original title is: *Relatio Incarcerationis, et Martyrii P. Ioannis Ogilbei Natione Scoti, e Societate Iesu Presbyteri, Ex Autographo ipsius Martyris, in carcere exarato Glasgae in Scotia octiduo ante mortem: continuata verò deinceps per eiusdem conceptiuos, qui eius Martyrio interfuerunt*.<sup>10</sup> This autobiographical account must therefore be distinguished from the testimony of the other Catholic prisoners who were with Ogilvie,<sup>11</sup> a third-person account known as the *Continuatio*. Both stories were first published in Douai in 1615, and the following year in the German cities of Mainz, Würzburg, Ingolstadt and Constance.

<sup>6</sup> Scott Spurlock (2008), followed by P. Goatman (2020a, 5), has recently argued about the existence of a Scoto-centric Catholicism after the Reformation.

<sup>7</sup> Ogilvie explains that his mission was to reconcile Catholics who had abdicated their faith.

<sup>8</sup> It was illegal for Catholic priests to exercise ministry in Scotland. I discuss this issue in 2.4.

<sup>9</sup> The latter date should be taken as the most reliable, because it explains the fact that, as *A true relation* states, Ogilvie's arrest happened on Tuesday, and that on this same weekday he was judged. This dating follows the Julian calendar; otherwise, the days of Ogilvie's arrest and final trial would not correspond to the official records' dating. In addition, it should be noticed that most of the official Catholic sources, including the *Compendium vitae virtutum ac miraculorum necnon actorum in causa canonizationis beati Ioannis Ogilvie* (1976), refer that Ogilvie's arrest occurred on October 14, following Nieremberg's version. The same date is indicated by J. Quinn (2001, 2863). Many other Catholic sources refer wrong dates for the arrest and execution.

<sup>10</sup> The Latin text is taken from Duncan (1834, 79-108). The *Relatio* was translated into English by Charles J. Karlake in 1877.

<sup>11</sup> According to John Ogilvie's testimony there were at least fourteen other Catholics among the detainees.

The *Relatio* is structured as follows: 1) a letter addressed to an anonymous friend, whom he calls ‘dominus’, with precise instructions on what was to be done with Ogilvie’s manuscript and to whom it was to be given; 2) a brief description of Ogilvie’s discussions and arguments before his opponents; 3) a short letter to Father General Claudio Acquaviva, who died on January 31, 1615, to whom he asks prayers; 4) a paragraph that probably belongs to the brief description of his discussions; 5) Ogilvie’s narration introduced with an explicit address to a Catholic audience (*Catholice lector*).

Among all this material, four explicit motives can be found for Ogilvie’s decision to write his story: to communicate to his superiors what had happened to him<sup>12</sup> to ask for prayers,<sup>13</sup> to give joy to his Catholic readers because of his witness in defending his own faith<sup>14</sup> and to demonstrate that his arrest was unjust because he was innocent.<sup>15</sup>

John Ogilvie had religious and apologetic motives for disclosing his situation and the way he had handled his defense. At first sight, all these reasons could be the exclusive interest of the Scottish Catholic circle or even of the Jesuit circle alone. That was not the case, however. Ogilvie’s account, as mentioned, was first printed in Douai on July 29, 1615 and was reprinted a year later in four different cities in Germany. One might therefore ask what interests were at stake in the story of a young Scottish Jesuit who died on a mission, after a short time of underground work.

The Jesuit John Eusebius Nieremberg aptly and pompously summarized the apologetic interests raised by John Ogilvie’s account:

El singular valor, y fortaleza Christiana que tuvo el Padre Iuan Ogilbeo, el animo con que estuvo en las prisiones, la superioridad con que hablò a los tiranos, la resolucion con que confesò su Fè, la libertad con que tratò a los hereges, el gusto, y fiesta con que padecio los tormentos, y por dezirlo assi, la burla que hazia dellos, le han dado nombre tan ilustre, que merece ser comparado con los mas señalados Martires que en tiempo de Diocleciano padecieron. (1644, 70)<sup>16</sup>

The apologetic interest of his story was, therefore, a sufficient reason to make him known in the Catholic world of the time. However, the speed with which it was published also speaks of strategy, especially since Ogilvie was the first Scottish martyr after the Reformation. One cannot ignore the relationship between this particular case, the interests of the Society and the historical confrontation between Catholicism and the Protestant Reformation: the ‘tyrants’ of whom Nieremberg speaks is James VI, the ‘heretics’ are the Protestants and the model of martyrdom is that of the first Christians.

The *Relatio* as a whole is a significant expression of the worldview of Catholic narrative. The fact that it is a narrative of events and discussions, and that it is not a systematic treatise, makes the *Relatio* an exceptional apologetic tool, for its impact could be greater and more effective since it is addressed to a wide audience and not only to theologians.

<sup>12</sup> ‘trade ista Rectori ... et roga ut descripta correcte Patri Claudio Aquavivae exemplaria mittat’ (Duncan 1834, 81).

<sup>13</sup> ‘pro me oret’, ‘pro Joanne Ogilbeo orent’; ‘pro me orare’ (Duncan 1834, 81 and 83).

<sup>14</sup> ‘concertationes describam; sane tristes mihi, laetas lectori’ (Duncan 1834, 82).

<sup>15</sup> ‘Exclamo ... promittens fore ut totus mundus aliquando sciret quam barbare me tractassent nemini nocentem sine ulla iuris formula vel caussa dicta’ (Duncan 1834, 84-85).

<sup>16</sup> The singular courage and Christian strength that Father John Ogilvie maintained, the courage with which he was in prison, the superiority with which he spoke to the tyrants, the resolution with which he confessed his faith, the freedom with which he treated heretics, the taste and joy with which he suffered the torments and, so to speak, the mockery he made of them, have given him a name so illustrious that he deserves to be compared with the most famous martyrs who suffered in the time of Emperor Diocletian.



The publication of the *Relatio* at the beginning of the seventeenth century is a manifestation of an important shift in the apologetic perspective. This idea is supported by M.W. Elliot, who emphasized the greater insistence by the Jesuit apologists on the role of the conscience and on a passive, nonviolent response, as opposed to radical political action, such as tyrannicide (2020, 73 and 82).<sup>17</sup>

For all these reasons, I will analyze some of the contextual and theoretical aspects that were at stake in Ogilvie's account and in the interest of its immediate publication.

## 2.2 *John Ogilvie and the Educational Program of the Society of Jesus*

One of the keys to reading Ogilvie's autobiographical account is his cultural and institutional education. As Daniel MacLeod (2016) has shown, one cannot fully understand Ogilvie's apologetic position and temperament without understanding the strong cultural influences of his formative period within the Society of Jesus. MacLeod studied the importance of the Jesuit culture of martyrdom and their emphasis on utilizing inspiring testimonies of life which included: the celebration of martyrs and their merits (especially in the figure of Edmund Campion), the prospect of the Jesuit mission in Scotland, the documented presence of martyrologies in Scottish Jesuit schools, and Cornelius a Lapide's positive view on martyrdom.<sup>18</sup> In the same direction, M.W. Elliot (2020) has pointed out the relevance of biblical exegesis, especially that of Juan Maldonado, who interpreted the Gospels in the light of the need for the shepherd not to abandon his flock.<sup>19</sup> In addition, Ogilvie expressed, both in behaviour and words, his determination not to run away, and to die for his faith (MacLeod 2016, 184-194).

Therefore, I will discuss some basic aspects of the formation that Ogilvie received in the Society of Jesus, which are more directly related to the argumentative content and communicative style of his account.

One of the outstanding aspects of the Society of Jesus was its clear and solid institutional identity, especially as expressed in its Constitutions. In the prologue of the Constitutions that Ogilvie knew, the Society is compared to a 'body', that is, to an organized group. Each of its members had to be well selected, educated and finally sent to the 'vineyard' (Jesuits 1838, 6), meaning the world where he had to work. This same dynamism is in fact what we find in Ogilvie's life. His mission was precisely to be sent to the 'vineyard' of Scotland, where 'the labourers were few' (Forbes-Leith 1885, 196-197).

It is surprising that most of his autobiographical prison notes focus on discussions and controversies with his interrogators with almost no mention of his religious apostolate. It is no mere coincidence that Ogilvie concentrated on challenging his opponents. In the Society, at the time of the Counter-Reformation, the cultural education system included a demanding curriculum which focused on achieving a high rhetorical, argumentative and theological quality in its students. Ogilvie, therefore, received an education centered on the communicative and argumentative sciences of his time: *grammatica*, *rhetorica*, *studia humanitatis*, *philosophia* and *theologia*.

This program of study was called *Ratio atque Institutio Studiorum Societatis Iesu*, and it enjoyed great success and diffusion in Jesuit schools in Europe and America for a little over two centuries. In fact, the last version of the *Ratio Studiorum* was published in 1599, the same

<sup>17</sup> Harro Höpfl suggests the same thing, but he nuances the extent of the change in orientation in the way tyrannicide is approached by Jesuits at that time (2004, 338).

<sup>18</sup> Cornelius a Lapide was one of Ogilvie's professors.

<sup>19</sup> A more extensive treatment of this point is in Elliot 2020, 77-79.

year that Ogilvie entered the Jesuit novitiate in Brunn (Brno). This program of study was his guide during the eleven years of his formation.

The *Ratio Studiorum*'s approach was so thorough that it even specified the readings and authors to be taught and followed; in philosophy, it was Aristotle and, in theology, St Thomas Aquinas (Lukács 1986, 55, 106, 280 and 315).<sup>20</sup>

This curriculum is particularly relevant to understanding the *ratio* with which Ogilvie defended himself verbally before the accusations and examinations to which he was subjected during his imprisonment. In his *Relatio* we can find philosophical, theological, juridical and even merely syllogistic discussions, as when he writes, at the beginning: 'Dum primo syllogismo dicto negatam propositionem nescirent secundo syllogismo probare, dicebam illos non posse probare quae dicerent, & instabam, ut si possent, probarent; alioquin eos malam, ac falsam defendere causam: nam qui tacet, cosentire videtur' (Duncan 1834, 82).<sup>21</sup> During the period of philosophical studies, one of the obligatory subjects in the *Ratio Studiorum* curriculum was Aristotelian logic. Students had to practice the art of discourse and argumentation (*ars disputandi*) on a monthly basis. In addition, special emphasis was placed on argumentative precision, as when the *Ratio* recommended: 'Sic ab ipso Logicae initio iuvenes instituantur, nihil ut eos magis pudeat in disputando, quam a formae ratione deflexisse; nihil ab illis severius exigat praeceptor, quam disputandi leges ac statas vices' (Lukács 1986, 400).<sup>22</sup>

The insistence on the use of logic supported the rigorous development of this discipline within the Society to such a degree that E.J. Ashworth pointed out that the Jesuits created a 'Jesuit Logic', with a long tradition of manuals and books on this topic (2019, 95-114).<sup>23</sup>

A kind of discussion similar to the philosophical *disputatio* was the *concertatio*, which was rhetorical in nature, and consisted in a competition between students to encourage learning and mental agility. It is striking that Ogilvie introduces his discussions during his imprisonment with this name, *concertatio*, as if to underline the polemical nature of his dialogues with his Protestant interrogators.

There are several examples of the use of logic and rhetorical art in the *Relatio*: the enumeration of arguments ('primo ... ; secundo ... ') (Duncan 1834, 87), Spottiswoode's impatience with his argumentative style ('apage cum hypothesibus tuis') (90), the impatience of one of the senators with his persistent polemical attitude ('Magnates disputandi gratiã non venisse') (94) and the initial warning about the syllogistic ignorance of his interrogators.

The apologetic function of logic, rhetoric and philosophy in the *Relatio* is quite clear and faithfully reflects the function of the Jesuit *Ratio Studiorum* in the era of the Counter-Reformation.

The linguistic instrument of the Society and the Catholic Church of the Counter-Reformation was Latin. The *Ratio Studiorum* required the rector of the college to diligently observe ('diligenter conservandum') (Lukács 1986, 370) the daily use of Latin, except during

<sup>20</sup> This edition contains the history and documents of the different official texts of the *Ratio Studiorum*. Already from the first version, in 1586, the Jesuits had Thomas Aquinas and Aristotle as guide-authors in theology and philosophy.

<sup>21</sup> Since they did not know how to prove with a subsequent syllogism the proposition that I was contradicting using a syllogism, I said they could not sustain what they were saying, and I insisted that they should prove it, if they were able. Otherwise, they would defend an evil and false cause: because he who is silent seems to agree.

<sup>22</sup> Teach young people from the beginning of logic that nothing should embarrass them more when arguing than to deviate from the correct argumentative form; nothing should be demanded by the teacher with more severity than to observe the laws of argumentation and the established order.

<sup>23</sup> Ashworth clarifies that she focuses her attention only on the main Jesuit Logicians, the ones whose works were most frequently published during the early modern period.

the vacation period. He was also required to have all his students communicate in Latin in correspondence with other Jesuits. For this very reason, it is not surprising that Ogilvie was concerned about his Latin, even asking his friend to correct the manuscript he was sending him before forwarding it to the Father General of the Society.

Even in this linguistic aspect, the narrative difference between the Protestant Reformation and the Catholic Counter-Reformation can be discerned. While the *Relatio* is written entirely in Latin, the official minutes of Ogilvie's trial and the other documents concerning him were published in English. The development of national languages also found a cause for growth in opposition to the universal language of the Catholic Church.

Finally, the theological content of the discussions held by Ogilvie and his questioners remains to be addressed.

In his initial description, Ogilvie himself specified the three topics that, in his opinion, were the main object of the discussions: the celebration and validity of the Mass, the Petrine – or Papal – succession, and the authority of the person who was to judge the controversial cases (Duncan 1834, 83).<sup>24</sup>

Ogilvie considers the first topic to be of a sacramental nature, that is, it could only be regulated by the Church and could not be controlled by the king (88). The second topic, Petrine succession, is known to be one of the most controversial problems between Catholics and Protestants. Ogilvie answers using Gospel texts that were commonplace among Catholics. In fact, their arguments taken from the Gospels are almost identical to the quotes inside St. Peter's Basilica that date from the same period: 'TV OMNES CHRISTI PASCIS AGNOS ET OVES' and 'SVPER HANC PETRAM AEDIFICABO ECCLESIAM MEAM'.<sup>25</sup> The third topic also leaves no room for doubt, and Ogilvie clearly states that he will only allow himself to be questioned on religious matters by 'the judge of religious disputes, that is, the pope, or by whoever has the authority from the pope' (88-89).<sup>26</sup>

### 2.3. *John Ogilvie and Martyrdom*

From the beginning of the Reformation, as is known, there was a race between Catholics and Protestants to add to their numbers as many 'witnesses' as possible, that is, martyrs.

'The battle over martyrdom in the Reformation period' – as Paul Middleton points out – 'was essentially a battle for legitimacy' (2020b, 18). For Protestant groups, it was a matter of legitimizing the rebirth of the authentic Church of Christ, while Catholics 'worked hard to present those executed in England under Elizabeth for treason as religious martyrs rather than political miscreants' (*ibid.*). It is in this religious trend that various means of dissemination are introduced. First, we find martyrologies.<sup>27</sup> In the Protestant context, John Foxe, recently called 'England's Eusebius',<sup>28</sup> stands out for his work *Actes and Monuments of these latter and perillous days, touching matters of the Church* (1563). Among the Calvinist martyrologies, there is Jean Crespin's *Histoire des martyrs* (1554). Among Catholics, the official and liturgical use of the *Martyrologium Romanum* was imposed as early as 1584, although martyrologies actually had an

<sup>24</sup> 'Concertationes prae cipuae de Missa, de Sancto Petro, de iudice controversiarum'.

<sup>25</sup> You feed all Christ's sheep and lambs, On this rock I will build my Church. See Duncan 1834, 88.

<sup>26</sup> 'iudex controuersiarum Religionis, id est a Papa, vel ab ipso auctoritatem habente'.

<sup>27</sup> An overview of this topic can be found in Culpepper 2011.

<sup>28</sup> The expression is by Sarah Covington, although the figure of John Foxe had already been compared with that of Eusebius of Caesarea; see Covington 2020, 305-321.

ancient history that goes back to the *Acta*. Prior to the official mandate of the *Martyrologium* we find the stories of Laurentius Surius (1570-1581) and Aloysius Lipomanus (1565).

Secondly, there are literary and theatrical works. This genre was encouraged by Luther and the Protestants from the beginning of the Reformation (Parente 1981, 156), and later by the Catholics. However, under the strong influence of the principle of *sola Scriptura*, the dramas concentrated on biblical motifs, and accentuated the interpretations, depending on the Christian confession. Simultaneously with the martyrdoms, there was a multiplication in hagiographic plays on both sides. Since the cult of saints and martyrs in the Protestant world was controversial, martyrdom dramas were slow to emerge among these authors in comparison with the rapid adoption in the Catholic world (Parente 1987, 186). Protestant playwrights include Andreas Gryphius and Daniel Casper von Lohenstein. Among the Catholic authors, we find Gregorius Holonius and, later, the Jesuits and their students, for example, the playwrights Giuseppe Simon, Leone Santi, Giambattista Giattini, Bernardino Stefonio and Alessandro Donati.<sup>29</sup> Neither musical productions should be forgotten, which most of the time were inspired by prayers or liturgical texts.

Thirdly, there is iconography. There is much less iconographic material in the Protestant world than in the Catholic world,<sup>30</sup> because of the Protestants' theological rejection of *idolatria*. The Catholic baroque art-form is known for its abundant architectural, sculptural and pictorial production. The Jesuit-inspired baroque art of Rome is in itself eloquent; an example of this were the paintings celebrating the martyrs that were produced in Santo Stefano Rotondo during the 1580s.

This was the religious, artistic, and rhetorical background of the time when Ogilvie was sent to work underground and was publicly executed for treason. Art and religious literature had an apologetic and didactic function with diversified accents, depending on one confession or another.

For this reason, there are also two interpretations of Ogilvie's martyrdom. Paul Goatman summarized them in the expressions 'exemplary deterrent' and 'theatre of martyrdom' (2020b, 47- 66).<sup>31</sup> They are not casual expressions, and both reflect two different and complementary points of view.

If we look at the ideological aspect of Ogilvie's account of martyrdom, we can ask two questions. On an individual level, to what extent was John Ogilvie aware of being a martyr and what message did he intend to convey with his account? At the same time, on an institutional level, what message did the Company want to convey by publishing a martyr's autobiographical account?

The answer to these questions is almost obvious, but does need some clarification. In four different places of his *Relatio*, Ogilvie declares his resolve to suffer and die. The first time, he declares that he would die for a truth of faith ('etiam sanguine ... pro illâ moriar') (Duncan 1834, 88 and 100); in the second, he makes clear his resolve to die for a papal doctrine ('ego volo mori') (90); in the third, he sustains his determination to suffer more torments for his faith ('volo pro hâc causâ plura libenter pati') (95). Finally, in one of his dialogues with Spottiswoode, the latter makes Ogilvie see that his desire to want to die so quickly is the product of passion and is something unnatural ('nemo vult citò mori, cū benè possit vitā servare') (96), to which Ogilvie replies that he does not speak 'from his own passion, but deliberately from his reason' ('Non ex passione sed ex deliberato animo loquor') (*ibid.*).

<sup>29</sup> A good resource about Jesuit drama can be found in Ford *et al.* 2014.

<sup>30</sup> An example of Protestant iconography can be found, in fact, in the iconographic illustrations of John Foxe's Protestant martyrology, published in London in 1563; see Carpo 2001, 86-88.

<sup>31</sup> Especially see Carpo's conclusion, 65.

The *Continuatio* expresses that, before being executed, John Ogilvie publicly declared the reason for his execution: ‘now I am delivered to death because of religion alone’ (‘Nunc autem ob solam Religionem morti trador’) (106).

Considering the formative context in which Ogilvie was immersed for eleven years, it should not be surprising to see the resolute accent of his will and the clarity of his decision not to flee from death. For this reason, MacLeod has challenged the common thesis that Ogilvie would have died mainly as a scapegoat for mere political reasons.<sup>32</sup> However, we cannot ignore the fact that the explicit statement on the religious motive of his death is found in the *Continuatio*, which was not written by Ogilvie himself.

On an institutional level, Ogilvie’s heroism acquired iconic importance, since his witness served as a counterweight to the Protestant eagerness to discredit Catholic arguments. There is no stronger argument for the truth than someone willing to give his life for it. This is how Jesuit John Eusebius Nieremberg presented Ogilvie’s heroic victory over the heretics:

Stava il P. Ogilbeo molto fiacco, perche il vegliare tante notti, e giorni l’havea debilitato, di maniera che appena sapeva qualche diceva, o faceva, o deve stava, o in che città. Cominciano ivi l’Heretici a maltrattarlo, ingiuriarlo, et a dimandarli, chi fussero quelli, che havea pervertiti in Scozia? Minacciandoli atrocissimi tormenti se non li scopriva. Ma il santo Martire con un animo degno di quei primitivi Martiri, rispose: Benche havessi havuto volontà di dirli, adesso non li direi, accioche non paia che li dica sforzato, e che mi lascio muovere, e portare per il sentimento come bestia, e non come huomo di raggione. (Archivium Romanum Societatis Iesu 1651(?), 177-178)<sup>33</sup>

There is a certain passivity noticeable in this form of viewing martyrdom and the heroic value of the martyr is accentuated according to the cruelty and dramatic character of the scene. Nieremberg was not inventing any martyrological genre in the mid-seventeenth century, since this same dramatic and theatrical strategy had already been used by John Foxe at the end of the sixteenth century. It is especially at this institutional level that a particular connection developed among religion, theology, rhetoric and literature in a time of change when there was no clear distinction between the humanistic and religious spheres.

The Jesuits sought to promote the causes of the saints and martyrs through an official process, first by beatification and then by canonization in the Catholic Church. John Ogilvie’s trial was initiated in Rome and Würzburg in 1628.<sup>34</sup> But his beatification was not concluded until the twentieth century. One probable reason for the delay was the new directives of Pope Urban VIII in the processes of beatification and canonization.<sup>35</sup> Moreover, it should not be forgotten that not all the martyrs of Tanner’s *Societas Iesu usque ad sanguinis et vitae profusionem*

<sup>32</sup> That is the interpretation made by MacDonald (2016, 155). MacLeod challenges it (2016, 189-190).

<sup>33</sup> Father Ogilvie was very gaunt, from being awake so many nights and days which had weakened him in such a way that he barely knew what he said, or did, or where he was, or in which city. The heretics started maltreating him, they insulted him, and asked him who were those he had corrupted in Scotland, as they threatened him with atrocious tortures if he did not reveal who they were. But the holy martyr answered, with a courage similar to that of the first martyrs: Even if I wanted to tell you those names, I will not say them now, in order to avoid the appearance of revealing them in my weakened state, and to avoid the idea that I let my persecutors convince me, and let myself be moved by sentiments as an animal, and not as man of reason.

<sup>34</sup> See ARSI *Archivium Romanum Societatis Iesu* (1628), *Copia autenticata del processo sul martirio istruito a Würzburg*, Archivio della postulazione generale (APG).

<sup>35</sup> In fact, the attentive examination of the life, virtues and miracles of the saints began a process of further criticism and institutionalization as part of the Counter-Reformation movement. The study of this particular issue can be found in Sodano 2020, especially 67-72.

*militans* (1675) have been officially canonized by the Catholic Church, so Ogilvie's case is not exceptional. Robert Bellarmine, although not a martyr himself, was one of the most representative apologists of the Catholic Church; however, he was not canonized until 1930.

#### 2.4 *Two Narratives and Two Parallel (Antinomic) Legal Systems*

The Reformation in Scotland is placed in a complex political and legal context. For Scotland to obtain autonomy, the country had to be Protestant, which allowed the king to disengage himself from the control and supervision of the Church of Rome. It is therefore not surprising that the legitimacy of such a claim required a legal act. The year 1560, the year of the Confession of Faith Ratification Act, signified not only a chronological parameter or a conventional reference point for determining the beginning of the Reformation. Its meaning is significant, since Protestant theologians had so urgently pushed the need to confess the authentic faith and underlined the value of *sola Scriptura*, the falsehood of papism, the individualization and nationalization of the faith, that the legislation on these matters was established even before they gave the Kirk a practical and theoretical organization. Catholic institutions did not cease suddenly, but simply lost their legal status on several points: papal jurisdiction ceased in Scotland, the Catholic veneration of images was abolished, and the celebration of Mass was outlawed. In 1567 the Parliament ratified all these points.

This is the Scotland into which James VI, John Spottiswoode and John Ogilvie were born: where it was necessary to put into practice *ante litteram* the maxim of Hobbes *auctoritas, non veritas, facit legem*.<sup>36</sup> In other words, the first step was to lay the legal foundations of the new nation.

In 1582 Pope Gregory XIII published the amended version of the *Corpus iuris canonici*, which contained the norms and laws of the Catholic Church. Ogilvie was legally bound to these norms. His purpose in absolving five Catholic apostates at one time resulted in the reconciliation of the spiritual situation of these faithful with the Church of Rome, which was one of the main intentions of the new edition of the *Corpus*:

Cum pro munere pastorali humeris nostris iniuncto id precipue nobis propositum habemus, ut omni studio diligentiaque omnes Christifideles his presertim tam grauibus calamitosisque temporibus in recta et catholica fide continere curemus, ac propterea id in primis nobis agendum et prouidendum sit, ut omnem omnibus aberrandi ab ea occasionem subtrahamus. (Friedberg 2000, vol. I, 20)<sup>37</sup>

Ogilvie declares his willingness to prefer to die rather than deny any truth of the faith. In the code of the Catholic Church, the denial of certain fundamental doctrines could even lead to excommunication, the maximum penalty for a Catholic. On the other hand, Ogilvie was also aware that his arrival in Scotland as an active priest had criminal consequences, which was why he was working undercover. His post-arrest decision not to swear the Oath of Allegiance made it clear which of the two legal systems he adhered to.

<sup>36</sup> In this case, we are interpreting '*veritas*' as the 'historical truth' of Scotland. This maxim, therefore, could be expressed as follows, *auctoritas, non veritas historica, facit legem*, i.e. it is authority, not historical truth, which makes the law. The Scottish national identity was still being forged. That is why its identity process went through a metamorphosis that involved leaving behind the cocoon of Catholicism so that the chrysalis could develop in its own national environment.

<sup>37</sup> Our main purpose is to ensure, with commitment and diligence, that all the Christian faithful remain in the Catholic faith, especially in these difficult and calamitous times, and therefore, above all, we must act and provide the means to remove from all of them the occasion to depart from their faith.

When Ogilvie answered the question of whether he recognized James VI as sovereign of Scotland, he stated that King James was *de facto* king of Scotland (Duncan 1834, 86). This response implied that Ogilvie was aware of the legal consequences of the distinction between a *de iure* and a *de facto* situation. Therefore, he added in his notes a psychological reaction to his answer: ‘Hic multū timui: sed stupidi terminos iuris ignorantes nescierunt examinare’ (*ibid.*).<sup>38</sup> Ogilvie did not want to recognize the legitimate and full sovereignty of James VI over Scotland, although he also knew what he could expect for not doing so. As we shall see later, the records of his proceedings contain the questions posed to Ogilvie in order to ascertain his final position on the matter. For the moment, we can affirm that Ogilvie’s *Relatio*, besides reporting his answers, adds theological, juridical and psychological elements that allow us to glimpse his intentions.

Since Ogilvie’s first discussions with his interrogators were centered on mere dialectical controversy, it was necessary to specify more and more the central and controversial points: ‘Aiunt: crimen est lefae majestatis asserere Papam habere iurisdictionem spiritualē in Dominijs Regis. R. De fide est ipfum habere. Dicunt: audes subscribero? R. etiam sanguine, si opus, erit. Et sic subcripsi’ (88)<sup>39</sup>. At play in this short interrogation were some issues widely discussed by theologians, jurists and politicians of the time. It is sufficient to recall the controversy between the Scottish jurist William Barclay (with the works *De regno et regali potestate* in 1600 and the posthumous *De potestate Papae*, 1609) and the Jesuit theologian Roberto Bellarmino (mainly with the *Tractatus de potestate Summi Pontificis in rebus temporalibus, adversus Gulielmum Barclay* in 1610). Roberto Bellarmino argued that the pope enjoyed *potestas indirecta* in temporal matters under exceptional conditions because of the potential danger to the faith of the subjects of an irresponsible sovereign. However, as exceptional as such indirect authority from the pope was, it implied in itself the right to intrude on the jurisdiction of a self-governing nation like Scotland. This controversy had become so important that to deny the supreme and total authority of the Scottish sovereign in Scotland was considered a crime of *lèse majesté*.

Let us now clarify what Ogilvie meant when he said that he could not renounce any ‘question de fide’. Technically a question of faith is a dogmatic proposition which, because of its doctrinal significance, must be believed by the Catholic believer and which, if denied, could cause him to incur some canonical penalty.

It should not be forgotten that in Catholic doctrine the teachings of faith are placed hierarchically after the divine right (*ius divinum*). For this reason, Roberto Bellarmino emphasized in his *Disputationes* the apostolic origin of the same:

certe quod Ecclesia de Fide esse credit, sine dubio est de Fide: at nihil est de Fide, nisi quod Deus per Apostolos, aut Prophetas revelavit, aut quod evidententer inde deducitur; non enim novis revelationibus nunc regitur Ecclesia, sed in iis permanet quae tradiderunt illi, qui ministri fuerunt sermonis, et propterea dicitur Ephes. II. Aedificata supra fundamentum Apostolorum et Prophetarum: igitur illa omnia quae Ecclesia Fide tenet, tradita sunt ab Apostolis, aut Prophetis, aut scripto aut verbo. (1586, 93 A-B)<sup>40</sup>

<sup>38</sup> At this point I was much afraid, but they, being ignorant of the legal terminology, did not know how to examine me.

<sup>39</sup> They said: it is a crime of injured sovereignty to assert that the pope has spiritual jurisdiction in the king’s lands. [I answered] It is a question of faith [*de fide*] to believe it. They added: do you dare to sustain it? [I responded] Even with blood if it is necessary.

<sup>40</sup> Certainly, what the church believes that is *de fide*, it is without doubt *de fide*. There is nothing *de fide*, except what God revealed through the apostles or the prophets, or what evidently is deduced from it. The church is not governed by new revelations, but it remains in those teachings that were transmitted by those, who were the ministers of the word, and, therefore, it is said in the letter to the Ephesians: [the church] is built on the foundation of the apostles and the prophets: hence, everything that the church sustains by faith was transmitted orally or in writing by the apostles or the prophets.

Ogilvie links his decision to affirm up the questions of faith with his readiness to shed his blood for them. In other words, he knew that denying the complete sovereignty of King James VI in Scotland could cost him his life.

James VI, meanwhile, had already established a system of criminal legislation to counteract the influence of Catholic priests, and Jesuits in particular, on the Scottish soil. In the same decade that the Jesuit mission began in Scotland, James VI strengthened the laws which specified the activities by priests and Jesuits that should be considered criminal. Thus, in 1587 on the fourth day of Parliament in Edinburgh, it was legislated about 'tryall and punishment of the offences of the adversaris of the trew religious presentlie professit within this realme'. It stated that 'professit and avowit Jesuitis or seminary preistis salbe fund in ony pairt of his realme ... salbe takin, apprehendit, callit and persewit and incur the pane of death and confiscatioun of all thair guidis movable' (Brown *et al.* 2007-2019, 1587/7/13).<sup>41</sup>

This law was ratified five years later, in 1592, against 'the Jesuits, mass priests, trafficking papists and resettlers of them' specifying that it was a 'crime of treason' (1592/4/32).<sup>42</sup> The next year it was again ratified that all these criminals 'shall incur the pain of treason' (1593/4/30).<sup>43</sup> At the 1598 Parliament there was an extension of the penalties to accomplices in these kinds of crimes (1598/10/3).<sup>44</sup> Since James VI wanted to reinforce the efficiency of his legal system against Catholics, the parliament of November 1600 stated that

Jesuits, seminary priests, excommunicate and tried trafficking papists presently being within this realm, or that shall happen to be within the same, shall immediately after their report to his majesty be taken and apprehended by the ordinary magistrates of the bounds where they resort and committed to ward until they be converted to the religion. (1600/11/40)<sup>45</sup>

There are also two other records of Parliament legislations against Jesuits in 1607 and 1609 (1607/3/13 and 1609/4/19).<sup>46</sup>

To conclude, it is sufficient to note that the policy of James VI proved effective in this regard. An anonymous source bears a defeatist approach regarding the plight of Catholicism in early seventeenth-century Scotland:

Aid would be difficult, but essential. ... few priests ... operated within the kingdom, and ... the perilous conditions rendered impossible permanent residence. Some priests resided in the north of England with periodic sacramental forays into Scotland. Fixed abodes in Scotland were impossible. Many nobles professed Catholicism, but most attended Protestant services and few allowed priests in their homes. ... Because the Kirk exercised nearly complete authority throughout the kingdom, priests were arrested before they could produce any fruit. Foreign clergy were useless because of their inability to master the language and customs. (McCoog 2017, 528)<sup>47</sup>

<sup>41</sup> *RPS (Records of the Parliaments of Scotland to 1707)*, 1587/7/13, <<http://www.rps.ac.uk/mss/1587/7/13>>, accessed 1 February 2021.

<sup>42</sup> *RPS*, 1592/4/32, <<http://www.rps.ac.uk/mss/1592/4/32>>, accessed 1 February 2021.

<sup>43</sup> *RPS*, 1593/4/30, <<http://www.rps.ac.uk/mss/1593/4/30>>, accessed 1 February 2021.

<sup>44</sup> *RPS*, 1598/10/3, <<http://www.rps.ac.uk/mss/1598/10/3>>, accessed 1 February 2021.

<sup>45</sup> *RPS*, 1600/11/40, <<http://www.rps.ac.uk/trans/1600/11/40>>, accessed 1 February 2021.

<sup>46</sup> *RPS*, 1607/3/13 and 1609/4/19, <<http://www.rps.ac.uk/mss/1607/3/13>> and <<http://www.rps.ac.uk/mss/1609/4/19>>, accessed 1 February 2021.

<sup>47</sup> This situation matches the description that G. Donaldson makes of the inoperative Roman Catholicism in Scotland during James VI's reign, precisely because of the lack of leadership and the dearth of priests (1983, 40-56; especially 46).



While a more in-depth commentary of this interesting report lies beyond the scope of this article, here it is enough to mention that precisely because of the difficult situation of Scottish Catholicism and the adverse laws, Ogilvie felt challenged to accept his complex mission.

We will now turn to the official version of Ogilvie's trial and its main actor, the Archbishop of Glasgow, John Spottiswoode.

### 3. *The National-Protestant Narrative: 'the saide Iohn Ogilvie, for the Treasons by him committed, should be hanged and quartered'*

#### 3.1 *John Spottiswoode and A true relation of the proceedings against John Ogilvie*

John Spottiswoode was born in 1565, in Greenbank, Edinburghshire, to a Protestant family. At the age of eighteen, he started assisting his father, who was a Protestant reformer and superintendent of Lothian and Tweeddale. John's church career was early and quite successful, as A.S.W. Pearce has shown by examining his strong influence in Church-State affairs during the reign of James VI and Charles I.<sup>48</sup> Spottiswoode was appointed to the see of Glasgow after the death of the Catholic Archbishop James Beaton. He was the archbishop of Glasgow from 1603 to 1615. During this period, his last important achievement was the arrest, trial and execution of the only post-Reformation Catholic martyr, John Ogilvie. After this he was elevated to the metropolitan see of St. Andrews. He was key in the reinstatement of Erastianism in Scotland and in the battle against the Roman Catholic recusancy.

I will now introduce what is known as *A true relation of the proceedings against John Ogilvie*.<sup>49</sup> In fact, the title describes the entire contents of this short publication printed in Edinburgh in 1615: *A True Relation, Of The Proceedings against Iohn Ogilvie, a Iesuit, executed at Glasgow, the last of Februarie, anno 1615. Containing Sundrie Speeches vttered by him at his Arraignment, and others, that assisted the Commissioners deputed for his triall: With all that passed at his execution.*

*A true relation* is structured as follows: 1. a letter to the reader; 2. a description of the arrest and its circumstances (Glasgow, October 4, 1614); 3. Ogilvie's first examination (secluded in a chamber until December 8, 1614); 4. a detailed description of the second examination (Edinburgh, December 12, 1614); 5. a description of the sleep deprivation inflicted on him; 6. discussion with Ogilvie regarding the jurisdictional power of the king and the pope (January 18, 1615); 7. the sending of the answers of the examination to the king; 8. the arraignment of John Ogilvie (Glasgow, February 28, 1615); 9. the indictment of John Ogilvie and the plea; 10. the intervention of the archbishop of Glasgow; 11. the verdict and sentence; and 12. the account of Ogilvie's execution.

As Robert Pitcairn points out in his notes prior to the reissue of the records of the proceedings against Ogilvie:

a Special Commission having been granted to the PROVOST AND BAILIES OF GLASGOW, within whose jurisdiction Ogilvie was taken, his Trial is not recorded in the Books of Adjournal, but was reported by the Commissioners and their Assessors to the Privy Council, from whom their powers directly emanated. There cannot be a doubt that the Report of this Case was drawn up for publication, with the view

<sup>48</sup> In fact, Pearce (1998) argues that John Spottiswoode (1565–1639) was one of the most relevant churchmen in early modern Scotland.

<sup>49</sup> All quotations of *A true relation* are from Pitcairn 1833, vol. III, 332-352.

of being extensively circulated in England. The phraseology is carefully revised, so as to be perfectly intelligible to an English reader; and though imprinted at Edinburgh by Andro Hart, immediately after the Trial took place, it must have been revised by some person skilled in the English Law, and familiar with its technicalities and practice. (Pitcairn 1833, 330)

These observations allow us to understand the nature of these proceedings. To begin with, as Pitcairn notes, this is a matter handled by the Privy Council, which was a juridical body at the service of the monarch. In addition, Pitcairn notes that this is a text prepared for wide dissemination by the printing press. And finally, it says that the text was printed immediately after the trial, taking into account the time used for reviewing the records. Therefore, there does not seem to be a great lapse in time between the publication of the *Relatio* in Douai and that of *A true relation* in Edinburgh.

There is some consensus in attributing most of the drafting of *A true relation* to John Spottiswoode, based on the convergence of data available to us. John Spottiswoode, already archbishop of Glasgow, had received the privilege of regal jurisdiction in his archdiocese in 1608 and, in addition, had been appointed an ecclesiastical member of the Privy Council. John Spottiswoode was Assessor and Ogilvie's chief examiner during his arrest and trial. Even David Masson, editor of the *Register of the Privy Council of Scotland* (1613-1616), suggests that the amount of space Spottiswoode devotes to Ogilvie's case in his *History of the Church and State of Scotland* may be linked to his interest in publicizing his own perspective, as it was a controversial case (Masson 1891, 304, n. 1). Although we don't have the ultimate proof of who the author of *A true relation* is, we can assume that it is John Spottiswoode.

What is certain is that John Spottiswoode did write directly to James VI, due to the interest that the Jesuit Ogilvie's case could arouse, and notified him of Ogilvie's arrest with a letter sent the day after the apprehension, on October 5, 1614:

It hes plesit God to cast in my handis a Jesuit that callis himself Ogilvy. He cam to this citie and said some massis, at whiche we haif tryit eight of our burgessis to bein present. He was busie in perverting sum others, that went too far with him, for sum of þam [i.d. them] preasit to resist my servantis in his apprehensioun. (Duncan 1834, 165-166)<sup>50</sup>

Spottiswoode's intervention in Ogilvie's case was prompt and firm from the very beginning, as evidenced by the fact that he informed the king about the arrest of the underground Jesuit the day after.

This promptness raises certain questions about the relationship between the publication of the *Relatio* and *A true relation*. Both were published in 1615. From the indications offered by Pitcairn, we could assume that *A true relation* circulated before the *Relatio*, at least among Scottish and English readers. However, the letter to the reader suggests that there were known 'reports' of Ogilvie's case circulating among Catholics in Scotland and elsewhere. The *Relatio* is not mentioned explicitly, so we cannot presume that it was known directly by the author of *A true relation*. What we can assume is that various oral versions, or even fabrications, were probably circulating among the subjects of James VI, including the Catholic versions, which could have had the *Relatio* as their source. Although it may

<sup>50</sup> The original manuscript belongs to the Advocates' Library in Edinburgh, a. 2, 51. It is referred, for example, in Duncan 1834, 165-166. W. J. Anderson has tried to provide further biographical information beginning from this letter (1964, 56-65).

seem irrelevant, we cannot ignore the fact that the two versions of the story are nominally (and perhaps intentionally) related, as they are both entitled *Relation*.

If the attribution to Spottiswoode is true, *A true relation* raises two issues that should be clarified: firstly, the local Scottish view of what happened and the justification of the death of a Catholic Scotsman in a rather tolerant environment, and secondly, the national-Protestant view of an event that could become, under a different interpretation, a banner for Catholic propaganda. As Pearce notes, it was written in English in order to uphold the king's supremacy as well as to oppose Catholic recusancy among English readers (1998, 172-173).

Hence, *A true relation's* letter to the reader has special relevance as a hermeneutic lens to understand the official records of the proceedings against Ogilvie.

The letter is preceded by an epigraph of several Latin quotations. This epigraph functions as a hermeneutic key to John Ogilvie's supposed martyrdom.

*2 Pet. 2. 10.* "Audaces, et sibi placentes, dominatum despiciunt, et non horrent dignitates convitiis incessere." — *Tertul. adversus Hermo.* "Hermogenes haereticus loquacitatem, facundiam existimat, et impudentiam constantiam deputat, et maledicere singulis officium bonae conscientiae iudicat." — *Cyprian de duplici martyrio.* "Non statim martyr est qui occiditur, occiduntur piratae, et sicarii, supplicium non facit martyrem, sed causa' ". (Pitcairn 1833, 332)<sup>51</sup>

The first quote of the epigraph (St. Peter 2.10) interprets Ogilvie's refusal of King James' authority as something condemned by the apostolic authority of Peter. The second quote (by Tertulian) highlights Ogilvie's stubbornness and propensity to controversy. The third one (by Cyprian) tries to dissociate Ogilvie's case from the concept of martyrdom.

The letter as such exposes the two aims and purposes of publishing the records of Ogilvie's trial: the first was to satisfy 'those, who desire to be informed of his behaiour', and the second 'to obviate the misreportes of the enemies of true Relegion, who wrest and draw all thinges' (333).

In summary, the letter to the reader contains a series of apologetic, religious, national and theological considerations against Jesuit doctrines, their methods, and beliefs. It even quotes some Jesuits expressly, such as Juan de Mariana, Bellarmino and Suárez, with whom there was already a history of religious and theological controversy.

At the heart of the letter we find a biblical quote from Ezra (4:15)<sup>52</sup> that the author of *A true relation* applies to the Society of Jesus, a 'rebel sect which harms kings'. The most important thing in his mind was to make the public understand that the Jesuits were a danger to the monarchy, that is, to the self-government of Scotland. Hence, he assured his readers that 'posteritie shall have an aduantage in vnderstanding the doctrine of Jesuites by their printed books ... by the attempts they have made against the estates and liues of princes' (Pitcairn 1833, 334).

The author's interest in presenting a true account to his readers is clear in the last lines of the letter:

<sup>51</sup> I translate these sentences since they do not follow the current critical editions on which English translations are based: *2 Pet. 2. 10.* The audacious, and those who give pleasure to themselves, despise dominion, and are not frightened if they attack dignities with insults. — *Tertul. adversus Hermo.* The heretical Hermogenes thinks that loquacity is eloquence, considers impudence to be constancy, judges a duty of good conscience to curse everyone. — *Cyprian. de duplici martyrio.* It is not immediately martyr who is killed, the pirates are killed, also the murderers, the punishment does not make the martyr, but the cause.

<sup>52</sup> *A true relation* refers the following Latin version 'Secta haec rebellis est, et nocens regibus' (Pitcairn 1833, 334). The Vulgate says instead 'urbs illa, urbs rebellis est, et nocens regibus' (Ezra 4:15).

By this is there no meane left to bee a Catholike, and remaine the Kings loyall subiect. To beleue the Popes power is such, is vndenyable treason; To refuse it, is to renounce Catholick religion; which last, I perswade myselfe all true and naturall Scots will choose, and of the choise shall it neuer repent them. (335)

The authority of the pope, as opposed to the sole authority of the king, is an act of treason. The true hermeneutic – of Scotland’s national, legal, religious and political identity – for the author of *A true relation* is to affirm that.

### 3.2 Catholics and Scottish Politics

It is generally believed that the Scottish Reformation was driven by church leaders who wanted to make the nation a godly society. Jenny Wormald, however, has contested the common view of a supposedly godly Scotland:

It is of course unarguable that Scotland became a Calvinist country, though at no time did those arch enemies (the Catholics) disappear. What is arguable is the emphasis on the success of godliness, at the expense of those, recognized by King James, who as time passed became increasingly accustomed to being members of a Protestant rather than a Catholic Kirk, yet strenuously objected to being godly. (2012, 213)

Politics in James VI’s Scotland are quite complex at the beginning of the seventeenth century; tensions between the civil and ecclesiastical authorities were notorious, in spite of the advances in the implementation of the Reformation and the fight against the Counter-Reformation. In fact, the conflict between Presbyterianism and episcopacy was symptomatic of that period (see Campbell 2017, 85-113).

The civil policy of James VI was emblematically linked to theological arguments, Scotland being a Calvinist country. The sonnet that opens James VI’s *Basilikon Doron* gives a clear picture of the divine right that inspired his monarchical policy:

GOD giues not Kings the stile of *Gods* in vaine,  
 For on his Throne his Scepter doe they swey:  
 And as their subjects ought them to obey,  
 So Kings should feare and serue their God againe  
 If then ye would enioy a happie raigne,  
 Obserue the Statutes of your heauenly King,  
 And from his Law, make all your Lawes to spring:  
 (James I 1918, 3)

This vision (no papal mediation between the king and God) gave a strong political and religious foundation to the directives with which the monarchy was strategically imposing itself at different levels. It is enough to recall, for example, the effort towards active cooperation between the crown and the nobles (see Brown 2011, 208-237), the nominations of bishops from 1600 onwards (see Wormald 2012, 215), and the liturgical reforms (see MacDonald 2016, 148-170). The Erastian episcopacy was linked to this political strategy, although it was not reduced to mere politics.

In 1620, John Spottiswoode defended this same policy in his *Refutatio libelli de regimine Ecclesiae Scoticanae* and explained that there was ‘ita arctè, copulatèque cohærent ciuilibus, et Ecclesiastica Politia, vt hac semel euersa, illa diu subsistere non possit’ (Maidment 1844, 55).<sup>53</sup>

<sup>53</sup> So close and strong was the union between civil and ecclesiastical policy that, if the latter was subverted, the former could not survive either.

From this we can deduce how important it was for James VI, supported by Spottiswoode, to put an end to the missionary attempts of the Catholic Church and of the Jesuits in particular. For Spottiswoode it was a question of church politics, not church theology.

However, we must make some observations. John Ogilvie explicitly says that he went to Glasgow to absolve five apostates; he does not mention that this was a large number of people. The reason is not only that, when working underground, he had to attend meetings in small groups, but also that the number of Catholics – especially noble Catholic families – he was trying to serve had become smaller. Goatman even illustrates this situation by alluding to the family coats of arms in the Scottish palaces of that time in which there are Catholic as well as Jesuit symbols (2020a, 6-7).

Furthermore, Catholicism ‘posed no sustained nor serious threat to the civil or religious establishment in Scotland during the seventeenth century’ (Macinnes 1987, 35). As we have seen, the situation of Scottish Catholics was rather precarious, since it could not rely on an adequate number of priests.

If the number of Catholics in Scotland was already small, this number was even more reduced in the circle of the nobility. However, this fact alone was sufficiently relevant to counteract the nobles who resisted the Reformation, since they could become an obstacle in James VI’s policy.

Therefore, the support given by the noble families to Ogilvie had its price; many of them were imprisoned or judged. Marion Walker and her son Archibald Mure were Catholics who stood out for their support of Ogilvie. James Stewart of Flock and James Forrett were among the judges of that period. Many of Ogilvie’s supporters and the men associated with him ‘were prominent members of Glasgow’s town council and magistracy’ (Goatman 2020b, 53). Ogilvie talks about fourteen other detainees with him, although there are also accounts which speak of fifteen men arrested. All this shows that, at least in intention, Spottiswoode ‘attempted to use John Ogilvie’s trial and execution as a show of royal and archiepiscopal power in the local era’ (66). It is known, however, that Catholics continued to hold local positions over the following decade.

Macinnes has recently shown how Scottish Catholicism remained alive after Ogilvie’s execution. Financial support came from Rome to advance this cause. The Jesuits continued to mission, although they remained on the sidelines of other missionaries, especially the regular clergy. Pilgrimages were not totally eradicated either and the tradition of Catholic singing remained alive in spite of resistance. That is to say, in a certain sense Ogilvie’s martyrdom, although of local dimensions, reinforced the Catholic missionary effort in general (2020, 43-46).

### 3.3 *The Crime of John Ogilvie*

We cannot lose sight of the fact that the legislation against the ‘Papists and the Jesuits’ had been solidified during the reign of James VI, with various severe penalties being imposed for the crime of treason. But one wonders which of all the possible charges against Ogilvie justified capital punishment for treason (Macinnes 2020, 41).<sup>54</sup> ‘You are not accused said Maister William Hay after the indictment of saying Masse, nor of seducing his Maiesties subjects to a contrarie

<sup>54</sup> I left aside the consideration of the possibility of forced exile for those who opposed the supreme authority of the king in the state and in the Kirk.

religion, nor of any point touching you in conscience, properly' (Pitcairn 1833, 343). The case for treason focused instead on the fact that he was 'declining his Maiesties authoritie' and 'maintaining treasonable opinions' (*ibid.*).

The charge against Ogilvie, therefore, was not linked to the celebration of Mass, or the attempt to convert a Scottish subject to Catholicism, nor even to an action involving his conscience. All this was already clearly punishable under Scottish law. Any of the above-mentioned charges could place Ogilvie's case in the religious sphere and would end up giving the tint of martyrdom to his execution, and Ogilvie, even from the legal point of view, would have died for a merely religious cause. To do so meant losing the clear political direction that James VI's state apparatus was giving to the nation.

On the other hand, it is not possible to ignore the underlying religious controversy, since it is not possible to separate the historical evolution of criminal law from the event of the Reformation and the rise of James VI to the throne of England. The application of the capital punishment for an act of treason, therefore, makes it possible to focus on the connection among all these elements.

Treason was the most significant offence in law. It had different forms, but mainly encompassed the killing of the sovereign or one of the members of the royal family, raising war against the king, or associating with the king's enemies. Nevertheless, the Reformation caused a parallel reform in legislation: 'new treasons were invented by statute in order to stifle opposition to the king's ecclesiastical reforms, and under these severe measures the mere expression of opinion could in some cases constitute high treason' (Baker 2019, 569).

Ogilvie's case illustrates this point quite clearly. He had not made any attempt on the king's life, nor was he a conspirator. He was an opponent of the political system as such because he refused to recognize the supreme authority of the king. Moreover, his opinions are qualified as 'treasonable' precisely because, if any concrete political action were to follow from them, this would jeopardize the stability of the political system.

What is surprising is that such a young priest with a rather small circle of influence, was given such prominence, when Catholicism did not represent a real danger in Scotland, either for the Reformation or for national identity. However, the message that his presence, opinions and the tenacity of his character could divulge were considered sufficient to deem his position as treacherous. It is important to note that the Jesuit Moffat was released around the same time for refusing to support Ogilvie's claims.

The semantics used by the *Relatio* and by *A true relation* can shed further light on this point. In his *Relatio* Ogilvie uses the terminology '*crimen/criminalis*' (crime) seven times and '*peccare/peccatum*' (sin) seven times. *A true relation*, without including the introductory letter to the reader, uses twenty-seven times the terms 'treason/treasonable'; and uses 'crime/criminal' only five times. It is interesting to note the absolute absence of the term 'sin' within the official text. The two narratives, therefore, move within different semantic spheres. Ogilvie's religious, philosophical and theological background produced a type of Catholic narrative that was completely different from the national and Protestant narrative which emphasized the political and juridical prospect.

In this regard, Victor Houliston and Aislinn Muller have rightly pointed out how in the time of Queen Elizabeth

Official and Protestant narratives insisted that those who were executed had been condemned for committing treason against their queen and country, while Catholic writers insisted that the martyrs had died for their religious beliefs and were being persecuted for their faith. ... Prominence was given to

the answers of condemned priests who refused to answer straightforwardly or admitted to their belief in the queen's deposition, in order to justify the government's assertion that the priests were being executed for treason. (2020, 325-326)

It is not surprising, therefore, that this was the same strategy adopted in Ogilvie's case. *A true relation* refers to the five questions which Ogilvie had to answer:

1. Whether the Pope be iudge, and haue power, in *spiritualibus*, ouer his *Maiestie*, and whether that power will reach ouer his *Maiestie*, euen in *temporalibus*, if it be in ordine ad *spiritualia*, as Bellarmine affirmeth?
2. Whether the Pope haue power to excommunicate Kings, (especially such as are not of his church,) as his *Maiestie*?
3. Whether the Pope haue power to depose Kings, by him excommunicated; and in particular, Whether he haue power to depose the King his *Maiesty*?
4. Whether it be no murther to slay his *Maiesty*, being so excommunicated and deposed by the Pope?
5. Whether the Pope haue power to assoyle subjects from the oath of their borne and natural allegiance to his *Maiestie*? (Pitcairn 1833, 337-338)

Ogilvie was not very cooperative in stating his clear opinion on all these thorny issues. In fact, *A true relation* only mentions his partial answers to the first and the second questions. Ogilvie stated that 'hee will not declare his mind', except to the pope, about the last three questions (338).

The *Relatio* contains his broader answers without following this precise order, but it fundamentally coincides with *A true relation*. In the *Relatio* Ogilvie refused from the beginning, for reasons of conscience, to say whether he celebrated any mass in Scotland and then refused to take the Oath of Allegiance. Later on, he even refers to some moments when he mocks his interrogators (seven times he uses the verb 'to laugh' in Latin, *ridere*), and states that, since the king was only a layman, he could not have any kind of jurisdiction over Ogilvie, who was a priest. He does not answer directly or clearly the question on whether the pope could depose a king. And, as we have already mentioned, he claims that only the pope or his delegate could decide on controversial theological questions.

Spottiswoode and the other interrogators were therefore forced to find other substantial grounds or assumptions that could aggravate Ogilvie's accusation of treason, since Ogilvie's answers were not satisfactory. Hence, it is said in the records: 'Thereby, not onely declining, treasonably, his *Maiesties* jurisdiction and authoritie royall; but *by your not answering clearely*, that it is altogether vnlawfull, damanable, and diabolicall, . . . you haue committed most heinous, pernicious, and vnardonable treason' (342, my italics). The use of the tricolon ('unlawfull', 'damnable' and 'diabolicall'), a rhetorical device consisting in a series of three similar-meaning terms, sought to emphasize the seriousness of the crime, making it clear that this was a theoretical, rather than a factual issue: the insufficiency of Ogilvie's answers was sufficient reason for his condemnation. This same paragraph allows us to specify that the kind of crime committed by Ogilvie was related not to the material transgression of the law, nor to any damage caused to the nation, but to the fact of putting the supreme sovereignty of the king at risk in the eyes of the nation. That was, ultimately, that to reject theoretically royal authority meant to reject the nation.

#### 4. *The Complex Legal-Theological Hermeneutics of Scottish Law in the Light of Ogilvie's Case*

##### 4.1 *The Theological Interpretation of the Legal Environment in the Early Modern Period*

Ogilvie's treason case raises some fundamental questions within Calvinist-inspired Scottish legislation: how was it possible, in a religious environment, to justify that not explicitly recognizing an authority was a crime of treason?

The influence of the Reformation and godliness had played an inspirational role in the legal-political orientation of Scotland's national identity. Theology (especially in its ecclesiological and dogmatic ramifications) had served as a political and national catalyst for it. However, as I have outlined above, this did not mean *de facto* an 'eradication of sin'. One reason for this is that, as Wormald states, it is not enough to examine the Kirk-session records in order to obtain an accurate picture of the overall situation (2012, 206-207), precisely because such records show only one side of the case.

Ogilvie's case illustrates this point well. The *Book of Discipline* contemplated the problem of heresy and its penalties. Ogilvie was not formally charged with heresy and, therefore, it was not necessary to bring him to the Kirk court to be judged on any controversial religious point or immoral conduct. What happened, in fact, was that his case was heard in the Privy Council, a secular entity. Paradoxically, the person most involved in this case was an archbishop, an official ecclesiastical authority. This is not a contradiction *in factis* or a confusion of roles, but a phase in the process of Reformation on the one hand, and the shaping of national identity on the other. The Scottish criminal law of the early modern period is a good example of this metamorphic dynamic.

Chloë Kennedy has already demonstrated how 'close examination of ... Balfour's *Practicks* (1579) and Sir George Mackenzie's *Matters Criminal* (1678), reveals that both authors' conceptions of the principles of the criminal law and their discussions of particular crimes bear the mark of Protestant theology and Calvinist doctrine' (2012, 180). It also reveals hints of a theological approach through the moralistic features of Scottish criminal law. Scottish substantive law reflects the belief that the moral teachings of the Bible are valid sources for law. Hence, the judicial authorities, with the support of the church authorities (196), considered the punishment of sinful conduct to be legitimate. Morality, theology, law and religion seem to be indissociable.

In the same way that there is a certain continuity between canon law and the newly reformed juridical structures (Prodi 2000, 242-247), there is also a certain continuity between the pre-Reformation theological approach, based on the scholastic system, and the birth of the newly reformed theology within the genesis of confessional states.

According to the scholastic vision, crime, as well as law in general, was located and grounded on the theological sphere. Not every human law was morally valid, since morality depended on the objective good founded on God. The first watershed of this theological and philosophical foundation happened to be through nominalism, which established a metaphysical separation between the moral good and the freedom of the 'Lawgiver', God. This meant that God could have created a moral order different from the one that was known; it meant, for example, that he could have made adultery a morally good act.

This theoretical claim ended up subverting the traditional metaphysical and scholastic order, since it claimed that good is good because it is commanded or, in more modern terms, it is good because it is legislated. It is important to emphasize that in this case the concept 'good' is unrelated to any ethical foundation and denotation.



In any case, nominalism still moved in a theological sphere, although it was metaphysically disruptive, and, as an epistemological tool, proved to be very fruitful in modernity. The effects of this in the political sphere were practical rather than theoretical, since the Reformation allowed the political birth of new nations as well as new forms of law.

Without seeking to elaborate a concise picture of such a complex issue, we can say that Ogilvie was treated as a traitor precisely because his presence in Scotland, motivated by religious and confessional reasons, constituted an act that contradicted the established authority, the *auctoritas posita*. Yet, we could ask, an authority established by whom and for what purpose? This is a valid question, since the legitimacy of this authority could depend on the answer to this question.

The king's authority was based directly on the will of God, the ultimate authority. And, therefore, the juridical acts of the *auctoritas posita* analogically – in reference to God – generated *positive* laws that had to be obeyed by all the subjects of his jurisdiction, which was limited only by the criterion of territoriality. It is extremely delicate, from the academic point of view, to affirm something in such a general and synthetic way, but I believe that this theoretical problem contains a part of the historical truth that James VI's Scotland was going through.

This same logic, partly founded on theology and partly rooted in the new national legal configuration, is found in the general framework presented by Sir James Balfour in his *Practicks*:

Law is devydit in thré partis; in the law of nature, the law of God, and in the positive law. The natural law is that quhilk is written be the finger of God, or of nature, in the heart of man, and quhilk nature hes gevin and ingenerate in all leiving creatures: the law of God is that quhilk is reveillit, and declarit in his maist halie will and word: the law positive is this quhilk is made be man allanerlie. (McNeill 1962-1963, 1)

Natural law is an inheritance of the scholastic system, but Balfour circumscribes it to the human sphere, and thus ends up assimilating it to the natural moral law. Divine law is identified with God's revelation, which, in the case of Protestant theology, is Holy Scripture (word). Finally, the positive law is clearly distinguished from the two previous ones, since it is elaborated only by man. The link that connects positive law to natural law and divine law is the divine legitimization of the 'positive' lawmaker, that is, the king. Hence, the divine right of the sovereign is of central importance in the validation of this juridical construct.

That is why it should not be strange that the records against Ogilvie allude to the theological foundation of the king's total sovereignty. In Ogilvie's trial records, there is a reference to 'God, the author of all righteous gouvernement', who 'established Kings and Magistrats his lieuutenants vpon earth, for repressing of violence, oppression, and vice, and the promouing of pietie and justice' (Pitcairn 1833, 340).

Such a combination of the secular (or positive) and the ecclesiastical (or theological) domains is not simply symmetrical. It is not God who directly creates the nation; God constitutes the king, but it is the king who constitutes the nation. Therefore, from this point of view, Ogilvie is committing primarily a crime against the king's authority, rather than a sin against God, who is the guarantee of the royal authority.

Ogilvie is not acting against natural law or against divine law. Ogilvie is acting against the sovereign's positive law. This is why his crime is presented exclusively as a treason, leaving no room for it to be considered a sin.

Now let us try to explore the other perspective. Ogilvie, as I have said, expressly alludes to sin during his autobiographical account. In doing so, he opens up a horizon that we cannot ignore: the theological horizon of post-Tridentine Catholicism.

#### 4.2 *The Placement of Crime and Sin in the Scholastic and Post-Tridentine Theological System*

Although I have already alluded *en passant* to the theological placement of crime and sin, that is, of morality and transgression of the law, within the scholastic system, it is necessary to analyze briefly how the difference between this system and the new way of conceiving crime in modernity took shape.

What Ogilvie expresses in his *Relatio* reflects to some extent the mentality of his Catholic contemporaries. In fact, what concerns Ogilvie least in his *Relatio* is the illegality of his actions; what worries him the most is the possibility of sinning against God's will.

When his interrogators ask him to take the Oath of Allegiance, he refuses saying that 'frustrà iurare, peccare est' (Duncan 1834, 87).<sup>55</sup> When they ask why he does not reveal the names of the Catholics he was meeting, he replies: 'quia non obligor, & nolo peccare'. (*ibid.*)<sup>56</sup> Therefore, Ogilvie was thinking within a theological map that was quite different from the new criminological map of early modern legal thought.

When the Jesuit Francisco Suárez, well known for his contributions to the philosophy of law, published his *Defensio fidei* against the Oath of Allegiance in 1613, he had stated clearly that it was a grave sin to take the oath:

Concludo igitur, in illis verbis huius iuramenti non tantum postulari à subditis civilem obedientiam, sed etiam professionem huius erroris, quod Papa non habeat potestatem, & iurisdictionem ad ferendam contra Regem depositionis sententiam quacumque ex causa .... Et inde ulterius inferitur, peccare grauissime subditos illud iuramentum prestando. (1613, 711 D-712 A)<sup>57</sup>

The interesting fact is that Suárez' reflexions on law are regarded as one of the bridges between the old legal perspective and the modern one (Villey 1986, 323-338; Pink 2012, 175-208). Nevertheless, we find that, in his view, the boundaries between crime and sin are unclear.

In his monumental work on law, *Tractatus de legibus ac Deo legislatore*, first published in 1612, Suárez presented a definition of law that was broader than the Thomistic definition, but rooted in it: law is, Suárez writes, 'mensura, non quorumcumque actuum, sed moralium, quoad bonitatem & rectitudinem eorum simpliciter, ratione cuius ad eos inducit' (1619, 6 D).<sup>58</sup> From this, we can easily understand how deeply rooted was the theoretical link between morality and legality, especially in the Catholic Reformation worldview, within which Ogilvie had been educated. Suárez explains then – in a *reductio ad absurdum* – that 'qui caret lege

<sup>55</sup> It is vain to take an oath, it is to sin.

<sup>56</sup> I am not obligated to do it and I do not want to sin.

<sup>57</sup> I conclude, therefore, that in those words of this Oath [the king] is requesting from his subjects not only the civil obedience, but also the profession of this mistake, which consists in saying that the pope does not have power and jurisdiction to carry on the deposition against the king for any reason .... And from this it is possible to deduce that the subjects that take that Oath sin gravely. Ogilvie declares in his *Relatio* that he had not read Suárez's book, referring to his *Defensio fidei*: 'Dicunt, Soaris doctrinam defendis? R. Non legi Soaris librum' (Duncan 1834, 94). We may suppose that, because the *Defensio fidei* was published in 1613, Ogilvie was too busy and hidden as to be able to read it, but it is also probable that he knew about the book, because he was aware of the controversy of the Oath of Allegiance, as he testifies in his *Relatio* (see Duncan 1834, 99-100).

<sup>58</sup> The measure, not of any kind of acts, but of moral acts, simply as for their goodness and rectitude, for which it induces to these acts. The title – *A treatise about the laws and God the lawmaker* – speaks somehow by itself; while the modern conception of law goes towards a distinction between law and morality, Suárez states a distinction not about law, but only about the product and the producer: the laws and the ultimate source of all laws, God. I am using the 1619 Latin edition published in London, close to the geographical area where Ogilvie was working.

peccare non potest, rationalis autem creatura potestatem habet peccandi, ergo et legi necessario subdita est' (1619, 9 B).<sup>59</sup>

Even though Suárez subsequently developed a theory of penal law, we should not be surprised by the fact that sin, as such, appears here as a transgression of law. The power to sin, according to this reasoning, is enabled by the existence of law; nevertheless, the original framework for this claim is theological. In fact, for scholasticism, positive law depends on natural law, which in turn depends on divine and eternal law.

We should keep in mind that theological discussion on sin during the Middle Ages developed in the context of creation, as part of the reflection on original sin. Therefore, criminal behaviour was ultimately immersed in the context of the transgression of divine law. This explains why Ogilvie did not dare to transgress what could offend God, as this transgression was considered 'sin'.

That conceptualization of crime helps to understand why Ogilvie identifies collaboration with the Scottish authorities as a transgression of divine law. The Scholastic relationship between sin and crime, which today seems only a confusion,<sup>60</sup> was coherent within the theological context in which it arose. Aquinas, as most Scholastics, distinguished between different kinds of *peccatum* (error, mistake, sin); 'peccare', he writes in his *Summa Theologiae* 'nihil est aliud, quam declinare a rectitudine actus, quam debet habere, sive accipiatur peccatum in naturalibus, sive in artificialibus, sive in moralibus' (1961, I, q. 63, 1 c.).<sup>61</sup>

Aquinas wrote some *quaestiones disputatae* about evil, and in his definition of sin he establishes an equivalence between sin as a transgression against the reason and as a transgression against God's law: 'peccare nihil est aliud, quam transgredi rectitudinem rationis vel legis divinae' (2002, vol. VI, q. 2, art. 9, ob. 4).<sup>62</sup>

Thus, Scholasticism clearly distinguished between different levels of transgressions, but, due to the fact that positivism had not yet been developed, the legal level was absent. On the other hand, Scholastics assigned every human act, including sin and crime, a place in the divine order and in connection to divine law.

There are two other problems that arise from this. First, we have the problem of authority. The theological foundation of modern criminal law differs from the scholastic foundation for several reasons. The sovereign is a 'positive' legislator, that is, he can validly legislate in everything that is not already determined by the natural law or revealed divine law. In scholastic theology, on the other hand, the separation between the divine legislator and the human legislator was neither clear nor distinct. Therefore, in the Tridentine scholastic system, the Church had a moral supremacy over other sovereigns as a result of the underlying theological system. The authority conferred by Christ on the pope gave his voice the only valid word in the legal and moral sense. That is why the post-Tridentine Catholic Church emphasized the legitimacy of papal excommunication of a heretical prince. This same tendency provoked in the national

<sup>59</sup> He who lacks the law cannot sin, but the rational creature has the possibility/power to sin, therefore, it is necessary for the rational creature to be subjected to the law.

<sup>60</sup> This point of view has been accentuated by positivism, and, therefore, the early modern criminological theory should not be considered only from a positivist perspective. The clearer separation of law and morals was only little by little elaborated in the seventeenth century.

<sup>61</sup> To sin is nothing but to deviate from the rectitude of an act, which it should have, either if it is understood as a sin (*peccatum*) in nature, art, or morals.

<sup>62</sup> To sin means to transgress the rectitude of reason or of divine law. These *quaestiones disputatae* were composed by Aquinas during the same years of composition of the *Summa Theologiae*.

churches a new theological foundation that discarded papal mediation between God and the king. This also gave birth to a new ecclesiology, sacramental theology and doctrinal discipline.

Secondly, there is the problem of conscience and law. As Paolo Prodi has noted, while the Catholic Church wanted to maintain the unification of forums in its juridical frame, the Protestant churches generated a new configuration of forums, introducing the origin of an intermediate forum in which the secular and ecclesiastical branches collaborated (2000, 233 and 238-239). This intermediate forum replaced the pope's Catholic mediation, which sought to be universal. In this way, the collaboration of the political and ecclesiastical sectors facilitated the generation of a national identity of their own, since each ecclesiastical reality had greater autonomy and the possibility of adapting to its own territorial reality.

#### 4.3 *Between Sin and Crime*

We cannot lose sight of the historical orientation of law, specifically, the gradual shaping of positive law through the Enlightenment. It is not my intention to investigate this field, but only to keep in mind that modern law moved in this direction. In this sense, John Austin warned: 'Of Laws and Rules there are various classes. Now these classes ought to be carefully distinguished. For the confusion of them under a common name, and the consequent tendency to confound Law and Morals, is one most prolific source of jargon, darkness, and perplexity' (1998, 371).<sup>63</sup>

Without losing sight of this distinction, the fruit of long years of the configuration of law, we must try to outline a way to understand the relationship between crime and sin at a time when this distinction was just starting to exist.

Moreover, one of the characteristics of the early modern period is its changing and revolutionary dynamism. History does not advance without regressions, nor does it return from them without a certain progression. In no cultural or scientific field is there a linear, flat, and regular evolution. The transition between the Renaissance and the modern age at its apex is marked by a process of metamorphosis that is difficult to classify.

Even the distinction between sin and crime had flexible boundaries during the early modern period. A good example of this transitory state is the way modern philosophers place the role of God within their systems. Descartes, for example, is unquestionably innovative in the philosophical and critical field, putting the subject at the center of philosophical attention. His system, though, recognizes God as the guarantee of the existence of the world. In the same way, Hobbes presents innovative political thought, but this does not eliminate the theological foundation from his argumentation.

In his *Leviathan*, Hobbes defines sin, for instance, within a quasi-scholastic scheme:

A SIN, is not only a transgression of a law, but also any contempt of the legislator. ... A CRIME, is a sin, consisting in the committing (by deed, or word) of that which the law forbiddeth, or the omission of what it hath commanded. So that every crime is a sin; but not every sin a crime. (1998, 192-193)

Every crime is a sin. In this affirmation we still find the scholastic residues of theology, since sin – as contrary to the order established by divine law – encompasses every crime, precisely because a global moral order is supposed to exist. Nevertheless, Hobbes defines sin as a transgression, but cleverly fails to specify whether it is a transgression of divine, natural or positive law. He holds that sin is a transgression of the law as such. This absence of an explicit reference to God already

<sup>63</sup> See also Shilling 1987, 289-310 and Elton 2002, vol. III, 291.

implies a fundamental change, since the transgression of a positive law in the modern sense could be considered a sin. Moreover, it adds that sin is also contempt of the legislator, namely, the monarch or the competent authority. This shows that the foundation of law lies in the fact of legislating and no longer in divine authority which endorses the legislator. The theological foundation is only material, to say it in scholastic terms, while the juridical foundation is formal. This means that Hobbes conceived law fundamentally as something 'placed/established', that is, as an act, and not as being part of a metaphysical order.

Hobbes' definition of crime fits perfectly in Ogilvie's case of treason since, according to this definition, Ogilvie does not act according to law, but rather against it. He went back to Scotland to do missionary work which was prohibited by the king and furthermore refused to take the Oath of Allegiance and to answer his interrogators' questions.

While *sola Scriptura* (i.e. nonmediation) is a fundamental principle for the Reformation, mediation is a basic principle for the Counter-Reformation. This is particularly apparent in the case of Ogilvie, who could not answer the questions about his faith without requesting the mediation of the Roman Pontiff. The same applies to his opinion on the matter of the deposition of the king by the pope; although James VI is *de facto* king of Scotland, according to Ogilvie, the pope could depose him, which means not only acknowledging the juridical-spiritual supremacy of the Church of Rome, but also the universal mediation of the pope on the international political scene.

The various accents of these universalistic doctrines further contributed to the shaping of national identity, since they put at risk some fundamental issues without which the new Scottish national identity could not be born.

National autonomy developed gradually in an atmosphere that was increasingly detached from the theological roots of its promoters. The fruit of the seeds sown before and during the Reformation would eventually become evident: the importance of national identity which absorbed religious identity through a *professio fidei*; the 'modulation' not of sin, but of the theological foundation of the legislation itself; and the centrality of the national entity, under the figure of the monarch.

## 5. Conclusions

There are two tasks in research that complement each other, as in the drawing of a circle. On the one hand, tracing a circle from the centre becomes easier the more precisely the centre is determined. On the other hand, finding the centre of a circle becomes easier the more complete its circumference is. I have tried to carry out these complementary tasks, presenting both accounts and placing them in their respective contexts within a broader vision.

The historical fact of John Ogilvie's arrest and execution in 1615 offers two diverse narratives that reflect two antinomic world views. Each of these views presents its own apologetics with different accents. The case of John Ogilvie, although confined to a region of Scotland, represents one of the tips of the iceberg of political and religious contrasts of the post-Reformation period in Europe. Each of the institutional instances at stake made a different interpretation of the facts. Each of them based its interpretation on a different theological and legal framework. Each emphasized different values. These values were subordinate components of a whole.

From the Catholic narrative, Ogilvie's martyrdom, his sufferings and his death are interpreted in the light of the universal value of Catholic dogma in contrast to the national value of the Reformed churches. In the case of the Protestant narrative, Ogilvie represents an obstacle to the pure doctrine of the gospel and to the development of the confessional nation.

In the light of Ogilvie's education and the context in which he grew up, it is possible to understand that his presence in Scotland represented precisely a political and legal order parallel to the national one. The clandestine Jesuit priest symbolized the Scottish Catholic confession that had to operate with rules parallel to the official ones of the state in order to survive. In this sense, Ogilvie's death was presented by the Catholic narrative as maintaining papal supremacy, although in reality it achieved just the contrary.

The available means of diffusion – art, literature, drama, and rhetoric – were used to emphasize this apologetic approach. The instrumentalization of knowledge and art in favour of one's own religious confession allowed the birth of innovative scientific and instructive methods. Thus, there emerged, for example, textbooks for students, hagiographic literature and the historiography of the Church produced with the support of history, criticism, archaeology, epigraphy, philology, etc. Even hermeneutics was born from the confluence of scientific interest, biblical study, and the theological need of the Reformation to determine the originality of the sacred texts.

This whole context is not unrelated to the conceptualization of crime at that time and the development of a different conceptualization from that of the Middle Ages. On the contrary, it is within this historical and scientific context that a new legal order was born in modern states.

Nevertheless, my study does not seek to embrace the totality through the singular, but to clarify the totality through the singular. The case of Ogilvie, his struggle to contradict his interrogators and his interest in making his process public, is only one manifestation among many of the conflicts that exist in modern times and also of the historical complexity of the same.

This complexity shows that, even if it is a Catholic Jesuit priest who is imprisoned by a Scottish Protestant archbishop, the case is neither exclusively nor mainly religious. The protagonists in this case belonged in full right to the hierarchy of two different confessions and therefore represented them officially. But this does not necessarily mean that everything that happened took place in a merely religious sphere. On the contrary, my analysis has shown that various factors and elements were at play. These factors were part of what I have called '*trans-religious* problems'.

Of course, this does not mean that religious or moral analysis should be disregarded. Indeed, such an analysis is necessary, since, as we have seen, the accused defends himself several times by alluding to his desire not to commit any sin. We cannot discard these observations by Ogilvie as irrelevant. They were not irrelevant, because they were based on the concrete preconceptions of the individual subjected to this criminal trial. The meaning of this religious awareness of sin on the part of the Jesuit priest reflects a mentality and is not just the result of purely personal judgment.

As it is valid to question the reasons that led the secular arm to care about the moral order of its subjects during the early modern period, so it is valid to question why a detainee refused to collaborate with the authorities in order to maintain his own religious opinions even with the awareness that his non-collaboration could cost him his life.

On the other hand, the formation of the national identity stands out in this whole case since Ogilvie could represent an 'enemy bastion' if he remained in Scotland or if he remained alive. The proportion between his crime and his sentence is an interesting question, because it reveals the political and legal dynamics of early seventeenth-century Scotland.

Another interesting aspect of this case is that Ogilvie was accused of treason against the king's authority, a crime which is not of a religious nature. However, the theory of the divine right of the sovereign was one of the theoretical pillars of James VI's politics. In this respect, Ogilvie's treason was not simply against the law, but against the legitimate legislator, namely, against the one who had the divine authority to exercise full sovereignty over his subjects.

How did these two worldviews develop on the stage of history? We can make a comparison to better illustrate how the contrast between the notion of sin according to Ogilvie, and the crime of treason according to the official narrative represents the contrast between two conceptual worlds in development.

In the philosophical and theological field, the Catholic Church maintained its adherence to the Aristotelian-Thomistic vision of the world for a long time. By firmly affirming this Catholic identity, the Protestant world gradually distanced itself from this philosophical and theological system. One of the fruits of this separation was the development of new philosophical and theological perspectives in the Protestant sphere, such as, for example, the influence of confessional politics on Hobbes and of pietism on Kant. Likewise, in the Catholic sphere, the cultural diffusion of the Jesuits had vast repercussions on science and philosophy, as was the case with Descartes, and the mathematicians and astronomers of the seventeenth and eighteenth centuries. In the Catholic sphere, these fundamental philosophical and theological lines were not only preserved, but the whole approach of the council of Trent was maintained as a sure guide.

This explains in part the long period of time between the Council of Trent and Vatican I, in the Catholic world; during those three hundred years there was no conciliar pronouncement on dogma. Still, the multiplication of Protestantism and its sects shows a peculiar vitality precisely during that same period of time. Moreover, during those three hundred years, politics, in theory and in practice, and the sciences, both empirical and human, achieved remarkable progress.

The concept of sin and crime that we find in Ogilvie's *Relatio* is found in the midst of these dynamics. It is not a coincidence that the first edition of the Code of Canon Law of the Catholic Church dates from the beginning of the twentieth century. This means that, to a certain degree, Trent promoted a marked institutionalization that favoured homogeneity (also opposing reactions), and the crystallization of dogma. For instance, it is worth noting the religious connotation of Ogilvie's martyrdom according to the Catholic view that emerges in the homily preached by Pope Paul VI in Ogilvie's canonization Mass in 1976:

Questa assolutezza riconosciuta alla fede è il nucleo centrale della psicologia del martire, cioè del testimonio di Cristo. Lo è anche per Giovanni Ogilvie. ... E quale fu la causa del martirio dell'Ogilvie? È facile scoprirla: la fede, dicevamo. Ma la fede è un mondo: quale punto della fede, quale verità della fede fece da centro al combattimento del suo martirio? (Sancta Sedes 1976, 648)<sup>64</sup>

One question remains to be answered. What is the meaning and scope of this kind of canonization, after so many years, in a political and religious context which is quite different from that of the early modern period? For this reason, it is worth asking about Ogilvie's case in particular since it can help to illustrate far-reaching – but hardly obvious – problems.

The difficulty I have encountered in articulating the relationship that existed between morality and the legal sphere reveals an 'original' historical problem. This historical problem does not allow us to completely overcome the continuous rethinking of the relationship between the two. We find a tension between the moral and legal poles from the embryonic stage of modern law. It is clear that morality and law are different realities, but this does not necessarily

<sup>64</sup> The core of the martyr's psychology is the absolute value of faith, that is to say, it is the foundation of the testimony of Christ. This is true also for John Ogilvie. ... And which was the cause of the martyrdom of Ogilvie? It is easy to discover it; faith, as we said. But faith is a vast reality. Which point of faith or which truth of faith was the core of the struggle of his martyrdom?

mean that they are alien to each other, either in theory or in practice. This problem, therefore, still affects the relationship between morality and law today.

The historical problems that we have been able to discover in Ogilvie's case help us to give a better framework to the birth of religious pluralism. They can also offer some useful insights on the present debate in this same area, which promotes inclusiveness and tolerance. In the same century in which Ogilvie was executed, Locke published his work on tolerance, which shows that the early modern period posed problems that are still in the process of social clarification and discernment.

However, this does not mean that our conception of history should be moralistic, *historia magistra vitae*. What we are interested in highlighting in this conclusion are some theological, religious, legal and political tensions that appeared in the arrest and execution of John Ogilvie, but which were not ultimately settled in that case. Although in our time these same tensions do not always manifest themselves drastically, they continue to impact today, in new ways, on our life and culture.

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*Exchanges within Criminography*





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# Robbers of the Sea Piracy in Proclamations and Pamphlets, 1558-1675

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## Abstract

The article considers two printed sources that informed English readers about the early modern crime of piracy: the royal proclamation and the pamphlet. It contends that proclamations on piracy have been an overlooked genre among scholars theorizing maritime crime, and that reading a pamphlet on piracy was an experience mediated by intimate knowledge of royal proclamations. These pamphlets, in turn, capitalize on this knowledge within their pages. It does not so much consider piracy itself, but rather mediates the effects of obtaining information about the crime through these two disparate, although complementary, mediums.

**Keywords:** *Maritime Law, Piracy, Popular Print, Royal Proclamations and Royal Authority*

## 1. Introduction

‘When wee see a Ship alter her course’, colonial governor John Smith advised young mariners in 1627, ‘and useth all the meanes she can to fetch you up, you are the chase, and hee the chaser. In giving chase or chasing, or to escape being chased, there is required an infinite judgement and experience, for there is no rule for it; but the shortest way to fetch up your chase is the best’ (1970, 72-73). Smith’s instructions reflect a reality of life at sea for an early Stuart sailor: their vessels remained vulnerable not only to tempest and shipwreck but also to attacks from pirates and privateers, attacks that often led to international rancor and financial disaster. And yet in sixteenth- and seventeenth-century England, far more people encountered piracy on the printed page or the London stage than on the high seas.

Piracy sells. The maritime crime apparently fascinated the early modern English public. Shakespeare’s *Pericles, Prince of Tyre*,

which contains a nautical ensemble of mariners, fishermen, and pirates, proved one of the most popular plays performed during his lifetime. Other plays of the period, such as Heywood and Rowley's *Fortune by Land and Sea* (Heywood and Rowley 1655)<sup>1</sup> and Robert Daborne's *A Christian Turned Turk: Or The Tragical Lives and Deaths of the Two Famous Pirates, Ward and Dansiker* (1612), capitalized on the allure of the robbers of the sea: these works dramatized the lives and deaths of real English pirates.<sup>2</sup> The exploits of sea marauders were also captured in popular media such as pamphlets and ballads. The court proceedings of at least one pirate and his accomplices were even printed for wider distribution in *An Exact Narrative of the Tryals of the Pyrates* (Anonymous 1675?). While the fictional pirates of the London stage were not constrained by historical truth, these popular accounts purported to convey accurate narratives of piratical exploits. These various accounts position sea robbers, alternately, as fearless rebels, abhorrent traitors, insatiable thieves, and repentant sinners. But another printed medium concerning piracy permeated early modern England: the royal proclamation. Between 1519 and 1610, the government issued twenty-seven royal proclamations concerning piracy. These royal communiqués represent a major conduit of information about piracy, one that should not be divorced from discussions of the popular accounts.

This article considers these two main types of messaging which informed the public of piracy. Previous scholarship on royal proclamations addressing piracy focuses mainly on their content; it does not engage proclamation as a specific genre, nor the implications of a reading public that obtained knowledge about the maritime offense through an official royal medium.<sup>3</sup> As a result, the physical manifestation of the proclamation constitutes a major component of this analysis, and at the center of my argument lies a fundamental premise: *how* early modern readers acquired information about piracy shaped conceptions of the crime to a comparable degree as did *what* information they encountered. Additionally, I look at how seventeenth-century accounts of sea marauding that targeted a popular audience were informed by printed royal proclamations. My article contends that these proclamations represent both the earliest and the most ubiquitous printed accounts of piracy in early modern England, and thus provide a useful lens through which to theorize about the popular accounts. I begin with a brief exposition of Tudor and early Stuart piracy, using Henry Mainwaring as my anchor: Mainwaring's biography and writings construct a valuable alembic in which to distill the early modern crime. I then turn to the genres of the printed royal proclamation and the popular account and consider, broadly, how these variant instruments conveyed information about piracy to the early modern reading public. In the final section, I conduct two case studies that examine the intersection of the royal proclamation and the popular account. In the first, I inspect the case of English pirate John Ward, whom James targeted by name in a royal proclamation in early 1609, and who became the subject of three printed pamphlets later that year. In the second, I explore the 1639 account of Elizabethan pirates Clinton and Atkinson, *A True Relation, of the Lives and Deaths of two most Famous English Pyrats* (Heywood 1639). The royal proclamation, depicted in both print and image, plays a key role in the pamphlet. These case studies demonstrate the fecundity of staging a dialogue between the popular account and the royal proclamation.

<sup>1</sup> 1655 is the date of publication, but the play was probably written between 1607 and 1609, or between 1619 and 1626.

<sup>2</sup> These portrayals were not entirely accurate, however, as the case of John Ward, considered below, illustrates. The author would like to thank Joseph Black, Robert Sullivan, and two anonymous readers who offered feedback on an earlier version of this article.

<sup>3</sup> For example, Claire Jowitt, in her otherwise excellent study *The Culture of Piracy* (2010), references several proclamations touching piracy, but does not consider the effect of their physical presentation on the viewer.



## 2. Henry Mainwaring and the Crime of Piracy

Pirate-turned-pirate-policer Henry Mainwaring opens a useful aperture onto early modern piracy.<sup>4</sup> His biography challenges some assumptions about the crime in the early Stuart period, and he stands as proof that a pirate occupied a transitory identity, one that could easily pass from lawfulness to criminality and back again. Mainwaring, born in 1587 and educated at Brasenose College, Oxford, and the Middle Temple (although apparently never called to the bar), was appointed by Lord High Admiral Charles Howard in 1610 to police piracy in the Bristol Channel. For reasons that still evade historians, Mainwaring took up piracy by 1613: operating under the guise of a privateer, a murky, politically unstable category, he began to attack Spanish ships on the Barbary Coast.<sup>5</sup> The year 1614 found Mainwaring in Newfoundland, a fertile piratical breeding ground, where he secured new recruits; and, freshly outfitted and manned, he returned to Barbary. In the meantime, his extra-judicial exploits had provoked the ire of French and Spanish authorities – Mainwaring was, by most accounts, an effective pirate – and they lodged complaints against him in London. This diplomatic nuisance prompted James to dispatch an English fleet to North Africa to urge Mainwaring to surrender. The vexatious mariner returned to England in late 1615, where he entered into negotiations with the king and agreed to stop attacking foreign ships; he would, instead, become a hunter of pirates. The signed agreement is dated June 9, 1616.<sup>6</sup>

Mainwaring's evasion of serious consequences, while due in part to his willingness to surrender, also reveals the ambiguous attitude that English law adopted toward the crime of piracy. During the Middle Ages, robbery at sea had been a civil, but not criminal, offense. That is, those merchants and mariners who were attacked by pirates and who sought justice requested only monetary restitution, not the punishment of the offending pirates. Legal historian R.G. Marsden observed that during the period piracy was 'triable in the king's courts, but it seems never to have been a felony at common law' (1907, 475). In 1294 Sir William Leyburn was appointed the first Lord Admiral of England's admiralty, and piracy came to be tried in the admiralty court, which proceeded according to the civil law of the Continent rather than the common law of England. This shift proved unsatisfactory. A statute issued during the reign of Henry VIII addressed the court's insouciant attitude toward piracy: 28 Henry 8, c. 15, 'An Act for Punishment of Pirates and Robbers of the Sea', states, 'Where Traitours Pirotes Theves Robbers Murtherers and Confederatours uppon the See, many tymes escape unpunysshed because the triall of their offences hath heretofore ben ordered judged and determynd before the Adymirall or his Lyeutenante or Comissary, after the course of the civile Lawes' (*Statutes of the Realm*, vol. III, 671). Because he deemed the Admiral's policing of pirates to be insufficient, Henry used the statute to create a common law tribunal in which to try the crime of piracy.<sup>7</sup> This marked a turning point in England's treatment of pirates: the number of pirates executed rose sharply during the second half of the century.

<sup>4</sup> Biographical information about Mainwaring is taken from Manwaring and Perrin 1920, 1-34.

<sup>5</sup> Sir Francis Drake and Sir John Hawkins are perhaps the most well-known of the early modern privateers. For a discussion of Elizabethan privateering, see Rodger 1998, 190-203 and 272-296. For a discussion of Stuart privateering, see Hanna 2015, 102-143.

<sup>6</sup> While some English pirates like Mainwaring returned to England from the Barbary Coast, others, such as John Ward, did not. Pirates who converted to Islam were said to have 'turned Turk' (a common saying we find also in the title of Dabotne's 1612 play), and the Crown regarded them as traitors. Their conversion precluded the possibility of a royal pardon.

<sup>7</sup> For more on the treatment of piracy at common law and its evolution across the sixteenth and seventeenth centuries, see Rubin 1998, 43-70.

While Mainwaring's privileged background makes him an outlier among many other pirates of the early Stuart period, it also illustrates that men who resorted to the maritime crime did not fit into a neat socioeconomic box. The pool of potential pirates included any individual with a working knowledge of life at sea. Historian John Appleby notes that 'For many recruits, turning to piracy appears to have been an improvised, urgent response to economic and social conditions, fuelled by grievances over employment, pay and working conditions' (2012, 279). Men such as the infamous John Ward, who originally worked as a fisherman, were certainly drawn from this demographic. More broadly, it would be impossible to ascertain the motivations of the several thousand English pirates at work during the early Stuart period – Appleby speculates that given the high-risk nature of their line of work, men aboard pirate ships witnessed a high turnover rate, which in turn has led to an underestimation of their numbers – but it seems reasonable to assume most acted out of discontent as well as cupidity. In the case of Mainwaring, the pirate's motivation seems less clear and is not explicitly addressed in his treatise. But within the popular accounts, as we shall see, the interest in the pirate transcends his skirmishes on the high seas: it also attempts to understand the pirate himself, what made him take up marauding, what kept him menacing the high seas, what prevented him from embarking on Mainwaring's reconciliatory route and returning, repentant, to England.

Because he remained loyal to the Crown, and because he surrendered without incident, Mainwaring avoided charges in the High Court of Admiralty. Many other pirates, both English and foreign, did not. If successfully captured, returned to England, and convicted, these men were transported via cart to Wapping Dock where they faced a punishment decidedly apt in its framing of maritime justice. In his *Chronicles* (1586), Raphael Holinshed includes a contemporary description of the grim fate awaiting guilty parties:

Pirats and robbers by sea are condemned in the court of the admeraltie, and hanged on the shore at lowe water marke, where they are left till three tides haue ouerwashed them. Finallie, such as hauing wals and banks néere vnto the sea, and doo suffer the same to decaie (after conuenient admonition) whereby the water entereth and drowneth vp the countrie, are by a certeine ancient custome apprehended, condemned, and staked in the breach, where they remaine for euer as parcell of the foundation of the new wall that is to be made vpon them ... (1965, 313)

In popular accounts of piracy, the moments before execution provided the pirate a chance to repent; and if these accounts are to be believed, some did. But certain pirates, such as George Cusack, proved so diabolical, their cruelty lying so far outside the boundaries of accepted human conduct – even on the lawless high seas – that scaffold repentance did not figure into their narratives.

Mainwaring's good fortune of avoiding a one-way trip to Wapping Dock did not escape him, and in a gesture meant to express appreciation for his pardon he presented a manuscript to King James, 'Discourse on Pirates', in 1618. This treatise offers a particularly useful window into the world of early Stuart piracy, one not tainted by the heavy-handed moralizing or sensationalizing of the popular accounts nor the clinical detachment of the royal proclamation. When Mainwaring addresses his own foray into piracy, he adopts a prudently supplicative tone: 'I am so far from justifying my own errors, that I can scarce afford them those reasonable excuses, which might be perhaps allowable in any other man' (1920, vol. II, 9). He then notes that he fell into piracy 'not purposely but by mischance' (*ibid.*), and gives a short overview of his activities between 1613 and 1615. But he does not dwell unnecessarily on this period, and quickly shifts his attention to the suppression of piratical activity. Mainwaring claims that obtaining new recruits off the coasts of England and Ireland proved nearly effortless because 'the common sort of seamen are so generally necessitous and discontented' (14). Mainwaring's

main intention here is not to humanize the pirate, but to view men connected with the crime as rational agents; suggesting that piracy, as a result, required a rational approach to its suppression. The remainder of the treatise focuses on the tactics, proclivities, and motivations of the early Stuart pirate. Mainwaring asserts that the prevention of piracy remains more important than its suppression, and that those who neglect this aspect do so at their own peril.

Although it enjoyed a healthy circulation in manuscript, Mainwaring did not compose 'Discourse on Pirates' for a wider audience.<sup>8</sup> Accordingly, its narrow ambit assures that it remains a pragmatic text: while adopting the prescriptive tenor of a royal proclamation, it was not a government document that carried legal authority; and while recounting the misadventures of a notorious pirate – Mainwaring himself – it does not succumb to the sensation or scandal of the popular accounts. In addition, and perhaps most importantly, it did not circulate in print. But Mainwaring's treatise and biography challenge the two-dimensional image of the pirate as villain or antihero. They inject nascent sociological awareness by highlighting how the crime had larger economic and societal causes: infrequently did piracy result from the questionable proclivities of a few venal seamen.

This is the political world in which the royal proclamations and popular accounts of piracy appeared, and Mainwaring's professional trajectory helps us conjure up this world. His treatise stages robbery at sea as most often a crime of opportunity committed by discontented, ill-treated, and desperate men. While Mainwaring was in no position to underscore the excitement of maritime depredation, a main feature of the popular account, his 'Discourse on Pirates' remains a useful resource for understanding the early modern crime.

### 3. *Proclamations and Popular Accounts: Pinnaces of Piracy*

The printing, circulation, and networks of early modern English news have attracted a considerable amount of scholarly attention.<sup>9</sup> Unfortunately, the material history of the printed royal proclamation has not: these official government documents, ubiquitous in the landscape of Tudor and Stuart England, have long been neglected by historians, including historians of the book. Christopher Kyle, who has recently done much work to remedy this scholarly oversight, notes that 'Proclamations must be one of the most overlooked categories of printed material in the field of early modern history' (2015, 771).<sup>10</sup> This is unfortunate because proclamations cannot be truly understood if divorced from their physical form. The royal proclamation stretches back far before the arrival of Gutenberg's press on English shores: they appeared in incipient form during the Anglo-Saxon period.<sup>11</sup> In the thirteenth century, sheriffs had been charged with proclaiming, and this happened in two ways: '[The sheriff] caused them to be read in the county court, or he caused them to be proclaimed generally in public places' (Morris 1968, 218). During the fifteenth century proclamations began to be displayed publicly, and in 1539 this protocol became permanent through the Statute of Proclamations (31 Hen. VIII c. 8):

<sup>8</sup> In the early twentieth century, Manwaring and Perrin (1920) identified nine extant manuscript copies of the treatise.

<sup>9</sup> See, for example, Raymond 1996; Wiltenburg 2004 and Pettegree 2014.

<sup>10</sup> My own thinking about royal proclamations in early modern England has been largely shaped by Kyle's scholarship, and in particular his unpublished conference paper 'Engaging the Public: The Performative Visibility of Proclamations in Early Modern England' (31 March 2017, Chicago, Illinois) and his unpublished keynote address 'Contested Politics on Papered Walls: The Visual Landscape of Early Modern England' (13 October 2018, Amherst, Massachusetts).

<sup>11</sup> See, for example, Robertson 1974, 140-153.

Furthermore be it enacted by the auctoritie of this present parliament, that ... every Sherief [must] ... cause the said proclamacions to be fixed and sett upp openly upon places convenient in every suche towne place or village, upon payne and penaltie of suche some and somes of money or imprisonment of bodye as shalbe conteyned in the saide proclamacion or proclamacions. (*Statutes of the Realm*, vol. III, 726)<sup>12</sup>

Proclamations continued to be issued across the sixteenth century: although estimates vary, largely because historians have not always agreed on what, exactly, constitutes a royal proclamation, Frederic Youngs estimates that a total of 446 were dispersed during the reigns of Mary and Elizabeth. The Stuart proclamations have attracted less attention from historians, but their regular issue continued throughout the seventeenth century, including during the Interregnum.

How did Tudor and Stuart royal proclamations appear to early modern viewers? Indeed, their appearance constitutes one of the main channels through which we can understand them: unlike books of the period, proclamations did not lend themselves to marginalia or other extant evidence of readership. In addition, they were not typically collected by private individuals or added to personal libraries.<sup>13</sup> But, despite these evidentiary constraints, we do have access to the proclamations themselves; and from their physical form we can, gingerly, extrapolate the experience of reading the early modern royal document, as well as speculate about possible effects of this experience on the viewer.

The early modern period witnessed an increasing uniformity in the physical appearance of the royal proclamation. In the early Tudor period proclamations were produced on parchment and handwritten. By the reign of Elizabeth, proclamations appeared as one, two, or three folio sheets printed on a single side.<sup>14</sup> The top contained the words 'By the King (or Queen)' centered and in a noticeably larger font than the rest of the document. They sometimes contained a title, but other times did not. The proclamation ends with 'God Save the King (or Queen)' also centered, and beneath this, we find information about the proclamation's printing. Their fonts alternate between Gothic and Roman; Gothic persisted in the printing of proclamations until the end of the Stuart period. In light of the political upheaval of Mary's reign, it should not surprise us that about half of her proclamations appeared only in manuscript: matters of great exigency precluded the use of print. By the reign of Elizabeth, however, almost all royal proclamations were printed: Youngs notes that this had become so regular 'that one local official expressed uncertainty about receiving one which was not in print' (1976, 9). The general presentation of the proclamation changed little across the reigns of Elizabeth, James, and Charles I and II. The promulgation of proclamations also followed a set formula of 'printing, sealing, distribution, and proclamation' (18), but to the average person, only the act of proclaiming (and the proclamation's subsequent public display) had direct bearing on their experience of it.<sup>15</sup>

Tudor and Stuart proclamations addressed a wide host of social, military, legal, economic, and religious topics. In the first ten years of James I's reign, for example, he issued a proclamation

<sup>12</sup> For an overview of the political function of Yorkist and early Tudor proclamations in fifteenth-century England, see Doig 1998. For a study of Henrician proclamations, see Heinze 1969.

<sup>13</sup> In 1550, the King's printer published an anthology of Edward VI's proclamations issued between 1547 and 1550 (*All such proclamacions, as haue been sette furthe by the Kynges Maiestie*). In 1618, London notary Humphrey Dyson produced several collections of Elizabethan proclamations. See Jackson 1947.

<sup>14</sup> For a technical investigation of how proclamations were produced by the King's Printers in early Stuart England, see Rees and Wakely 2009, 121-124 and 140-143.

<sup>15</sup> Kyle (2015) provides an excellent overview of the pomp that surrounded the actual proclaiming; see 774-776.

specifying what flags British ships should fly at sea (n. 64),<sup>16</sup> another ordering Jesuits and seminarians to quit the realm (n. 66), another forbidding the production of starch (n. 86), and another prohibiting unauthorized persons from transporting mail (n. 99). Several Elizabethan proclamations occupy themselves with dress; a lengthy proclamation dated 15 June 1574 sought to enforce statutes of apparel. It states, in part, 'None shall wear spurs, swords, rapiers, daggers, skeans, woodknives, or hangers, buckles of girdles, gilt, silvered, and damasked: except knights and barons' sons, and others of higher degree or place, and gentlemen in ordinary office attendant upon the Queen's majesty's person' (Hughes and Larkin 1969, vol. II, 384). Various maritime issues are addressed in both Tudor and Stuart proclamations, including the wages of shipwrights, fraud by ship owners, shipwreck, anchorage, and fishing, among many others. Given piracy's impact on domestic and international affairs, it is not surprising to find it a frequent topic of the period's proclamations.

The royal proclamation functioned as more than a receptacle of information, however. It also represented a tangible manifestation of royal authority sent out across the realm and displayed publicly a direct line of communication between the monarch and his or her subjects. As a conduit of exchange, the proclamation required clear language, uniform appearance, and timely dissemination. These features have led Kyle to conclude that 'Viewing proclamations ... entails the recognition that effective communication and effective government were one and the same' (2015, 774). The formulaic gestalt of the proclamations established a sense of expectation on the part of the viewer, and Youngs argues that this formula helped to solidify the document's authority. One did not have to read the document to acknowledge it as a signifier of royal authority, although reading certainly represented the final link in its chain of authority; a Jacobean proclamation condemning piracy declares: '[We] strictly command all and every our Officers and loving Subjects, that immediately after the sight of this present Proclamation, they and every of them do make diligent search and inquirie in all places ... for the said persons [pirates]' (Larkin and Hughes 1973, 98-99). Additionally, because the proclamations' content was, necessarily, mediated by its form, the information within enjoyed both an inherent authenticity and gravity. Even matters that readers may have deemed personally irrelevant were elevated to a position of royal import; and all proclaimed material could ostensibly be trusted – depending in part, of course, on one's opinion of the issuing monarch.

Sir Julius Caesar, who served as judge of the High Court of Admiralty between 1584 and 1605, understood the communicatory potential of proclamations. He planned an admiralty circuit in 1591 designed to mimic the assizes of the common law courts. The circuit was prompted by Caesar's frustration at the eschewing of royal authority on the coasts, particularly in the southern and western counties: the indifferent attitude of local authorities allowed piracy to thrive, and he figured the presence of a royal official would help curb the problem. In practice, however, the circuit proved a failure and a disappointment to Caesar. Historian L.M. Hill points to several culprits, including local residents' reluctance to testify against men who provided them financial windfall; the unwillingness of local officials to submit to Caesar's demands; and the Lord Admiral's own if distant involvement in acts of privateering and piracy. After Caesar returned to London, he began to plan another circuit. As part of his preparations, he drafted a proclamation:

The first suggestion that Caesar made in terms of future circuits was that a proclamation should be made in the port towns a month before the court was scheduled to sit. The proclamation would warn

<sup>16</sup> Here and elsewhere, numbers of Jacobean proclamations are taken from Larkin and Hughes 1973.



all parties who were to be summoned that if they did not appear they would be sought out and forced to go before the circuit judge. The sheriff was to read the proclamation in order to avoid the weak link in the chain of Admiralty authority: the local officials from water bailiffs to vice-admirals. (1971, 13)

In effect, Caesar recognized that the royal proclamation provided an effective weapon against the crime of piracy. It carried royal authority to the outskirts of the realm – those places where piracy flourished – and reasserted the force of the High Court of Admiralty.

According to Robert Steele, the first record of proclamations concerning piracy dates from the reign of Henry VI in the fifteenth century. Proclamations on the subject remained sporadic until the reign of Elizabeth I, when the diplomatic ill-effects of English piracy increased. These proclamations on piracy tend to emphasize certain aspects of the crime. In the first place, they frequently point to its exacerbation of diplomatic precariousness. Elizabeth issued a proclamation in 1602 that avers ‘all such piracies and depredations [are] crimes most hateful to her mind and scandalous to her peaceable government’; she adds that she has issued the proclamation ‘for the better continuance of amity with all other princes and states not enemies to her majesty’ (Hughes and Larkin 1969, vol. III, 238). The proclamations also point to the communal aspect of piracy; an Elizabethan proclamation of 1591, for example, commands parties who may have purchased pirated goods to report, within ten days, to the proper authorities ‘with the several prices what they paid and the names of whom the same was bought, or tokens, deciphering the person and persons as near as they can remember, and the day, time, and place where and when the same was bought, exchanged, or received’ (n. 100). Reflecting the dominant legal attitude toward piracy, the proclamations mostly ignore interpersonal violence inflicted by pirates. Legal historian D.P. O’Connell notes, ‘Because freebooters have traditionally committed depredation for acquisitive purposes, and violence against persons has been ancillary to that goal, the law has been preoccupied with the aspect of theft in piracy’ (1984, 967). Falling in line with this ethos, the proclamations emphasize economic and political, but not bodily, injury. Taken as the sum of their parts, the proclamations reveal a necessarily clinical rendering of sea marauding. But with the intent of informing rather than entertaining, they nonetheless might have piqued a reader’s interest and created a niche for more substantive or detailed information about the crime.

For the early modern reader, printed news pamphlets offered a possible occupant of this niche. These popular accounts fall under the broader genre of early modern news. Henry Ettinghausen labels this genre the ‘single event newsletters’ (2016, 261), a pan-European phenomenon that brought news of domestic and international events to the reading public.<sup>17</sup> These single event newsletters tended to the lurid and fantastical: in his groundbreaking study of the genre, M.A. Shaaber described the range of their content as ‘the doings of the court; murders and other crimes; miracles, prodigies, and wonders; monstrous births and strange beasts; witchcraft; the plague; acts of God, such as flood and fire, and the weather; and sporting events’ (1966, 138). Clearly public palates craved the macabre. According to Tessa Watt, ‘Stories of crime were a source of gruesome entertainment and collective disapprobation’ (1991, 108); and ‘Ballads and pamphlets describing executions were numerous and immensely popular’ (109). Accounts of infamous pirates fit neatly into this genre: they involve far-off, often exotic locales; tempestuous renderings of life on the high seas; detailed accounts of the robbing of ships; and the capture and execution of loathsome

<sup>17</sup> Strictly speaking, *A True Relation, of the Lives and Deaths of the two most Famous English Pyrates* (1639) would not fall under the heading of single event newsletters, as Purser and Clinton had been dead fifty-six years by the time of its publication. And yet it adopts the conventions of the accounts of John Ward (Barker 1609) and George Cusack (Anonymous 1674 and 1675?), which were published while their subjects were either still alive or recently executed.

criminals. Given the content of these single event newsletters, as well as their low price, scholars once assumed that they were enjoyed only among the lower classes. Watt, however, challenges this claim and argues that instead they would be more accurately conceived of as the forerunner of the modern newspaper. An early Stuart barrister could have conceivably, for instance, represented his clients at Common Pleas by day and read of the shocking crimes of Danseker and Ward by night.

Legal scholar Jonathan Gutoff has researched fictional representations of piracy from the 1680s to the twentieth century focussing on film and television. He argues that earlier depictions manifest an understanding of the relationship between piracy and maritime law, and that this understanding decreased with time; in other words, depictions of piracy moved from the legal-dramatic to the strictly dramatic.<sup>18</sup> Gutoff's study begins in 1684 with Alexander Exquemelin's *The Buccaneers of America* (which itself was a translation from the Dutch: *De Americaensche Zee-Roovers* had first appeared in Amsterdam in 1678). While Gutoff attends mostly to fictional depictions, his larger point about the legal aspects of piracy can be applied to the popular accounts. Indeed, the concern with maritime justice builds a bridge between proclamation and pamphlet, and nowhere is this bridge more navigable than in the popular accounts of Irish pirate George Cusack. About ten years before *The Buccaneers of America*, the crimes, capture, and conviction of Cusack had occasioned three popular accounts infused with legal sophistication: *An Exact Narrative of the Tryals of the Pirates* (Anonymous 1675?); *News from Sea, Or, The Taking of the Cruel Pirate* (Anonymous 1674); and *The Grand Pyrate: Or, the Life and Death of Capt. George Cusack The Great Sea-Robber* (Anonymous 1676). These three accounts contain elements of the earlier pamphlets considered in the next section and function as an instructive microcosm of the popular account. These accounts imbue their retelling of Cusack's case with authority: the confection of religious, dramatic, and legal rhetoric offers the reader a multidimensional portrait of the pirate. A full sixty-six years had passed between the retellings of Ward and Danseker's exploits and the capture and death of George Cusack, but certain elements in the pamphlets on piracy remained constant throughout most of the seventeenth century.

*The Grand Pyrate* opens with a cursory nod to Cusack's early life: he was born in East-Meath, Ireland, to a Roman Catholic family. His parents wanted him to undertake the life of a friar, but he found 'the wildness of his youth not agreeing with a Religious Life' (Anonymous 1676, A2v). A brief stint as a private soldier in Flanders awakened in Cusack a distaste for authority and he discovered 'the severity of that Discipline not agreeing with his looser temper' (*ibid.*). At this point he placed himself in the service of several privateers. This movement from legitimate occupation to a life of crime occurs across the popular accounts, although it deviates from Mainwaring's assessment. While the latter points to ill treatment, low wages, and general discontentment as the forces that drive men to piracy, the former centers the pirate's temperament, deviant and truculent, as his impetus for thieving. The pirate himself, and not his circumstances, occasions his subsequent marauding. As a result, the popular accounts construct a cult of personality early. The reality of life at sea, with all its unpleasantries and exploitations, recedes into the background to deliver the pirate a starring role.

On a series of ensuing adventures, Cusack attacks ships and acquires prizes, and rises through the ranks of piratical hierarchy. These parts of the popular accounts teem with particulars: details of the pirates' crimes tantalize the reader while propelling the narrative forward. The growing audacity of their attacks satiates the craving for baseness. Cusack's story contains a particularly

<sup>18</sup> Gutoff concludes that this lack of legal nuance does not hinder the entertainment value of pirate narratives and adds amusingly: 'After all, few people – even among this journal's readership – want to go to the movies, rent a video, or turn on their television and be instructed in maritime law' (2000, 648).

poignant example: the pirate and his co-conspirators mutiny the *Hopewell*, a ship bound for Virginia. After taking command of the vessel, Cusack's men ransack the crew's possessions and divide the valuables equally. As he attempts to destroy evidence of the mutiny in the ship's cabin, Cusack 'could not be perswaded to save a great large Bible that constantly lay upon the great Cabbin Table from the mercy of the Waves' (A4r). When his accomplices attempt to salvage the book, Cusack exclaims, 'You Cowards, what do you think to go to Heaven, and do such Actions as these? No, I will make you Officers in Hell under me' (A4r). With these imprecations, Cusack lifts the Bible from the table and hurls it into the sea: 'Go thou thy way Divinity, what have we to do with thee' (A4v). This transgression positions him as a maniacal agent of hell; and his symbolic gesture, a later iteration of the pirates who 'turned Turk' and renounced Christianity, magnifies Cusack's villainy to near-caricature. Richard Frohock posits that 'when Cusack casts the Bible into the sea, he doubly repudiates God's divine laws because he returns the creative, divine Word back to the original oceanic deep out of which God decreed the creation of the heavens and the earth' (2007, 267). Frohock concludes this act parallels Satan's rebellion in *Paradise Lost*.

But his shocking antics form only half of Cusack's tale. Like the other accounts of piracy, *The Grand Pyrate* tempers its sensationalism with evidentiary supplements. At the end of the first part, it prints a series of affidavits presented at Cusack's trial. These inclusions act as evidence of Cusack's misdeeds: testimony from those directly affected bolsters the credibility of the narrative. The author also includes alleged excerpts from the pirate's own journal and a letter from one Richard Wharton to George Nevil concerning Cusack's activity in the Plymouth colony. Epistolary supplements can also be found in the pamphlet on John Ward. *The Grand Pyrate* counters its lack of royal authority with these additions to the narrative: the pamphlets not only strive to tell a story, but to give readers the real truth, as it happened, not muddled by maritime metaphors or contrived cliffhangers. In addition, *The Grand Pyrate* (Anonymous 1676) closes with a reprint of the earlier *An Exact Narrative of the Tryals of the Pyrates* (Anonymous 1675?). This judicial appendage, presented with the somber gravity of legal proceedings, carries a weight akin to the printed proclamation. Both documents bear an inherent authority, one that reinforces the power of the king to maintain his peace in the face of sea marauding and depredation.

When accounting for their differences, we find the proclamations on piracy concerned with the act itself, as well as its economic and diplomatic consequences. Conversely, the popular accounts revolve around the figure of the pirate, his character, his motivations, his ultimate end. But, in spite of their incongruencies, the proclamations and popular accounts on piracy converge at several critical points: they were both printed, but they were not created as lasting objects; they both purported to convey information in an objective, unbiased fashion; and they helped inform the early modern reading public about the crime of piracy. But beyond their obvious divergence – proclamations expressed a royal directive; pamphlets told a story – certain aspects of the two mediums share a theoretical underpinning.

Broadly speaking, proclamations may be considered prescriptive and descriptive popular accounts: that is, the popular accounts depict crimes already committed, while the proclamations provide admonishments against crimes emergent on the horizon. While this framework proves useful in a cursory sense, closer inspection betrays the nuance inherent in the conveyance of piracy. The proclamations cautioning potential sea robbers almost always begin with a contextual paragraph that explains the motives for the decree. For example, a proclamation of 21 July 1561 opens:



The Queen's Majesty, hearing by report of some of the subjects of her good brother the King of Spain that, notwithstanding both the severity of justice divers times extended by her majesty against sundry pirates with pains of death, and also her often arming of certain vessels to the seas for the apprehension of such offenders [haunt] the seas for to take and seize the subjects and ships of the King of Portugal ... (Hughes and Larkin 1969, vol. II, 171)

Brief expository declarations such as this, which open many proclamations, create a descriptive narrative framework. They tell a story that necessitates the remainder of the proclamation. But at the conclusion of the tale, the shift from descriptive to prescriptive occurs: after outlining the ills of robbery at sea, the king or queen prescribes a series of remedies to address the problem. The description services the prescription by adding context to justify royal intervention.

In contrast, the prescriptive nature of the popular accounts assumes a less overt manifestation. The claim that royal proclamations prescribe some course of action to combat piracy requires no additional justification, but the instructive elements of the popular account prove more elusive. In the first place, the readers of the popular accounts were most likely not cavorting aboard pirate ships on the high seas, but rather seeking information about current events or respite from a mundane existence. Thus, these readers sought descriptions of piracy and its subsequent punishment, not legal arguments against embarking on a life of sea marauding. The popular accounts' concern with justice signals to the reader a moral exhortation. J.A. Sharpe has analyzed the popularity of both public executions and stories of gallows repentance during the early modern period, noting that 'gallows literature illustrates the way in which the civil and religious authorities designed the execution spectacle to articulate a particular set of values, inculcate a certain behavioral model and bolster a social order perceived as threatened' (1985, 148). Of the popular accounts I consider, the scene of the pirate's execution is sometimes factitious (as in the case of Ward) and sometimes deferred to a time outside the narrative scope (as in the case of Cusack). Nevertheless, these accounts remain interested in conveying the consequences of the crime to their readers. The positioning of the pirate outside accepted social mores serves as a warning to the pamphlets' audience to remain within a strict moral code. It prescribes, covertly, an appropriate way of behaving couched in intrigue and adventure. And sometimes the prescription is not so covert, as in the account of Clinton and Purser.

The proclamations and popular accounts complement each other even as they involve an inherent tension. To the early modern reading public seeking information about the crime of piracy, the cases of John Ward, Zymen Danseker, Clinton Atkinson, and Thomas Walton aptly demonstrate these complementary tensions.

#### *4. Danseker and Ward, and Clinton and Purser: Two Piratical Case Studies*

On 8 January 1609, James issued a lengthy proclamation against pirates. On its face it was rather formulaic: the king informed his subjects that he had been notified of 'manifolde complaints' regarding the 'many depredations and Piracies committed by lewd and ill-disposed persons, accustomed and habituated to spoile and rapine' (Larkin and Hughes 1973, 203). The proclamation continues in the anticipated fashion, explicating the diplomatic injury caused by piracy, reminding subjects of the punishment that awaits offending parties, and summarizing the preventive steps undertaken to thwart future transgressions. But this proclamation distances itself from the conventional formula in its two final paragraphs. It specifically mentions Captain John Ward and his accomplices, notorious pirates who were harassing ships in the Straits of Gibraltar, and provides a recounting of their nautical sins which begins: 'And whereas divers

great and enormous spoyles and Piracies have bene heretofore committed within the Straits of Gibraltar and other places by Captaine John Ward and his adherents, and other English pirates' (205). The inclusion of Ward's name and deeds speaks to the notoriety he enjoyed during his lifetime – Mainwaring also mentions Ward in his treatise – and this detail makes the proclamation a particularly interesting one for discussions of early Stuart piracy.

But the story of Ward does not end here. The year 1609 witnessed three separate popular accounts of Ward's crimes: Andrew Barker's *A true and certaine report* (1609), *Ward and Danseker, Two notorious Pyrates* (Nixon 1609b), and *Newes from Sea* (Nixon 1609a).<sup>19</sup> The first of these, a purported accurate account, takes cathartic license: Barker incorporates details of the pirates' execution. His reporting amounts to fake news, however, as Larkin and Hughes note that Ward 'was arrested and, with others, indicted for piracy against Venetian ships in 1607 and 1608' and 'although 19 persons were executed for piracy at Wapping on 22 Dec 1609, Ward was not one of them' (1973, 205, n. 2). The fiction of Ward's execution persisted in Robert Daborne's play (1612).<sup>20</sup> (In point of fact, Ward was living an opulent life in Tunis in 1612.) These popular accounts act as a supplement to the proclamation of 8 January. They endow readers with the lurid details absent in the proclamation. For at least a percentage of readers, those who had read (or heard) the 8 January proclamation, the engagement with the pamphlets would have been mediated by this experience. The following case study speculates on some possible effects of this mediation.

The first account about Ward, *Newes from Sea, Of two notorious Pyrats* (Nixon 1609a), was probably written by Anthony Nixon (although published anonymously). Its popularity occasioned a second edition later that year. Historian Greg Bak observes that the second edition lent 'even greater prominence to Ward's name in the title: *Ward and Danseker, Two notorious Pyrates*' (2010, 172). This edition shares most of its content with *Newes from Sea*, excepting some prefatory material; additionally, the second edition contains slight variations in the placement of certain woodcuts. Andrew Barker also cashed in on Ward's burgeoning infamy: his *A true and certaine report* (Barker 1609) offers the most exhaustive contemporary account of the two pirates. For this case study I have chosen to concentrate on Nixon's *Ward and Danseker, Two notorious Pyrates* (Nixon 1609b; henceforth *Two Notorious Pyrates*).

*Two notorious Pyrates* presents its story in two parts. In the first, a brief biographical sketch informs the reader of Ward's voyage to piracy. 'This Ward', the author tells us, 'as base in Birth as bad condition, in the last, yeare of her late Maiesties raigne gave the first onset to his wicked intendements: his parentage was but meane, his estate lowe, and his hope lesse' (Nixon 1609b, A2r). While a fisherman working in Kent, Ward's 'pride at last would be confinde to no limits, nor any thing would serve him but the wide Ocean to walke in' (A2r). Like Cusack, Ward's turn to maritime crime stems from his moral shortcomings. On the wide ocean, Ward engages in various pillages and plunders, enriching himself, and acclimating himself to the life of the pirate; he eventually makes acquaintance with Dutch privateer Zymen Danseker. Ward's interiority is conveyed in rich, evocative language: 'his heart was on fire' (A2v), 'the edge of his courage was cleane taken away', 'his march was stil under the maske of vanity, and folly attended upon all his actions' (A3r). When his ship encounters a tempest in the Gulf of Venice, 'his Argosey was filled with waves, her tacklings, sails, and Anchors lost and the violent storme so dashed her bulks and brused her bottom, as she was made altogether unfit, and unable for resistance, and so was sunke, and cast away' (A4v). Danseker and Ward part ways, and Ward's existence becomes

<sup>19</sup> A high-quality facsimile of *Newes from Sea* appears in Baer 2007.

<sup>20</sup> A critical edition of *A Christian Turned Turk* appears in Vitkus 2000, 148-239. Recent scholarly treatments of the play include Degenhardt 2010 and Vanwagoner 2019.

increasingly stately. The final chapter of the pamphlet's first part hints at Ward's opulent life in Tunis: twelve of his retinue guard him, 'alwaies standing at his cabin dore' (B3v). By this final chapter, Ward's depravity has come to destroy him much like the barnacles encrusting the hulls of his misappropriated galleons.

The pamphlet's second part diverges sharply from the adventure, lavishness, and escapism of the first. It prints a letter sent from the masters of the *Charity* and the *Pearl*, two ships taken by Ward on 6 April 1609. The letter narrates the loss to the ships' merchant owners in London; it is not unlike the letter printed in *The Grand Pyrate* (Anonymous 1676). While both parts of Danseker and Ward's story presuppose accuracy in their retelling, the inclusion of this letter adds another layer of authenticity: it supplies a first-hand account. Even though 'English authorities maintained decidedly tight regulatory control whenever possible of the domestic news market' (Barker 2014, 167), news pamphlets did not enjoy the authority of the royal proclamation, and their content had to authenticate itself more robustly. What better route to legitimacy than a firsthand account? The letter's inclusion completes the multidimensional depiction of its subject: *Two notorious Pyrates* pulls the reader in, first with the title – tales of notorious pirates seem worthy of perusal – and then with woodcuts and an exhilarating narrative. After the reader has passed through these bibliographic layers, they reach the letter of the masters: on one hand more subdued, perhaps less engaging than the others; on the other pragmatic, like James's proclamation, detailing the real economic fallout of piracy.

*Two notorious Pyrates* includes woodcuts that further substantiate its claims. This employment of illustration finds no parallel in the printed royal proclamations and thus offers a fruitful site of analysis for popular depictions of piracy.<sup>21</sup> The title page of *Two notorious Pyrates* depicts two galleons facing each other: the one on the left flies the flag of England; the one on the right, a flag of an upward-facing crescent, a clear symbol of Barbary pirates. The ship on the right, in addition, shows two bodies hanging from the foreyard. On deck two men – presumably Ward and Danseker – are depicted in garb that includes the crescent on the ship's flag, a possible visual cue that the two men have 'turned Turk' and that Ward has committed treason. In the earlier *Newes from Sea* (which includes the same woodcut on its title page), the author explains the image to the reader: 'To content thee, I have here in (white & black inckle) hung him out to thee at Sea, who could better have wished to have seene him hang'd to death (in hemp) a shore' (Nixon 1609a, A4r). Because *Two notorious Pyrates* lacks this prefatory material, the woodcut produces narrative destabilization: a viewer would probably notice the two hanging men before the men on deck and may have initially identified them as Ward and Danseker. This would create an early sense of catharsis, since the 'Two notorious Pyrates' of the title have met justice. But closer inspection would reveal Ward and Danseker below, very much alive, and responsible for both the capture of the English vessel and the execution of two of its crew. Given its ambiguity, the woodcut portends the pamphlet's sophistication. Unlike the straightforward information about Ward contained in James's proclamation, *Two notorious Pyrates* will stage narrative tension and in turn will provide entertainment and diversion. Additionally, the depiction of the hanging men emphasizes Ward and Danseker's infliction of bodily harm, an aspect of piracy not emphasized in the proclamations. *Two notorious Pyrates* opens with a visual reminder of the pirates' interpersonal violence, adding human interest to its framing of the crime.

<sup>21</sup> One early Stuart proclamation issued in 1605, 'A note of the Head-lands of England', contained an illustration, a map of England that delimited these headlands. But the categorization of this proclamation as a royal proclamation remains dubious: while it is included in Steele's bibliography, it is not included in Larkin and Hughes' anthology of early Stuart proclamations.

The pamphlet's additional woodcuts add to the authority of its account by providing visual evidence to supplement the pirates' tale. On A1v, we find two more woodcuts: the top shows 'Wards Skiffe when he was a Fisherman'; immediately below is shown 'The charity of London, of M. Megs twice taken'. The juxtaposition of the two vessels is striking: Ward's fishing boat, barely large enough to contain him and his partner, floats above an impressive galleon. Before the reader can engage the text itself, they are confronted with Ward's narrative via woodcut. Like the supplemental material found after Ward's narrative, these prefatory woodcuts further cement the pamphlet's credibility. They show the reader real things – Ward's skiff, Megs's galleon – to enhance not only its mission to amuse, but also to establish the account's reliability. *Two notorious Pyrates* closes with a list of ships taken by Danseker and Ward or their confederates; on the final page, without text, we see the image of a lone sailing vessel bearing the English flag. Ostensibly, this galleon was among those listed on the preceding page. However, beyond this speculation, the stately ship gliding undeterred through placid waters reinforces the burgeoning state of English naval dominance. In their final prescriptive act, the proclamations assert royal authority: no matter what maritime iniquity has occurred, the state holds the power to set things right. *Two notorious Pyrates'* concluding English galleon produces a similar effect: despite the transgressions of these two notorious pirates, English shipping and commerce will endure.

The crimes of Clinton Atkinson and Thomas Walton (known more commonly as Clinton and Purser) occurred about thirty years before those of Danseker and Ward, but a corresponding popular account did not appear until 1639.<sup>22</sup> In the interim, Thomas Heywood's play *Fortune by Land and Sea* (1607-1609) dramatized the story of the pirates, and Heywood likely wrote the 1639 pamphlet *A True Relation, of the Lives and Deaths of the two most Famous English Pyrats* (Heywood 1639). Unlike *Two notorious Pyrates*, *A True Relation* opens with an overtly moralizing tone. The first chapter foregrounds the power of justice: 'Justice is a vertue that giveth no man any or the least priviledge to defraude another, of which he may call his owne' (A3r) and 'Juditiall is that which properly belongeth to the Bench, & is grounded upon Statutes & Lawes; instituted and made for the benefit and profit of the Common-weale, to the depression of vice, and the incouragement of vertue' (A3v). The second chapter does not abandon this didactic rhetoric and explicates why laws are made: they, the author assures us, impel one 'to live honestly, to hurt no man willingly; to render every man his owne carefully, and to extort from no man forcibly' (A3v-A4r). In the third chapter, the focus shifts to the opprobrium that results from moral depravity, an opprobrium that follows one's death. This observation serves as an appropriate prelude to Chapter 4, which offers a brief history of piracy from antiquity until the seventeenth century: marauders considered include Andrew Barton, a Scottish pirate of the early Tudor period (and the subject of a 1630 ballad, *A true relation of the life and death of Sir Andrew Barton*). Purser and Clinton finally tumble into this moral, legal, and historical farrago in Chapter 5.

The story of these Elizabethan pirates is a familiar one. After a brief nod to Danseker and Ward, we learn of Clinton and Purser's growing acquaintance, facilitated in part because they are both 'of haughty and ambitious spirits' (A8v). The narrative settles into the standard fare here; telling of the duo's nautical pillage and plunder, expanding audacity, and tempestuous

<sup>22</sup> In the weeks following their 1583 execution, three pamphlets circulated that purported to tell of Clinton and Purser's gallows repentance. I have chosen not to include them in the present analysis, however: the later account of 1639 focuses on the pirates' crimes, not their conversion.

tribulations. The second part of *A True Relation* opens with the legal fallout of Purser and Clinton's misdeeds. Elizabeth, upon hearing complaints that the pair have caused the loss of many ships, dispatches a Vice Admiral to locate the pirates and offer them the Queen's pardon. Upon learning of the potential pardon, Purser and Clinton, along with their most trusted men, retire to their private cabin to deliberate. They ultimately reject the pardon, not because they do not appreciate Elizabeth's extension of grace, but rather because they fear the High Court of Admiralty: '[But] there was another feare and doubt to bee made, namely of the strict Court of the Admiralty, which seldome or never had any mercy of any who had transgressed in that nature' (B7v-B8r). Driven by this fear, the two men reject the pardon; in return, the Queen's council 'have present order that Proclamation should bee made through the kingdome [that] they should thenceforth bee held no better than enemies unto the State, and meere rebels and Traytors to their Queene and Country' (B8v). The scenario leads to a comic interlude in an otherwise solemn pamphlet, a 'pleasant accident', the author informs us, that 'I am loath to overpass, in the executing of these publications' (*ibid.*). By way of this pleasant accident, the reader encounters a royal proclamation on piracy.

After Elizabeth's condemnation, a pursuivant is dispatched into the realm to proclaim Clinton and Purser traitors.<sup>23</sup> Inclement weather causes him to catch a cold and succumb to laryngitis such 'that hee could bee scarcely heard to speake twice his lengthes distant from him' (B8<sup>r</sup>), and he finds himself unable to convey the royal missive. He enlists a country fellow to aid him, and the two set out on market day in a coastal town to fulfill the Queen's directive. All appears well until the moment of proclaiming, when the Pursuivant reads the proclamation to the Country Fellow, who repeats it inaccurately. 'Purser and Clinton', the Pursuivant whispers; 'Who hath lost their Purses at the Clinke' (C1v), the Country Fellow repeats. The Pursuivant, understandably, grows vexed, but forges ahead: 'Who have lately robb'd divers of our ships' becomes 'Who have lately rob'd diverse shivers of our Chippes' (C1v) and 'flung the chiefest Merchants over board' becomes 'And flung the Merchants Cheeses over board' (C2r). After several similar errors, the Pursuivant exclaims, 'O intollerable', to which the Country Fellow dutifully replies: 'O intollerable' (C2v) In its furnishing of respite from the more serious details of Purser and Clinton, the episode takes advantage of readers' acquaintance with the papered posts of every English town.

Both text and image add authenticity to the scene's portrayal of the royal proclamation. The dialogue of the Pursuivant and the Country Fellow alternates between Gothic and Roman typefaces. On the surface, this allows the reader to easily distinguish between the two men's lines, an especially useful typographical aid given the episode's general befuddlement. But on a more abstract level, the oscillation mimics the appearance of the Stuart proclamation. As noted above, proclamations in the first decades of the seventeenth century alternated between Roman and Gothic typefaces. But of the extant proclamations from the 1630s, every one was printed in Gothic. It follows that readers of *A True Relation* would have associated Gothic font with the printed text on royal proclamations. In this scene, the lines of the Pursuivant appear in Gothic font; the Country Fellow's corresponding malaprops are printed in Roman. Consequently, the text preserves Gothic as the font of royal authority. Had the entire episode been printed in Gothic – like the rest of the pamphlet – then it would not have had this effect on the reader. It is the alternation of font type that reinforces the royal gravity of the proclamation condemning

<sup>23</sup> Heywood and Rowley's play *Fortune By Land and Sea* (1655) includes a corresponding scene (3.4). In the play, the Country Fellow has been replaced by a clown, see Doh 1980, 215-219.



Clinton and Purser: Roman signifies a dilution of the authority residing in the Gothic. The pamphlet thus demonstrates a clear acknowledgment of its readers' habitual encounters with royal proclamations.

A corresponding woodcut supplements the scene. In it, the two men are shown standing atop a horse-drawn cart. The Pursuivant is positioned behind the Country Fellow, who holds the proclamation; the Country Fellow, hat held reverently over his chest, solemnly repeats the royal decree. At the bottom and barely present in the frame stand eight subjects viewing the spectacle. The proclamation itself bears the primitive approximation of the royal seal. This small detail conveys to the viewer that the document in the Pursuivant's hand is, indeed, a royal proclamation, one imprinted with the stamp of legitimacy. This clever interplay between text and image is reinforced by the reduplication of the woodcut: it occurs in succession (C1r and C2r) so that the reader cannot encounter the text of the Queen's proclamation without viewing, if only in the periphery, this corresponding image. Consequently, the subtle presence of royal authority in an otherwise humorous interlude adds a layer of gravity to Clinton and Purser's story. And although Charles issued no known proclamations addressing piracy, proclamations themselves were still publicly displayed memorials of the King's sovereignty. The episode of the Pursuivant and the Country Fellow positions the proclamation as an unbroken line of royal authority stretching back to Elizabeth; and like the accounts of Danseker and Ward thirty years prior, it demonstrates that piracy represented a tangible thread that linked the crown's proclamatory authority with more popular forms of entertainment.

### 5. Conclusion

Both proclamations and popular accounts transported the ocean to the cities, churches, bookstalls, town crosses, and marketplaces of early modern England. They told of crimes that occurred beyond British territorial waters and often in watery expanses far afield: the Cantabrian Sea; the Mediterranean; the Straits of Gibraltar. The ocean represented a dangerous space, one teeming with tempests, sea monsters, the threat of shipwreck, and, of course, sea robbers poised for the attack. The vastness and inexhaustibility of the ocean, which featured prominently in Dutch jurist Hugo Grotius' defense of open seas, rendered it frightening, unknowable, 'incomprehensible, no less than the air' (Grotius 2004, 34). Even maps of the early modern period depict the mythological Neptune, poised as ruler of the seas, surrounded by fearsome creatures of the deep.

It was on this perilous plain that the early modern pirate committed his transgressions, and accounts of his crime remind us that even he remained at the mercy of a mercurial sea. The proclamations and popular accounts thus abound with an inherent drama, one that impels the viewer or reader to forge ahead until the end of the document, where justice returns, and order prevails. But as John Smith had reminded young mariners, a *chaser* never sailed too far behind, and the next pamphlet or royal proclamation on piracy lay just beyond the horizon. Throughout the early modern period, these mediums remained complementary pinnacles for the conveyance of information about maritime crime.

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# Witchcraft Demonic Possession and Exorcism The Problem of Evidence in Two Shakespearean Plays

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## Abstract

Between the late sixteenth and early seventeenth century, the crime of witchcraft was viewed with grave concern. A series of acts were passed with the aim of reinforcing the law; however, this did not mitigate the social alarm, but if anything, increased the number of denunciations, trials and convictions. Finding proof was complex, and this led to many doubts as to the genuineness of the phenomena and the reliability of justice. Many books, pamphlets and narratives regarding these issues were published, satisfying popular curiosity and triggering dramatic creativity. Considering these findings, the article investigates the impact of early criminography on the representation of witchcraft, demonic possession due to bewitching and exorcism in Shakespeare's plays. The focus is on the scenes of the dark room in *Twelfth Night* and the mock trial in *King Lear*, two examples of the theatricalization of the search for proof closely interwoven with religious, medical and political discourses that circulated in early modern England.

Keywords: *Criminography, Demonic Possession, Evidence, Shakespeare, Witchcraft*

## 1. Introduction

The passage from the sixteenth to the seventeenth century marked a period of turmoil for the English juridical system due to a substantial reform that involved the doctrine of evidence, an issue that came to the fore in the mid-sixteenth century (Darr 2011, 15). The lack of a set of rules on the admissibility of proof led people to question the reliability of justice, and this had a definite impact on the pursuit of witchcraft, a felony that was hard to prove and control. This increasing apprehension is testified by the fact that during the Tudor period a series of acts were passed strengthening the law that punished those people

who ‘use practice or exercise any Invocacions or Conjuracions of evil and wicked Spirites ... or exercise any Witchcrafter Enchantment Charme or Sorcerie’ that might cause any kind of offence (The Witchcraft Act, 1563; 5 Eliz. I, c.16; reproduced in Newton and Bath 2008, 234).<sup>1</sup> This alarm was shared by James VI of Scotland, whose treatise *Daemonologie* appeared in 1597, and was twice reprinted after he acceded to the throne of England in 1603. Another *Witchcraft Act* was passed in 1604 (1 Jas I, c. 12), reinforcing the previous Elizabethan statutes from 1563, confirming the death penalty and excluding the benefit of clergy, which implied that there was no room for lenient punishment when there was a conviction (237).

Instead of preventing what was perceived as a crime, the strictness of the law increased the social alarm and more people than ever were suspected of practising sorcery. Furthermore, the difficulties in obtaining and interpreting the evidence, and the high degree of uncertainty in the trials, made witchcraft one of the most feared crimes, since not only did people dread being hurt or demonically possessed as a consequence of witchcraft, but also being accused of sorcery, because mere gossip in the neighbourhood could lead to a conviction. The concern to find witches meant that a mere coincidence could be regarded as reliable proof of guilt. A mumbled or whispered phrase was interpreted as the cause of the death of a cow or a child or inexplicable fits.

Curiosity about these phenomena also led to an increase in narratives regarding extraordinary stories reported through the accounts of witnesses, confessions and interrogations delivered before the courts of justice. This heterogeneous corpus of texts is not easy to categorize: their rhetoric appears to be gleaned from demonology treatises, including those circulating on the continent such as *Malleus Maleficarum* by the Dominican inquisitors Kramer and Sprenger, first published in 1487, and *De la Démonomanie des Sorciers* by the French philosopher and jurist Jean Bodin in 1580. As there are no formal legal records of these trials, these narratives are valuable historical sources for understanding how these crimes were conceived and proved before a judge (Alyagon Darr 2011, 19). Moreover, the Elizabethan playwrights represented on stage enthralling stories inspired by the most famous cases that circulated through various forms of early criminography. This article aims to investigate how Shakespeare theatricalised this wide array of religious, legal, medical and political discourses pivoting on witchcraft and possession, not only to indulge the audience’s curiosity but also to raise an issue that recurs in his plays: the unreliability of the juridical system and in particular of the evidentiary procedure. Indeed, the complexity of establishing the authenticity of these phenomena led to debate on the worrying weakness of the legal system in the field of evidence. After discussing the early modern conception of evidence, this article will focus on the scene of the dark room in *Twelfth Night* and that of the mock trial in *King Lear*, which fully convey the increasing scepticism about both these phenomena and the reliability of justice.

## 2. *The Question of Proof in the Field of Witchcraft: Not Only a Legal Issue*

In the early modern period, witchcraft was perceived as the most dangerous act of subversion against the body politic. The ‘organological’ concept of government survived in England, where the king was seen as the head of the body politic, visually represented by the crown (Kantorowicz 1997, 382). Royal power ‘strangely tormented’ (Brownlow 1993, 56; Almond

<sup>1</sup> <<https://babel.hathitrust.org/cgi/pt?id=pst.000017915519&view=1up&seq=536&q1=witchcraft>>, accessed 1 February 2021.

2004, 249) was hereditarily transmitted by divine right, and the order of the state was conceived as a hierarchical system based on rules rooted in natural law and the law of God. Hence, not only was a felony a transgression of the common law, but also an act of aggression against God, the law of nature and the monarch. In this idea of the state, modelled on principles of geometrical symmetries, the body of the condemned person, as Foucault points out, 'represents the symmetrical, inverted figure of the king' (1977, 29). While the monarch epitomised virtue and order, the criminal embodied vice and disorder (Ascari 2016, 85-87). The witch was the most feared among criminals because of the secret agreement with the devil: if the monarch was 'the lieutenant' of God, as King James I claims in *The True Laws of Free Monarchies* (1996, 56-57), the witch was Satan's emissary who aimed at subverting the order of the body politic. All this had an impact on the juridical and social plane since the authorities targeted the crime of witchcraft as the most threatening for the stability of the realm; furthermore, the discourses on this issue led people to live in such a state of terror that they checked any suspect behaviour.

Even though the evidentiary procedure was evolving into a more coherent set of rules, as far as witchcraft was concerned, the problem of proof persisted, as emerges from the Elizabethan and Jacobean statutes where the lawmakers 'leave it unclear whether witchcraft is essentially a mental, inward crime – consisting in the secret allegiance to the evil powers – or whether it is prosecuted because, like murder or theft, it ruins the lives and properties of others' (Maus 1991, 33). The crux lay in the fact that the crime of witchcraft was in the pact with the devil since, according to demonologists and theologians, it marked the witch's renunciation of God and submission to Satan (Sharpe 2000, 76). The harmful actions perpetrated by the felon were considered to be the symptoms of this felony, that is " 'overt acts' " that evidenced the secret criminal agreement (the expression is quoted by Maus 1991, 35). Moreover, there was the belief that the offences could be perpetrated secretly through an invisible power, even if the felon was absent from the crime scene (Darr 2011, 32). All this led to an ambiguous treatment of these cases in trials. In England, while the bench's task was " 'finding the law' " on the grounds of statutes and precedents, the jury had to " 'find fact' " (Maus 1991, 33): that is, to collect the necessary knowledge about the case that would contribute to reaching the verdict. In the case of witchcraft, it being impossible to have direct proof of the 'facts', the trial pivoted on the search for 'the symptom of the crime' (34) and then in discovering the 'inward truth' (42) hidden in the felon's mind through inductive reasoning. What were these 'overt acts' in the case of witchcraft? What could be considered a symptom? The mystery that surrounded this felony led people to be suspicious of a mumbled or a whispered word, which became in the court's eyes the cause of inexplicable diseases or mysterious and unpleasant events (Gibson 1999, 77). The alleged witch could be arrested on the basis of 'hearsay information, speculation, indication and even gossip', and the suspects could be brought before the judge by a constable or even by their neighbours (Darr 2011, 37). Witchcraft was associated with the 'female sphere': indeed, according to the records of the local assizes, women were often involved in fierce domestic arguments (Sharpe 2000, 68-69 and 2013, 110). The suspect was an easy target of defamation since the stereotyped image of the alleged witch was that of an old, poor, homeless, needy woman subject to moral censure who had generally already been labelled by the members of the community. This 'fame' broke out into persecution and finally into an indictment. In a nutshell, these women were depicted as unrespectable outcasts who acted maliciously either because involved in factional conflict with their neighbourhood, or with the mere intent to harm.

The high level of anxiety induced by the tightening of the law and the discourse on witchcraft led to an increase in accusations because any harmful event, from the death of a relative to that of an animal, could be seen as the consequence of a spell. The denial of charity,

such as food or a bowl of milk, or the refusal to trade, were believed to be motives for a witch's attack. If such arguments brought down the witch's curse, and if those people who had refused to give alms suffered a tragic event, this could be used as evidence of having been possessed by a wicked spirit (Gibson 1999, 84-90). The reconstruction of the story of the bewitching was based on a very loose chain of cause-effect links, because a mere sequence of coincidences could be considered as the causal nexus between the suspected witch and the harm done. Moreover, as emerges from early modern 'providential fictions', the discovery of evidence that led to the apprehension of a felon was often seen as resulting from a series of coincidences orchestrated by God (Ascari 2011, 114; see also Ascari 2007, 26-30).

During the trial, the judge's examination aimed firstly at evidencing the existence of the pact with the devil, which also marked the starting point from which to trace a coherent narrative of the crime (Gibson 1999, 15). The trial consisted of a preliminary stage that took place before the Justice of the Peace, who examined the alleged witch through oral inquiry and physical observation. Questions, such as 'How did you become a witch?' or 'From whom did you learn your witchcraft?' aimed to obtain a confession while searching for marks on the suspect's body aimed to prove collusion with the devil and an intimate relationship with 'evil and wicked spirits' personified in a familiar, often in the form of an animal, or imps (Darr 2011, 94). Particular attention was paid to factual proofs, also acquired through empirical tests and experiments, such as the swimming test or the scratching of the witch's body in the hope of obtaining relief for the bewitched victim of possession (152). However, even if proof was not found, mere suspicion sufficed to start the trial before the assize, where an additional examination then took place.

Confession was considered the most reliable evidence because the story was confirmed by the witch herself. Unlike on the continent, in England torture was formally illegal because it was considered to be against the common law. Nevertheless, it was used as a method of obtaining information for political repression; it was a sort of 'official terrorism', so, especially after the excommunication of Queen Elizabeth in 1570, Catholics were targeted. Furthermore, according to Hanson, torture was extended to other felonies during James I's reign (1991, 53). Hence, even if in cases of witchcraft torture was not officially applied, some other kind of pressure spurred the accused to confess to causing an offence through sorcery and this admission was considered lawful evidence for a death penalty. Michael Dalton's *The Country Justice*, a how-to manual for Justices of Peace published in 1618, gives much information on the procedure of the local assizes and intriguing insights into the mentality of early modern judges. Dalton explains that if the witch reacts to someone's accusation saying 'You should have let me alone then' or 'I have not hurt you as yet', she is implicitly confessing to having a harmful devilish power (1727, 514). He also specifies that 'Their own voluntary confession (which exceeds all other Evidence) of the Hurt they have done, or of the Giving of their Souls to the Devil, and of the Spirits which they have, how many, how they call them, and how they came by them' (515). Hence, in the case of *implicit* confession, the judge interpreted the words of the suspect with a high degree of discretion. If the witch voluntarily narrated her story, the court and the community were morally and legally satisfied, and there was no further investigation because it was implied that she was sincere and there was no risk of convicting an innocent person (Darr 2011, 52 and 198).

However, scepticism arose as to the reliability of the witches' voluntary confessions. Reginald Scot attempted to shed light on these phenomena in his treatise *The Discoverie of Witchcraft* published in 1584. He aimed at restoring the 'proper religious faith' and to demonstrate that demonic possession and witchcraft were mere fantasies due to a distorted use of language, or more properly to an error in interpreting the language of the Scriptures (Greenblatt 1994, 24-

25). As a matter of fact, the circulation of continental treatises such as *Malleus Maleficarum* and Bodin's *De la Démonomanie des Sorciers* introduced to England theories and practices that were not officially recognized, in particular regarding the search for the devil's mark on the witches' bodies, experiments and interrogations (Darr 2011, 95). It seems that Elizabeth I, influenced by Bodin, ordered the magistrate Brian Darcy to persecute all the witches of the realm (Almond 2011, 17-19). In this period England was shocked by several striking stories of demonic possession reported in impressive narratives. One of the most shocking cases of persecution was that in St Osyth village in 1582, narrated by Darcy in *A True and Just Recorde of the Information, Examination and Confession of all the Witches, taken at S. Oses in the Countie of Essex: Whereof some were Executed and other some Entreated according to the Determination of Lawe* (Almond 2011, 19). However, there are some doubts about the truthfulness of this trial since there are no reports on the punishment of the alleged witches (Gibson 2000, 73). Despite this, *A True and Just Report* is particularly interesting for being deeply imbued with Bodin's thoughts about confession. As Almond points out, Jean Bodin, suggested that 'one must however always promise impunity, and reduce the penalty of those who will confess without torture, and who will denounce their associates' (2011, 42). As emerges from *A True and Just Report*, Darcy asked the alleged witch Ursley Kempe to confess to having four spirits so as to obtain a lenient punishment: 'Note, it is to bee considered, that saide Ursley Kempe in this her confession hath uttered many thinges well approved and confessed to bee most true: And that shee was brought thereunto by hope of favour' (Gibson 2000, 88). This strategy was possibly applied in other cases in England so that the accused confessed with the hope of being released or of obtaining merciful treatment from the bench. Scot understood all the limits of these practices, which resulted in extorting a confession: 'these old women being daunted with authoritie, circumvented with guile, constrained by force, compelled by feare, inducted by error, and deceived by ignorance, doo fall into such credulitie, and so are brought unto these absurd confessions' (1886, 40). Hence, he believed that in these cases additional proof was necessary, because mere presumption did not suffice for conviction: 'In criminall cases or touching life, we must not absolutelie stand to the confession of the accused partie: but in these matters proofes must be brought more cleare than the light it selfe. And in this crime no bodie must be condemned upon presumptions' (54-55).

In summary, according to Scot, the voluntary confessions, even if given without torture, appeared more as the result of psychological pressure than as a conscious admission of guilt. The alleged witch was persuaded to answer questions formulated according to a standard pattern tailored to discourses on the crime of witchcraft. As a matter of fact, the stories of witches appear to be following a standard script: the accused, being compelled to answer insistent questions entrenched in early modern discourse on witchcraft, in the end confessed to being a witch as a result of a pact with the devil. As Gibson points out,

... a narrative pattern stressing motive satisfies the demands of the accuser, the legal system, and the pamphleteer and his reader. Both the accuser who, presumably freely, offered the story, and the legal system, which shaped it by questioning, needed a story which would be readily understood in examinations and informations by a jury, as showing a possible motive for the crime and thus a possible proof that it had occurred. (1999, 78)

Hence, the crime of witchcraft appears as a cultural construct of the authorities rooted in a liminal area where religious, medical, legal and political discourses overlapped. Considering that the centre of the English trial consisted in 'gathering and in interpreting evidence' (Maus 1991, 33), the body of the witch became the object of the public inquiry that, beginning from her



external appearance, aimed at discovering the secrets in her mind, and the voluntary confession too appeared to onlookers as the unequivocal exteriorisation of the inner truth.

### 3. *The Case of Demonic Possession Due to Bewitching*

As emerges from the Elizabethan and Stuart acts, conjuration, witchcraft and dealing with wicked spirits were considered to be the causes of various offences that are interestingly described in early modern criminography. Many of them concerned the fits provoked by demonic possession due to bewitching because it was widely believed that a witch could introduce a devilish spirit into the victim's body with a spell. These texts are particularly illuminating because they show that the story of the witch was interwoven with that of the alleged victim according to a stereotyped narrative pattern. All started with an inexplicable disease, a general sickness that increased in intensity with a series of weird phenomena such as swallowing, fits, and finally with vomiting of 'foreign objects', signally pins (Sharpe 2000, 44), which was believed to be one of the significant symptoms of possession. When the suffering grew, so did the number of curious onlookers who wanted to observe the convulsions and contortions of the possessed body. If none of the remedies adopted alleviated the sufferings, the case was classified as demonic possession or bewitching by sorcery, and the intervention of an exorcist was required. Moreover, the alleged victim was asked to speculate on the identity of the bewitcher since there was always the suspicion that possession was provoked by an enchantment perpetrated by sorcery more than by the direct intervention of Satan (Levack 1996, 1620; Sharpe 2000, 43; Almond 2004, 240-330). Hence, two different trials took place: the exorcism, held by the priest so as to cast away the devil from the body of the victim, and the trial held by a judge to punish the felon. However, considering that the fits were conceived as the proof of the crime of witchcraft, the body of the alleged possessed was examined by a commission of physicians who had to ascertain if the spasms were due to natural or supernatural causes.

As we can see in early criminography, the observation of the victim's body was held in the liminal zone where medical, religious and legal discourses merged. The diagnosis of the convulsions led to strenuous debates between the exorcists, the physicians and the judges who were involved in the trial as in the famous trial of Mary Glover that took place in 1602. Her story is narrated in *A True and Brief report, of the grievous vexation by Satan, of Mary Glover*, published in 1603 by John Swan, her exorcist who firmly believed that the fits were due to bewitching. In this narrative he reported that in Mary there 'succeeded a heaving or swelling in the belly, breast and throat' and that 'Her eyes were shut, her belly greatly swollen and after that, her breast swelling up, her throat swelling' (Almond 2004, 304 and 314). The girl was examined by a commission of physicians including Edward Jorden, who subsequently, spurred by this case, wrote in 1603 *A Briefe Discourse of a Disease Called the Suffocation of the Mother* (Brownlow 1993, 63; Sharpe 2000, 151). This treatise is an interesting and illuminating resource that reveals early-modern medical knowledge in the field of hysteria and it is proof of an incipient awareness that some symptoms considered to be evidence of demonic possession were actually due to some kind of mental disease. In England, hysteria, or *passio hysterica*, was also named 'suffocation of the mother' or 'mother' because it was associated with the female body; moreover, one of the symptoms observed was a feeling of suffocation a 'choking in the throat' (Jorden 1603, 5) that inexpert physicians, as Jorden points out, mistook for demonic possession making 'Magicall and Metaphysical speculations' (4). Interestingly, according to Jorden, *passio hysterica* also leads to the deterioration of the mental faculties, which he calls 'animall faculties', that is all those skills 'whereby we do understand, judge, and remember things that are profitable or hurtfull unto us'

(D3v). He points out that these mental conditions can lead people to remember things that are not real and show symptoms that generally are observed in 'those fools which we call naturals, in mad men, in melancholike men, in those that are furious, in such as do dote, in such as are distracted through love, feare, grieve joye, anger, hatred &c.' (E1v). Mary Glover's case was one of the most controversial because, while Jorden diagnosed her disease as hysteria giving medical evidence in favour of the woman accused of having brought about the possession, the other physicians of the commission believed the convulsions had a supernatural cause and they were able to persuade the judge who finally convicted the accused witch (Sharpe 2000, 4 and 182-188; Almond 2004, 288).

There were many doubts on these cases of bewitching, partly because many people were found pretending to be the victim of enchantment for revenge, as in another striking and debated case, that of Anne Gunter. In 1605, the twenty-one-year old girl accused three women of sorcery but, because the examination during the trial at Abington did not prove the bewitchment, they were released. Edward Jorden, who was involved in this case too, believed that her fits were due neither to supernatural cause nor hysteria, but to fraud (Levack 1996, 1629-1630). However, her symptoms were so striking that she was received by King James I in 1605 in order to be observed, but on this occasion, she confessed to having been forced to perform the fits by her father to avenge himself on a rival family because of an old feud. In the end, both Ann and her father Brian Gunter were tried for fraud before the Star Chamber in February 1606 (Brownlow 1993, 65; Levack 1996, 1630; Sharpe 2000, 43-44). Nevertheless, many doubts still remain on Anne Gunter's case, especially if her father's manipulation was so significant, because the girl was mentally vulnerable (Sharpe 2000, 165).

These two stories are exemplary in showing the ambiguity that lingered around these phenomena and how the legal question could also become a medical case; they bear out Neumeier's argument that, in the early modern period the attention of the authorities shifted from religious and social to medical and legal discourses (2016, 33). The allegedly possessed and the witch appear to be kindred in being victims of a system aimed at controlling the order of the body politic. Reading the narratives, it emerges that both women might have been affected by some kind of disease or psychological fragility and that, pressed by the questions of the exorcist, the judges and the physicians, or manipulated by someone, finally deluded themselves that the devil possessed them or they were responsible for causing the sorcery. It seems that both of them unconsciously played a role, that of the possessed and that of the witch, following a script suggested by the texts that circulated on the issue at that time. The judge assembled a detailed account of the events that had occurred with a series of stereotyped questions addressed to the victim and the felon so as to create a coherent narrative to support the sentence; in the end the court's interest seems to be more the reconstruction of a credible story of witchcraft and bewitching suitable for satisfying people's religious and moral beliefs than the discovery of truth. In this overlapping of reality and imagination, the judicial procedure to find evidence for the truthfulness of these phenomena appears closer to the theatre than to a court of justice and both, the courtroom and the stage, seem to be kindred public arenas for investigating the most debated questions that afflicted early modern England.

#### 4. *From Criminography to the Stage*

The ambiguity of these phenomena increased scepticism as to their cause and nature. It was hard to distinguish if they were due to natural or supernatural causes, if they were only theatrical representation or if the persons involved had deluded themselves that they were the protagonists

of a case of witchcraft. These accounts were so widespread as to become a point of reference not only for those who wanted to learn more of the issue but also for those who pretended to be bewitched or possessed by the devil to take advantage of popular credulity or to avenge themselves on someone (Shapiro 2016, 86). The case of Anne Gunter is a striking example of revenge orchestrated through the acquisition of information on the symptoms of demonic possession since, during the trial for fraud before the Star Chamber in 1606 Anne and her father confessed to having learned the details about the symptoms of possession from pamphlets, including such works as *The Most Strange and Admirable Discoverie of the Three Witches of Warboys: Arraigned, Conuicted, and Executed at the Last Assises at Huntington*, a text about the execution of three witches accused of bewitching the Throckmorton family of Warboys and other young people of the village, and *A Declaration of Egregious Popish Impostures*, written by Samuel Harsnett, chaplain of the Archbishop of Canterbury (Sharpe 2000, 163; Shapiro 2016, 86-88).

The fraudulent cases of demonic possession and exorcism were seen as highly dangerous for the royal authority by the official Church of England, because they destabilised the order of the realm.<sup>2</sup> This question was not limited to religion but involved politics too because Elizabeth I was still fighting the Puritans, the most extreme party among the Protestants, and the Catholics. This religious and political feud was enflamed by a campaign against the credibility of both Catholics and Puritans, promoted by the Privy Council to safeguard the English monarch as head of the Anglican Church. Bancroft, who was Bishop of London and then Archbishop of Canterbury, and his chaplain Harsnett were the pivotal figures of this campaign, fought with combative pamphlets whose authorship was attributed to the cleric even though it was implied that the ghost co-author was the archbishop. The campaign reached its peak with the famous case of John Darrell, a puritan exorcist who was tried before the Ecclesiastical Court of High Commission and then imprisoned for fraudulent exorcism in 1599 (Brownlow 1993, 54). The question started when the significant number of demonic possessions resolved by Darrell's intervention raised the suspicion in Bancroft (Brownlow 1993, 337; Holmes 2008, 77).

The accusation was centred on the case of William Sommers, a young boy who in 1597 began to be "strangely tormented" (Brownlow 1993, 56; Almond 2004, 249), and was treated by Darrell. Then Sommers accused a woman of having bewitched him but, during the trial, pressured by the court, he confessed to having performed the symptoms on instructions from Darrell (Brownlow 1993, 58; Sharpe 2000, 148). As soon as the case ended in 1599, Harsnett, who was a member of the Ecclesiastical Court of High Commission, published the pamphlet *A Discovery of the Fraudulent Practises of John Darrell*, to stigmatise the falsity of Darrell's practices with ironic and satirical verve, revealing the tricks that he thought had been used to simulate demonic possession. Harsnett accused Darrell of "making religion pageant of Puppites", "a pure play" (Brownlow 1993, 59), a highly defamatory accusation since the Puritans looked on the theatre as 'the devil's playhouse' (Greenblatt 1988, 110). In 1603 Harsnett published another pamphlet, *A Declaration of Egregious Popish Impostures*, a report of a series of false exorcisms conducted by the Catholic priests at Denham in Buckinghamshire in 1586 that he had collected from the testimonies of those involved in the case (Greenblatt 1982; Sharpe 2000, 87). Despite the title, this pamphlet actually consisted of a second attack on Darrell. Harsnett, accusing the Catholics of fraud, attacked all the practices of dispossession and was once more indirectly criticizing his old rival (Brownlow 1993, 74). Harsnett, who saw Scot as a model to follow, points out that the strategies and tricks used by those who pretended to be possessed or

<sup>2</sup> After the split from the Church of Rome, Catholic rites were considered illegal. Even if only Protestant priests were allowed to practise exorcism, some rites were stigmatized as baseless too (Sharpe 2000, 156).



to have the power to cast out the devil, were the same as those used by actors, partly because the audience was composed of the same people who enjoyed the theatre and, according to Harsnett, they were willing to be duped (Brownlow 1993, 98). Hence, not only did the accuser seem to be like an actor performing a role, but so too did the exorcist.

Darrell's case is significant because it was at the centre of a serious question where religion, politics and legal discourses were interrelated enflaming the debate between the institutions and arousing social interest. Indeed, manifold narratives were published aimed at restoring Darrell credibility, such as *A Breife Narration of the possession, dispossession, and, repossession of William Sommers: and of some proceedings against Mr John Dorrell preacher, with aunsweres to such obiections as are made to prove the pretended counterfeiting of the said Sommers*, which is a collection of stories closely inspired by the legal record of the trial regarding the confessions of Sommers and the witness of his fits published in 1598. A detailed account of the trial before the High Commission is also reported in *The Triall of Maist. Dorrell*, published in 1599 probably by the same editors of *A Breife Narration* (Gibson 2006, 132). In this pamphlet war must be included *A True and Brief report, of the grievous vexation by Satan, of Mary Glover, the story of Mary Glover*, because the author, John Swan, was a Puritan exorcist involved in the Bancroft campaign against fraudulent practices of dispossession. Harsnett had addressed him in *A Declaration of Egregious Popish Impostures* as 'devil finders and devil-puffers or devil-prayers' (Brownlow 1993, 74), so with this crime narrative he wanted to restore both his and Darrell's credibility (Almond 2004, 304). Moreover, Darrell defended himself from Harsnett's accusation of fraud writing in 1600 his own narration of Sommers' case, *A Detection of that Sinnful Shamful, Lying, and Ridiculous Discovers, of Samuel Harshmet. Entitled A Discoverie of the Frauddolent Practises of Iohn Darrell* (Brownlow 1993, 70).

As many scholars have pointed out, Shakespeare was inspired by Harsnett's and Scot's pamphlets, but the widespread stories of witchcraft and false demonic possessions might have been a further source of inspiration for investigating on stage the crucial question of proof. In the early modern period, theatre was a medium of paramount importance, 'the privileged arena for the display of power and authority' (Fiorato 2016, 4), where the most debated issues were represented and questioned before a culturally heterogeneous audience. Playwrights' interest in witchcraft, demonic possession and exorcism mirrors a more general collective curiosity in these phenomena and testifies to how theatre actively participated with the other institutions in what Greenblatt has called 'the circulation of social energy', reshaping for the stage's sake the religious, medical and legal discourses on this issue embedded in early modern culture. However, the multifocal perspective displayed by the Shakespearean theatre challenged conventional beliefs and raised many doubts as to both the ontology of crime and the lawfulness of an evidentiary procedure focused on finding the inward truth in the felons' mind through their confession, their exterior appearance, their behaviour, and especially through the observation and arbitrary interpretation of the possessed person's fits or the marks on the witch's body. In this cultural context, characterized by a high degree of ambiguity, as Neumeier points out, the theatre 'resembles the courtroom presenting the case (often in conjunction with medical expertise) and turning the spectator into judge and jury, while at the same time drawing the attention to the limits of medical diagnosis and legal judgment, insisting on ambivalences and uncertainties and their monstrous embodiment' (Fiorato 2016, 33). The scene of the dark room in *Twelfth Night* and that of the mock trial in *King Lear*, are two striking examples of 'textual traces' of the 'collective exchanges' between theatre and courtroom in Renaissance England that show how authority was investigated and questioned (Greenblatt 1988, 7).

### 5. 'Pray God he be not bewitch'd'

Shakespeare was interested in the nature of power, law and justice, as emerges from various plays where he investigated these issues (Carpi 2003; Raffield and Watt 2008; Zurcher 2010). He had many contacts at the Inns of Court, and his company performed two plays in these powerful legal institutions: *The Comedy of Errors* at Gray's Inn in 1594 and *Twelfth Night* at the Middle Temple Inn in 1602. The first is one of the so called 'equity plays', because it deals with the question of equity, as do *The Merchant of Venice*, *Measure for Measure* and *King Lear* (Watt 2009, 195). *Twelfth Night* is not considered a typical legal play, but its meaning, nevertheless, is connected with the domain of the law. The fact that it was performed at the Middle Temple Inn during the Revels in 1602, suggests that it might have been conceived for an audience of common lawyers, people interested not only in enjoying the Christmas festivities but also in being entertained with witty questions about the law and the most recent legal cases (Raffield 2004, 87). The Inns of Court were engaged in organising representations because, as Fiorato points out, they 'were instrumental in the perception and acknowledgement of power and its incarnation, and contributed to the creation of an elitist political conscience through the symbols, the images, the forms and representations of the law' (2016, 3). So, it is no accident that in the scene of the dark room there is an apparent reference to the famous Darrell case seen through the sceptical lens of Harsnett's pamphlet, which had appeared only three years before, in 1599 (Greenblatt 1988, 115; Brownlow 1993, 107; Gibson 2006, 151-160). However, the dark room scene is more than an evocation of the Darrell trial, but arguably appears to be an indirect criticism of the juridical system as a whole, and in particular of the unreliability of the investigation into cases of demonic possession due to bewitching and exorcism. While Harsnett points out in his pamphlet that Darrell's exorcisms were theatrical performances, similarly Shakespeare seems to criticise with the same accusation the trials aimed at discovering the truthfulness of possessions and the practices of dispossession. Beneath this first layer lies an ironic criticism of the widespread concern for bewitching and for an overturning of the hierarchical order of the state. Considering that this play was performed during the Revels in the Middle Temple Inn, the scene might aim at emphasising the pivotal role of the common law and the institutions of the Inns in maintaining the order of the body politic from the subversion of the rising social classes. As a matter of fact, Maria's trick appears to be a play within the play orchestrated to punish Malvolio, who wants to appear morally irreproachable but who actually craves to change his social status by marrying Olivia. As Paul Raffield points out, according to the common law, social status was established by birth and by ancient custom; hence there was no room to change it by marriage. Therefore, in secretly craving to climb the social ladder, Malvolio has attempted to subvert the hierarchical order, breaking the ancient law, a behaviour that was seen by early modern common lawyers as a threat to 'the cosmic order' (2004, 96). In the light of this, it is not surprising that inspiration came from Darrell who was accused of having simulated the exorcisms in order to increase his authority and credibility as exorcist. He, like Malvolio, had broken the law and threatened the order of the state. Not only do many details suggest the playwright's knowledge of Harsnett's pamphlet, but also of Darrell's trial before the Court of High Commission and the cases of bewitching of William Sommers that had been reported in well-known narratives such as those collected in *A Breife Narration of the Possession* and *The Triall of Maist. Dorrell*, which had been written by the supporting party of the Puritan exorcists. One of the aspects parodied in the play concerns how flimsy was the reasoning that associated specific symptoms with demonic possession. According to the anonymous writer of *A Breife Narration*, Sommers 'began to be strangely tormented in body and so continued for

divers weeks to the great astonishment of the beholders and trouble of his friends. ... And he gave signs that he was possessed by a wicked spirit' (Almond 2004, 282). Those who witnessed Sommers's fits at first tried to understand if they were due to natural or supernatural causes but, considering that no remedy could reduce the suffering, they thought they were provoked by demonic possession due to bewitching and decided to call John Darrell, who was considered to be the most suitable person to cast away the devil because of his experience with the young (249).

Malvolio's story evokes this pattern that actually is the same as many narratives about bewitching. The trick of the false love letter from Olivia deludes him into trying to fulfil his dream, but after her refusal he shifts to the liminal zone where imagination and reality overlap and the rational faculties fade; a very similar condition to that experienced by those who were believed to be bewitched. As a matter of fact, Maria, soon after causing the trick, diagnoses that the steward's weird behaviour might be a symptom of bewitching. Her suspicion plays a functional role, in fact it is the cause for asking for the intervention of Feste, who feigns to be the curate Sir Topas, in the role of an exorcist. In the first part of the scene of the dark room, Feste echoes Darrell in exorcising Sommers, indeed he ironically interrogates Satan directly, pretending his wicked spirit is inhabiting Malvolio's body:

*Feste.* Out, hyperbolic fiend, how vexest thou this man! Talkest thou nothing but of ladies?

*Sir Toby.* Well said, Master Parson.

*Malvolio.* Sir Topas, never was man thus wronged. Good Sir Topas, do not think I am mad. They have laid me here in hideous darkness.

*Feste.* Fie, thou dishonest Satan! I call by the most modest terms, for I am one those gentle ones that will use the devil himself with courtesy. Sayst thou that House is dark?

*Malvolio.* As hell, Sir Topas. (4.2.25-35)

The word 'dark' is easily associated with hell or the devil in many narratives, as in *A Breife Narration* where, in an interesting description of Sommers's symptoms, Satan is named expressively 'Prince of Darkness' (Almond 2004, 285). Furthermore, 'dark' and 'darkness' refer not only to the fact that Malvolio, being closed up in a room, cannot see anything but he is also 'in the dark' because he does not know that he is the target of a revenge orchestrated by Maria and her accomplice Feste, so he continues not to understand why he is enclosed in the dark room.

Furthermore, the figure of Feste / Sir Topas seems to poke fun at Bancroft, who mistreated Darrell during the trial for fraud. In *The Triall of Maist. Dorrell* it emerges that the puritan exorcist underwent an interrogation led by the Archbishop of Canterbury without any chance of defending himself from the accusation of fraudulent practices. As Gibson points out, 'According to the author and editor of the *Triall*, the defendants and witnesses in Darrell's and More's cases were interrupted by commissioners, especially Whitgift and Bancroft, and shouted down in exactly this manner, so much so that Darrell was only allowed to speak once and was then cut off' (2006, 132). So, when Malvolio tries to defend himself proclaiming 'I say there was never man thus abused. I am no more mad than you are Make the trial of it in any constant question' (4.2.46-48), Feste, instead of making logical and significant questioning aimed at discovering if he is inhabited by wicked spirits or affected by madness, investigates his knowledge of the pagan doctrine of metempsychosis (4.2.310-311):

*Feste.* What is the opinion of Pythagoras concerning wildfowl?

*Malvolio.* That the soul of our grandma might haply inhabit a bird.

*Feste.* What think'st thou of his opinion?

*Malvolio.* I think nobly of the soul, and no way approve his opinion. (4.2.49-55)

In the end, Feste cuts off Malvolio too, as Darrell had been cut off by Bancroft, because he concludes the trial saying sharply: 'Fare thee well. Remain thou still in darkness' (4.2.56).

The question about metempsychosis, which is the transmigration of dead souls into other human bodies or animals, seems to be a mockery of the interrogations held by the judges in cases of suspicious demonic possession due to bewitching or false exorcism. From the narratives it can be inferred that the inquiries aimed at evidencing if a person was possessed by a spirit or had encounters with the devil or imps, or a familiar that inhabited the body of an animal. For example, in *A Breife Narration* it is reported that Satan appeared in the form of a mouse and intimidated Sommers, saying that if he had not allowed him to enter his body, he would have hanged him (Almond 2004, 241). So the interrogation of Malvolio might be a satire not only of the procedure of exorcism, but also of those judges who posed such abstruse questions, to which people, already suffering from the pressure due to the authority of the bench or from a weak psychological condition, could only answer by saying what the judge had suggested and wanted to hear.

Another striking phenomenon observed by the onlookers of demonic possession was the victim's skill in changing voice and/or in speaking without moving their lips. In *A Breife Narration* it is reported that Sommers 'spoke in a continuous speech, his mouth being wide open, his tongue drawn into the throat, neither lips nor jaws moving' and that 'Strange speeches [were] uttered by him in his fits in a strange voice' (285). In *Twelfth Night*, in order to mock Malvolio, who is imprisoned in the dark room, Feste, after wearing a gown and a fake beard, changes his voice so as to simulate Sir Topas, the curate. The audience in 1602 could see Robert Armin playing the role of Feste: he was an excellent actor, especially noted for his ability in using different voices (Wiles 1987, 136-137; Shakespeare 2008, 26). Feste's voice is crucial. Not only does it make this scene the most enjoyable part of the trick and the play, but it might also indirectly refer to the uncertainty in diagnosing the authenticity of the symptoms of demonic possession and to the ambiguous role of the exorcist. As a matter of fact, the mysterious and frightening voices that came out from the alleged victims of bewitching were considered as having a supernatural cause, even though there were many doubts that they might be due to a ventriloquist's performance. Moreover, Feste's voice and disguise might poke fun at the fact that exorcists were accused by sceptics of being accomplices to fraud in league with the person faking demonic possession, and that they were able to play a role adopting the same performing skills as those used by the actors on stage.

Subject to a crescendo of incoherent, but insistent questions, Malvolio is led into a state of complete bewilderment whose peak comes at the point in which Feste creates a sort of dialogue with himself so that Malvolio believes that behind the wall of the dark room there are two persons, Feste and Sir Topas:

*Feste.* Advise you what to say, the minister is here [*as Sir Topas*] Malvolio, Malvolio, thy wits the heavens restore. Endeavour thyself to sleep and leave thy vain bibble babble.

*Malvolio.* Sir Topas!

*Feste* [*as Sir Topas*] Maintain no words with him, good fellow. [*as himself*] Who, I, sir? Not I, sir! God b' wi' you, good Sir Topas. [*as Topas*] Marry, amen. [*as himself*] I will, sir, I will.

*Malvolio.* Fool, fool, fool, I say! (4.2.94-103)

The comic scene, permeated by an aura of uncertainty and unresolved ambiguity, mirrors the bewilderment experienced by those people involved in trials aimed at discovering the authenticity of exorcisms testing the symptoms of demonic possession due to bewitching. The words 'bibble babble' refer clearly to Darrell, who reported that Sommers, like others possessed, mocked

the Holy Bible in a similar way (Almond 2004, 24). Hence, Feste's performance seems to be a mockery both of exorcists and of those judges who led interrogations aimed at discovering the existence of the devil in an allegedly possessed body so as to discover the complicity of the exorcist in the fraud.

The reading of this scene in the light of criminography highlights that theatre actively participated in the debate on these phenomena, both on their truthfulness and their juridical treatment, displaying them as performances played using the same tricks adopted by actors on the stage. Underlying this, the scene seems indirectly to suggest that, while the play within the play orchestrated by Maria is clearly a performance played by Feste, who disguises his voice and appearance as an exorcist, many cases of demonic possession were frauds at the expense of the alleged witch who was condemned by an institution more involved in political and religious feuds than in handling properly the question of proof.

#### 6. 'False justicer, why hast thou let her 'scape?'

Analysing the scene of the mock trial in *King Lear* through the lens of early criminography brings to the fore the fact that Shakespeare was inspired by the discourses on witchcraft as well as by the language and satiric style adopted by Harsnett and Scot in their pamphlets. It is my contention that his aim was to stigmatise the excessive anxiety regarding witches as the most dangerous threat for the stability of the realm but at the same time to highlight the flimsiness of the evidentiary procedure in proving the crime of witchcraft. Moreover, it seems that the excessive and controversial figure of Lear targets James I who proclaimed himself as an equitable and moderate ruler but also as a monarch 'above the law' (1996, 72) on the grounds of divine right. Considering that in the early modern period the body is a metaphor for representing the order of the state, *King Lear* appears to be the tragedy of a king who dissects his body politic in two and experiences the deterioration of his body natural. As Fiorato points out, 'the physical frailty of the body natural [of the king] is transcended by the ethereality of the body politic' (2016, 3); so Lear, in divesting himself of the powerful shelter of the body politic, appears weak and subject to a double-headed monstrous body politic personified by the two crowned heads of the two female bodies natural of Goneril and Regan. Lear actually commits a subversive act because he overturns the order of the microcosm hierarchically structured with the figure of the king at the pinnacle. The subversion is absolute because Lear not only, from being above the law, becomes subject to it, but also because he is under the law of two women, contrary to the principles of patriarchal society. Hence, Lear represents the *exemplum a contrario* of what a king should be, especially considering what James I had proclaimed in his first speech to Parliament in 1604, in explaining his political programme of uniting Scotland and England: 'What God hath conjoined then, let no man separate ... I am the Head, and it is my Body... I hope therefore no man will be so vnreasonable as to thinke ... that I being the Head, should haue a diuided monstrous Body' (Sommerville 1994, 136).<sup>3</sup>

Only when Regan and Goneril openly refuse to host his train does Lear become aware of his error, and this shocking epiphany drives him mad. In his imagination his daughters are 'unnatural hags' (2.2.467), criminals who, in the symmetrical order of the Elizabethan world, figure 'at the opposite pole' to the figure of the monarch (Foucault 1977, 29). The witch embodied a 'monstrous shape-shifter' that epitomised the early modern crisis, an image closely interrelated

<sup>3</sup> See also <<https://www.british-history.ac.uk/commons-jrnl/vol1/pp142-149#h3-0003>>, accessed 1 February 2021.



to the increasing interest ‘in the legal body and its intersection with religious, political, social and medical/humoral bodies’ (Neumeier 2016, 31). Hence, the reference to witchcraft in the scene of the mock trial is a metaphor to represent that the most feared crime of all was hard to control and to punish, especially because of the impossibility of achieving reliable ocular proof. It seems that Shakespeare is also focusing on an ontological investigation of the concept of justice, because only two years before, in 1604, Parliament passed the *Witchcraft Act*, which reinforced the previous Elizabethan statutes, so it appears that Shakespeare metaphorized the witchcraft trial as an exemplary case to show that the strictness of the law without proper evidentiary procedure leads to an erroneous judgment.

The scene of the mock trial is the last stage of a series of events that follow and develop following a similar pattern to that reported in criminography. In this perspective, Lear’s words seem to be quotations from those judges who in the early modern period led arbitrary inquiries on witchcraft and searched for signs and marks on the bodies of the accused to prove a crime whose existence was doubted by many sceptics. The questions that arise on stage are interwoven with medical and legal discourses; in particular, they appear to be related to the ambiguity of the symptoms of possession, the search for the proof on the witch’s body and, to a wider extent, the lawfulness of the trial. The first point comes to the fore when Lear, after learning that his daughter Regan has refused Kent’s request, feels ill and makes a self-diagnosis: ‘O, how this mother swells up toward my heart! / *Hysterica passio*, down, thou climbing sorrow / Thy element’s below: Where is this daughter?’ (2.2.246-248). Lear’s mention of *hysterica passio* and the ‘mother’ has caused many debates in literary criticism, especially because this illness was associated with the female body. Considering that Shakespeare’s source was *A Declaration of Egregious Popish Impostures*, this suggests that he probably knew the part of this treatise reporting ‘The confession of *Richard Mainy*. Gentleman, written by himselfe, and avouched upon his oath the sixt of June. 1602’. Harsentt had poked fun at this case, since he believed it to be another case of fraud, especially because Mainy wrote that the symptoms of the bewitching were ‘a spice of the *Mother*’ (Brownlow 1993, 401). Jordan, too, highlights in his *A Briefe Discourse of a Disease* that hysteria has symptoms similar to those shown by ‘fool’, ‘madman’, ‘melancholike men’ that were mistaken by inexpert physicians with demonic possession (1603, 18-19). Hence, Shakespeare might have been inspired by Mainy’s confession and medical discourse to express Lear’s ‘fundamental state of being in error’ and, as this disease was associated with the female body, he wanted to emphasise the fragility of his ‘body natural’ according to the early modern stereotypes (Peterson 2010, 61). From a political perspective, the reference to *hysterica passio* serves to underline the upside-down nature of the body politic that Lear has erroneously divided and the consequent deterioration of his body natural, his falling into a kind of madness that has the same symptoms as bewitching.

The other question mentioned in the scene concerns proof. In Lear’s mind, Goneril and Regan’s refusal to play host to him denotes a kind of wickedness that must be prosecuted before a court of justice, so he wants to see the trial and the evidence: ‘I’ll see their trial first. Bring in their evidence’ (3.6.35). For this purpose, in an ultimate attempt to exercise his royal power, Lear gathers around him a sort of puppet court of justice that he imagines prone to his will. According to Watt, the members of this fake court seem to echo the early modern judges: the Fool, called by Lear ‘yoke-fellow of equity’ (3.6.37), might represent the Lord Chancellor; Edgar, called ‘robed man of justice’ (3.6.36) and disguised as a poor madman, might stand for the Lord Chief of Justice, and Kent might represent the local judge (Watt 2009, 76). Lear’s accusation against Goneril is of having ‘kicked the poor King her father’ (3.6.47-48), a very vague one, but this is not surprising, considering that the suspicion of witchcraft was aimed at

resolving controversies that had nothing to do with the devil; very often the accusation was a means of avenging oneself on someone and this is so for Lear. These words also highlight that Goneril's wicked action was perceived as particularly harmful by Lear because against him as king and personification of the body politic, and against him as father, that is as body natural, subject to deterioration and disease.

This scene is one of the most striking and debated in Shakespeare's theatre as well as one of the most meaningful in expressing the unreliability of justice, partly because of this fake court but also because Goneril and Regan, the accused, are not on stage, but only seem to inhabit Lear's mind. However, despite their absence they are evoked with words that echo early modern discourse on witchcraft. People thought that witches could hide their presence or pretend to be in a place while they were far from home, and even commit crimes without being present (Maus 1991, 34). This belief is reported in *The Witches of Warboys*, which recounts that Alice Samuel was able to be present in a place with her spirit alone and to be visible only to those whom she had bewitched and invisible to all the others. The three children of the story who, being bewitched, could see her, were not considered as having hallucinations but 'a real not imaginary experience', so that Alice's appearance 'in the absence of her "physical" body would have been enough to condemn her for most readers' (Almond 2008, 26). With a striking similarity to this episode, Lear is the only one able to see his daughters in this mad trial, so it might also suggest that he is the victim of their sorcery. Moreover, when the Fool addresses Goneril saying 'Cry you mercy, I took you for a joint-stool' (3.6.51) he is citing an object belonging to the semantic field of witchcraft and punishment whose meaning the audience could pick up (Caton 2013, 130-131). First, during the trial, the witch sat on a stool, and it was also believed that witches left some enchanted objects, such as a joint stool or a broom, behind them so as to pretend to be present in a place when they were somewhere else. Scot, too, refers to this presumed skill in *The Discoverie of Witchcraft* (Gulstad 1994, 497). So the reference to this piece of furniture might imply that Lear, like the children in the Throckmorton case, is a victim of bewitching and that he has a 'real' experience because he sees his daughter instead of a joint-stool, a phenomenon that was classified as 'spectral' evidence and considered valuable as proof (Levack 1996, 1619). These references to Lear's visions might allude to the subtle threshold between bewitchment and madness and so to highlight the misleadingness of the symptoms and the high degree of uncertainty of their diagnosis in a trial.

Furthermore, the Fool's request to Goneril to 'Cry you mercy' (3.6.51) might indirectly refer to the strategy used by Brian Darcy, influenced by Jean Bodin's treatise, of promising mercy in exchange for a confession, but also to a criticism of the lack of clemency in the witchcraft trials. As a matter of fact, in 1604 the *Witchcraft Act* further reinforced the Elizabethan statute, excluding the benefit of clergy, which was a legal means aimed at reducing the penalty initially reserved to the ecclesiastics and then extended also to laypeople. Considering that the Fool named by Lear 'yoke-fellow of equity' (3.6.37) might be an allusion to the Lord Chancellor, his words might address the Chancery Court where the law was applied according to the principle of equity, that is, in a more flexible and merciful way compared with the common law courts. These legal underlying meanings hidden in the folds of the text emphasise the proximity between the stage and the courtroom, fiction and reality, and directed the audience's attention to the question of the excessive strictness of the common law, a highly debated issue in those years (Carpi 2007 and Watt 2009).

The mock trial continues with the observation of Regan's exterior appearance with a clear evocation of what happened during the trial. As emerges from *The Country Iustice*, a witch's countenance and behaviour were considered as evidence of crimes. Dalton explains that, when

examining felons, the Justice of the Peace had to consider as evidence the ‘marks and the signs’, such as ‘The change of his countenance, his blushing, looking downwards, silence, trembling’ (1727, 547). Especially in the field of witchcraft trials, appearance was considered proof of the wicked inner nature, an exteriorisation of the ‘inward truth’. Reginald Scot stigmatised this belief, pointing out that it was only a presumption that sprang from the fact that during the trial the accused usually did not look directly at the judge: ‘Item, behaviour, looks, becks, and countenance of a woman, are sufficient signs, whereby to presume she is a witch: for always they look down to the ground and dare not look a man full in face’ (1886, 15). Moreover, the witches’ eyes were considered particularly harmful. There was the belief that ‘These can with their looks kill either man or beast’, as reported in the *Malleus Maleficarum*, a belief stigmatised by Scot because of the lack of all this in the Bible (Almond 2011, 34-22). Lear’s words seem to be entrenched in these discourses:

*Lear.* And here’s another whose warped looks proclaim  
 What store her heart is made on. Stop her there!  
 Arms, arms, sword, fire, corruption in the place!  
 False justicer, why hast thou let her ’scape? (3.6.52-55)

The adjective ‘warped’, which suggests a person who has strange or unpleasant ideas, in this case refers to the fact that Regan is imagined twisting her eyes so as not to meet Lear’s; she is literally ‘looking down on’ him, showing disrespect for her father. Hence, Lear’s words might allude to the fact that exterior appearance, especially the countenance, was considered the exteriorisation of the ‘inward truth’, and so was considered as a visible proof of the felon’s wicked inner nature. Though Regan suddenly disappears from Lear’s view, he still insists: ‘Then let them anatomise Regan; see what breeds about her heart. Is there any cause in nature that make these hard hearts?’ (3.6.73-75) The repetition of the verb ‘see’ at the beginning of the trial, ‘I’ll see their trial first. Bring in their evidence’ (3.6.35), and at the end ‘see what breeds about her heart’ (3.6.73-74), marks the need for a visible mark on Regan’s body suitable to evidence the causal nexus between her disrespectful behaviour and the pact with the devil. As previously said, because it was impossible to achieve a direct proof of the secret agreement, only an ‘“overt act”’ (see Maus 1991, 35) was sufficient to prove it. Hence, it seems possible that the stress on the sense of sight parodies the scrupulous search for marks on the suspected body and the compelling recourse to experiments and physicians’ expertise so as to gather proof of the alliance with the devil. In the play Regan’s disappearance prevents this corporeal investigation and mocks the impossibility of finding reliable proof, suggesting that witches and witchcraft do not exist except in a madman’s nightmare.

*King Lear* was performed before James I on St Stephen’s Day 1606, so the play might have been both a homage to the new monarch, who was interested and involved in witchcraft, and an admonition for a reformation of the juridical system and for moderation in ruling the realm. Hence, the scene of the mock trial seems to be an indirect criticism of both a law that was too strict and evidentiary procedure that was too loose, leaving to the judge and jury excessive discretion in the interpretation of the proof of a crime whose existence was extremely doubtful.

## 7. Conclusion

The scene of the dark room in *Twelfth Night* and that of the mock trial in *King Lear* are exemplary in showing the interrelation of witchcraft and demonic possession due to bewitching with early modern religious, medical, legal, and political discourses. The close reading of the plays through



the intertextual analysis of criminography brings to the fore the cultural network between institutions and especially the interconnection between courtroom and stage as kindred spaces of investigation. From the reports of trials, it emerges that the inquiries about witchcraft, the dubious cases of demonic possession, and the practices of exorcism developed according to a stereotyped pattern gleaned from the widespread texts of the time. It appears that the court's aim was focused more on satisfying the craving for punishing the most feared crime of witchcraft according to moral and social beliefs than on discovering the truthfulness of the accusations at the basis of the trial or the authenticity of the voluntary confessions given by the suspected witch under severe interrogation. Early criminography also highlights the intersections between witchcraft and other crimes that were stigmatized by the authorities as highly dangerous for the stability of the realm, such as fake demonic possession due to bewitching and fraudulent practices of exorcism. The spectacularization of the trial, whose core was the observation of the witch's body or the frightening symptoms of demonic possession, and the standardized inquiry, which followed a pattern very similar to a play script, show the proximity between courtroom and theatre. In both spaces, the representation of the truth appears to be the result of a form of creativity that originates from the liminal zone between reality and imagination.

All this seems to be mirrored in Shakespeare's plays. In particular, the scenes analysed in this article, which are theatricalizations of a fake exorcism and a mock trial, highlight the fictional aspect of the practices of dispossession and the spectacularization of justice in trials aimed at discovering witchcraft and fraudulent exorcism. Furthermore, they mirror the concern of royal authority as well as of the subjects of the realm at the prospect of overturning the order of the body politic caused by the frequency of these phenomena, which were so hard to control and punish because of the extreme unreliability of the evidentiary procedure aimed at discovering the presence of devilish spirits through inconsistent but obtrusive techniques of investigation.

In *Twelfth Night*, it is Malvolio's false puritan conduct and his desire to reverse his social status that is stigmatized with a merciless trick, while in *King Lear*, it is a king who provokes the disorder in his body politic. The chaos reaches its peak when, in the grip of madness, Lear tries to punish the wicked spirits of his daughters in a lawless mock trial that marks the complete annihilation of his body politic and body natural. However, an ambivalent tension emerges from these readings. If on the one hand witchcraft and the other interrelated crimes are depicted as threats against the body politic, this concern seems to be mingled with a sharp, ironic criticism of the religious, political and legal authorities that exercise their power using the same theatrical strategies as that used by actors in performing a play and appear unfit to handle the problem of proof in such dubious cases. The only result of the reinforcement of the law with the *Witchcraft Act* in 1604 was an increase in trials where the evidentiary procedure was conducted on the basis of a highly discretionary interpretation of exterior appearance and marks on the alleged witch's body and of the symptoms of the person allegedly possessed.

The findings of this study suggest that a close reading of Shakespearean plays through the lens of early criminography is a valuable approach through which to investigate the intersections between theatre and courtroom so that further research might be undertaken to deepen and widen the analysis on other legal questions.

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*Political Messages and Criminal Motifs*





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# Murdering Sleep on the Early Modern English Stage

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## Abstract

In early modern England, sleep enjoyed a special cultural status and was a frequent subject of both learned and popular discourse. As such, sleeping became a recurrent motif in popular culture, including theatre. The article discusses a distinct dramaturgical employment of sleeping – the victimisation of a sleeping character on the stage. It seems that this theatrical pattern, or theatergram, was especially popular in the 1590s, when plays such as *Henry VI, Part Two*, *Thomas of Woodstock*, *Edward II*, *The True Tragedy of Richard III* and Shakespeare's *Richard III* appeared, containing scenes of a murdered sleeping person with a number of dramatic and thematic similarities. Similarly, Jacobean plays such as *Othello*, *The Devil's Charter*, *The Maid's Tragedy*, *The Valliant Welshman*, *The Faithful Friends*, *Cymbeline* and *The Tempest*, all of which seem to have appeared within a decade and a half in the early seventeenth century, also employ this trope, whose dramaturgy seems to elaborate on the aforementioned Elizabethan histories. What is noteworthy is the fact that, although we do not know the authors or dates of composition of some of the works, they all revolve around William Shakespeare and his playing company. The present article traces the development of the theatergram of the victimised sleeper, arguing that its visual and thematic appeal, as well as dramatic versatility, made it a staple of late Tudor and early Stuart drama which contributed to the stylistic development of the early modern English theatre.

**Keywords:** *Early Modern English Theatre, Shakespeare, Sleep, Theatergram, Victimisation*

## 1. Introduction

The importance of sleep in early modern awareness and culture can hardly be overestimated. As one of the chief supports to human life (both mental and physical), a transitional space between the mundane and the spiritual and a route to the intricate world of dreaming, sleep as the Renaissance conceived it carried a number of thematic overtones. Sasha Handley (2016) has demonstrated that in early modern England, an entire culture developed around sleeping that pervaded virtually every sphere of daily human

activity. A number of popular medical handbooks were published in Tudor England that offered advice regarding sleep patterns and conditions, including the preferred time, place and position of sleeping, as well as the material of the bed sheets and the blankets.<sup>1</sup> As Karl H. Dannenfeldt points out, the discussion of sleep was particularly widespread in early modern England, where 'more than in other countries, the views of the physicians were commonly written in English for the general public or continental works were available in French, a language widely-known, or in English translation' (1986, 420). Holy Scripture lent sleeping a deep spiritual subtext, as the Christian tradition often connected sleep with death and resurrection with awakening.<sup>2</sup> Lucy Worsley asserts that in the early modern era, sleep also had a significant political dimension, as the aristocratic bedroom was a semi-public place and one of the centres of power. Gaining access to the royal bedchamber was a privilege and a sign of status, but also an opportunity to manipulate the powerful person and his policies (2011, 88-94).<sup>3</sup>

Apart from its praised beneficial effects, however, sleep was also considered extremely dangerous. In the state of unconsciousness, a human being was believed to be prone to a number of evil agents who might wish to inflict both physical and spiritual harm on the sleeper. Shakespeare's contemporary Thomas Nashe called the night 'the nurse of cares', but also 'a time most fatall and unhallowed', referring to numerous supernatural creatures which were believed to be active by night (1958, 346). The imminent danger, however, most often came from other men. While A.R. Ekirch maintains that 'most nocturnal crime was relatively minor, consisting of nonviolent thefts' he also stresses that 'the threat of physical harm increased markedly after dark' and that 'Night witnessed the worst bloodletting' (2006, 33 and 43). Sasha Handley argues that, in order to protect themselves against dangers, early modern Christians keenly engaged in what she calls 'sleep-piety', begging 'for divine protection by repenting of their sins at bedtime, by offering prayers in and around their bedsteads, and by filling their minds with holy thoughts' (2016, 70). That way they both protected themselves from the possible perils at the time of sleep, and also prepared spiritually for the possibility of death in sleep. In a world shaped by difficult experience, by a Christian moral-religious framework, but also by superstitious beliefs, a sleeper could presumably fall a victim to a criminal, a daemonic being, as well as a witch or an evil sprite (for various nocturnal dangers to men in the pre-industrial era, see Ekirch 2006, especially 1-58 and 285-299).

This sense of 'dangerous sleep' seems to have been a particularly powerful cultural impulse. Mentioning the works of Elizabethan authors such as Thomas Deloney, Worsley maintains that Renaissance literature started the genre of the 'whodunit', in which death in the bed was a frequent commonplace (2011, 101). Besides these, there was also a strong mediaeval and early

<sup>1</sup> A good representative example is Thomas Elyot's *Castel of Helth* (1539), which by the end of the sixteenth century saw its fourteenth edition (Dannenfeldt 1986, 420). In his ironical pamphlet *The Gull's Hornbook* (1609), Shakespeare's younger contemporary Thomas Dekker parodies popular medical advice of the period concerning sleep, asserting that 'midday slumbers are golden: they make the body fat, the skin fair, the flesh plump, delicate, and tender: they set a russet colour on the cheeks of young women, and make lusty courage to rise up in men' (1905, 27). He also accuses physicians of lying to their patients when dissuading them from extensive sleeping, because 'they which want sleep ... fall into the doctor's hands ... whereas he that snorts profoundly ... saves the charges of a goat's-worth of physicks' (24).

<sup>2</sup> The original Koiné Greek version of the New Testament mentions the verb 'koimáo' (to sleep) in different forms twelve times: nine times as a designation of physical death and only three times to mean a literal sleep.

<sup>3</sup> A special chapter in the discussion of the political dimension of sleep in the early modern era would be dreams and visions. For the role of dreams in the political life in Renaissance England, see especially Levin 2008 and Hodgkin *et al.* 2008. For a more general discussion of dreams in early modern England, see Rivière 2017.



modern tradition of exposing a defenceless sleeping body on the theatre stage. David Bevington has traced the beginnings of this trope as a 'recognizable theatrical entity' back to the liturgical drama of the twelfth century (1995, 53-54), stressing the recurring motif of the fragility and victimisation of the sleeping figure, which can be observed in a vast range of European dramatic texts, from French high mediaeval biblical plays to English Renaissance drama of the seventeenth century. In the case of biblical drama, the roots of these motifs can be largely found in the original models which later authors strove to present in a dramatic form (for instance, the scene in the Christmas play *Ordo ad Representandum Herodem* from the French *Le Livre de Jeux de Fleury* in which angels warn the sleeping three kings to take a different journey on the way back from Bethlehem to avoid Herod is a faithful adaptation of Matthew 2:12); in the case of scenes such as Othello's bloody dilemma when watching sleeping Desdemona or Iachimo's voyeuristic inspection of Imogen's body in the middle of the night, however, we may talk about an independent approach on the part of the early modern playwright who, above all, had to take into consideration the cultural tropes of his own era and the tastes of his audiences: as David Roberts points out, the seventeenth century 'was the scopophilic century, the century in love with looking at and into things' (2006, 236).

Indeed, it appears that the Renaissance cultural sensitivity to the darker sides of sleep and the ubiquity of the discussion thereof was a powerful inspiration to early modern English dramatists and there seem to have been periods when the depiction of a sleeping body on the stage and its subsequent violation enjoyed special popularity both with the playwrights and their audiences.<sup>4</sup> A sleeping character in peril appeared on the English stage with a remarkable frequency already in the early 1590s within the young genre of Elizabethan historical drama. The plays falling into this group include the second part of Shakespeare's *Henry VI*, his *Richard III*, Christopher Marlowe's *Edward II*, the anonymous *Thomas of Woodstock*, which only survives in an incomplete manuscript and was once attributed to Shakespeare, and the anonymous *True Tragedy of Richard III*, which was probably one of Shakespeare's sources for his own rendition of King Richard's story. All these plays contain a very similar scene in which a couple of hired assassins approach their sleeping victim, whom they ultimately murder. Apart from this basic situation, which occurs in one form or another in a number of other early modern English plays,<sup>5</sup> the scenes also contain a number of motivic and verbal parallels which can hardly be coincidence, and which testify to some form of mutual influence between the works. Whatever this connection might be, it is noteworthy that these works seem to form a well-defined 'cluster' of dramatic pieces, in some way revolving around William Shakespeare.

In the early Jacobean period, this dramatic pattern enjoyed a form of revival. The aforementioned scenes from *Othello* (c. 1603) and *Cymbeline* (c. 1611), both centred on a

<sup>4</sup> Of course, sleep had a much broader dramaturgical potential, for instance, for the delineation of dramatic characters, as there was a strong belief in the relationship between the quality of sleep and the quality of the sleeper in the Renaissance. When on the 6<sup>th</sup> of May 1954, S.B. Chandler presented a paper on Shakespeare and sleep at the twenty-seventh annual meeting of the American Association of the History of Medicine in New Haven, he counted more than 60 significant mentions of sleep in Shakespeare's plays with an explicit focus on its nature and quality (1955, 255). In an early critical assessment of Shakespeare's dramatic and poetic works from the perspective of medicine, J.C. Bucknill asserted that 'There are few subjects that Shakespeare has treated with more pathetic truthfulness than the distress arising from want of sleep', adding that 'In no place, however, is the description of sleep's restorative power delineated with such exquisite pathos as where Macbeth feels that he has murdered sleep' (1860, 193).

<sup>5</sup> As Martin Wiggins (1991) has demonstrated, scenes containing contracted murders were a popular staple of Elizabethan, Jacobean and Caroline drama.

perpetrator looming over a sleeping body, could be understood in the wider context of a number of lesser-known Jacobean dramas. The anti-Catholic tragedy *The Devil's Charter* by Barnabe Barnes, produced by the King's Men at court in 1607, comes to mind, together with *The Maid's Tragedy* by Francis Beaumont and John Fletcher, written between 1608 and 1611; the historical play *The Valiant Welshman*, written before 1615 and attributed to the King's Men's actor Robert Armin; and *The Faithful Friends*, a Beaumont and Fletcher apocryphal play, set in classical Rome, written at some point between 1604 and 1626. To this group, we may also tentatively add Shakespeare's *Macbeth*, written perhaps just a year or two after *Othello*, which also includes the murder of a sleeping character, albeit off-stage. Although all these plays share much with their parallels in the earlier Elizabethan histories, we will see that several significant shifts had taken place, especially towards the complexity of the (now single) criminal. The basic dramatic pattern, however, always remains discernible. It could be argued that the sleeping scenes we find in these plays formed one of the many fashionable waves of English Renaissance theatre (such as Machiavel plays, magician plays, dream plays, craftsman plays and others), which were pointed out by Pavel Drábek and which were typical of the drama of this era (2013, 248).

The present article will address both these waves of plays containing scenes with the victimisation of a sleeper on the stage, trying to elucidate the nature of their relationship to one another. It will argue that English playwrights at the end of the sixteenth and the beginning of the seventeenth centuries not only exploited the cultural connotations of sleep and its presentation on the stage, but also combined these early modern tenets with mediaeval dramatic conventions to produce a distinct theatergram which was especially popular in the 1590s and roughly the first decade and a half of the seventeenth century.<sup>6</sup> It will be shown how the theatergram was gradually developing, gaining new thematic and dramaturgical significance to become a frequent and important convention of late Tudor and early Stuart drama.

## 2. *Innocent Sleepers and Reluctant Villains in Elizabethan Histories (c. 1590-1595)*

From the perspective of textual criticism (and, consequently, the present discussion), the first of the aforementioned historical plays containing victimisation of a sleeping character is also the most complicated one. However, a consideration of the play's publication and, possibly, production history might be a useful aid in understanding the remaining plays of the group and the devices which they seem to employ in common. What we know nowadays under the simple title of *Henry VI, Part Two*, was published multiple times in both in Shakespeare's lifetime and after his death in several versions and under various titles. The first edition was printed anonymously for the London stationer Thomas Millington in 1594 as *The First part of the Contention betwixt the two famous Houses of Yorke and Lancaster, with the death of the good Duke Humphrey: And the banishment and death of the Duke of Suffolke, and the Tragicall end of the proud Cardinall of VVinchester, vvith the notable Rebellion of Iacke Cade: And the Duke of Yorke's first claime vnto the Crowne*. The opulent title, which foregrounded the key events of the plot and served mainly as an advertisement for the potential buyers, remained unchanged for the second edition of the piece, printed by Valentine Simmes for Thomas Millington in 1600. In 1619, the play was printed once again for Thomas Pavier, this time in a volume together with

<sup>6</sup>The term theatergram as a theatrical counterpart to the literary *locus* was suggested by Louise George Clubb in her monograph *Italian Drama in Shakespeare's Time* (1989) and in some later essays. A theatergram, that is, a structural theatrical unit that could be shared among the playwrights both within one national culture and across borders, can include such commonplaces as story patterns, plot situations, typology of characters, speech acts, scene locations, etc.

*Henry VI, Part Three* (the first Octavo of which had been previously published by Millington in 1595), under the general title *The Whole Contention betweene the two Famous Houses, Lancaster and Yorke. With the Tragicall ends of the good Duke Humfrey, Richard Duke of Yorke, and King Henrie the sixt*. In this third edition, which was the first one to bear Shakespeare's name as the author, the text also had its own separate title *The first part of the Contention of the two Famous Houses of Yorke and Lancaster, with the death of the good Duke Humfrey*. Finally, the play was printed in Shakespeare's First Folio in 1623 as *The second Part of Henry the Sixt, with the death of the Good Duke Hvmfrey*.

As we can see, of all the plot highlights mentioned in the – sometimes more, sometimes less descriptive – titles, only one survived the play's almost thirty-year-long publication history: the death of Humphrey of Lancaster, the first Duke of Gloucester.<sup>7</sup> This event is crucial not only for the development of the play itself, but of the whole tetralogy as well (the three parts of *Henry VI* and *Richard III*), as the political and physical liquidation of the King's loyal chancellor leads to the further debilitation of the King's power and, consequently, the beginning of the Wars of the Roses.<sup>8</sup> Whether and how the murder of the Duke was staged in Shakespeare's times, however, remains uncertain as the scene survives in two very different versions. First let us consider the passage as it was printed in the first Quarto

Then the Curtaines being drawne, Duke *Humphrey* is discouered in his bed, and, two men lying on his brest and smothering him in his bed. And then enter the Duke of *Suffolke* to them.

*Suffolk*. How now sirs, what haue you dispatcht him?

*One*. I my Lord, hees dead I warrant you.

*Suffolke*. Then see the cloathes laid smooth about him still,  
That when the King comes, he may perceiue  
No other, but that he dide of his owne accord.

2. All things is handsome now my Lord.

*Suffolke*. Then draw the Curtaines againe and get you gone,  
And you shall haue your firme reward anon.

*Exet* murtherers. (Shakespeare 1594, E2r)

Although the 1623 Folio version preserves the contours of the situation, its stage execution is markedly different:

*Enter two or three running ouer the Stage, from the Murther of Duke Humfrey.*

1. Runne to my Lord of Suffolke: let him know  
We haue dispatcht the Duke, as he commanded.

2. Oh, that it were to doe: what haue we done?  
Didft euer heare a man so penitent?

*Enter Suffolke.*

1. Here comes my Lord.

*Suff*. Now Sirs, haue you dispatcht this thing?

1. I, my good Lord, hee's dead.

<sup>7</sup> An early version of my discussion of the death of Duke Humphrey in Shakespeare's play and its various versions appeared in 2013 (Krajník 2013).

<sup>8</sup> In this context, it is important also to mention Duke Humphrey's and his wife Eleanor's dreams in Act 1, Scene 2 of *Henry VI, Part Two*, which seem to expose the tendencies of both of the characters and, at the same time, predict the Duke's fall (for a further discussion of the scene, see Drábek 2013, 249-250).

*Suff.* Why that's well said. Goe, get you to my House,  
I will reward you for this venturous deed:  
The King and all the Peeres are here at hand.  
Haue you layd faire the Bed? Is all things well,  
According as I gaue directions?

1. 'Tis, my good Lord.

*Suff.* Away, be gone.

*Exeunt.* (Shakespeare 1623, n3r)

The most obvious difference between the two variants is the fact that, while in the Quarto version the murder takes place before the eyes of the audience, in the Folio text Shakespeare (or the unknown reviser) lets the act itself happen off the stage. The immediate visual effect of the Quarto version is in the Folio text replaced by the verbal account of the act, provided by one of the murderers ('what haue we done? / Didft euer heare a man so penitent?'). This simple message functions on two levels: on the one hand, it gives the audience a testimony of an image so horrible that even a professional assassin is shaken; on the other, it expands the episodic, stereotypical character of the murderer, giving him a certain inner psychology and conscience.<sup>9</sup> It is beyond the scope of this article to determine which of the two versions is earlier or 'authentic' and there does not seem to be a unanimous critical consensus on this question. Arthur Freeman (1968), for instance, argues that the Folio version is a later revision, made for a playhouse without a discovery space, whereas Claire Saunders (1985) maintains that the Quarto version is a revision of the Folio text in the vein of similar scenes in several popular plays of the same period. The latest issues of the two most important compact editions of Shakespeare's works, the Arden Shakespeare (2011) and the Oxford Shakespeare (2016), both seem to prefer the Folio reading. Whichever of the two texts holds chronological primacy, both of them have a significant dramatic impact and testify to competent dramaturgy on the part of the author. The Quarto version invests the scene with strong irony: when, shortly after the Duke Humphrey's murder, Cardinal Beaufort, one of the chief enemies of the Duke and architects of his fall, dies in painful agony in his bed, it is almost certain that the actors for this scene (which is present in both textual variants) used the very same bed in which the Duke had been murdered not long before. In this way, the motif of cause and effect (or, crime and punishment) was visually underscored.

The effect of the Folio text, however, is substantial as well. Even in the merely verbal account of the dramatic situation, the murderers' dialogue with Suffolk contains enough details for the audience to create their own image of the act: they learn that the Duke was murdered in his bed and that the assassins subsequently arranged the bed to destroy evidence of the crime. The pangs of conscience of one of the murderers emphasises the gruesomeness of the situation. Moreover, the first murderer's observation, 'Didft euer heare a man so penitent?' (Shakespeare 1623, n3r), lends the scene additional dramatic significance; by stressing Humphrey's penitence,

<sup>9</sup> Although the element of the murderers' conscience or moral dilemma is not present in older Elizabethan plays, a similar motif can be found in the Latin mediaeval play *Tres Clerici* (twelfth century). The story follows a journey of three students through a foreign land who find shelter at the house of an old and poor couple. Once the students fall asleep, the old man notices their moneybags, suggesting to his wife: 'let's put them to death, / so that we'll have the prize / of their treasure!' (ll. 113-115). The wife, however, argues that 'if such wickedness were done, / it would offend the Creator very greatly, / and if by chance anyone were to see it, / the whole world would get to know / our infamy' (ll. 116-120). The husband ultimately manages to persuade his wife to commit the crime, arguing that 'It'll be well concealed, / no one will know what will be carried out' (Anonymous 1994, ll. 121-122). It cannot, however, be assumed that Shakespeare or his contemporaries were aware of this work.

a marked contrast is created between his death and the already mentioned Cardinal Beaufort's, who in his final moments is not capable of turning to God and whose character is summarised by the Earl of Warwick's observation that 'So bad a death argues a monstrous life' (n3r). As we shall see, the emphasis of the victim's spiritual and moral purity is a motif that recurs in the majority of the plays under study.<sup>10</sup>

Of these, the closest to Shakespeare's *Henry VI, Part Two* in terms of both of the plays' plots, their major themes and, perhaps, the dates of their composition, is the anonymous *Thomas of Woodstock* (sometimes also called *Richard II, Part One*, since it only covers part of Richard II's reign and Shakespeare's *Richard II* may be seen as the former's loose continuation), perhaps the finest Elizabethan history not written by Shakespeare. The title character of the 'Plain Thomas' shares many inner and outer characteristics with the 'Good Duke' Humphrey (they both bear the title the Duke of Gloucester, are uncles and protectors of a weak and incompetent king, are of a pure character and are popular among common people) and it is significant that Duke Thomas is physically disposed of in a similar manner to Duke Humphrey in Shakespeare's play. Having been arrested and escorted to Calais by the King's orders, the mayor of the city, Lapoole, hires two assassins, who by means of murdering the Duke are to 'win King Richard's love with heaps of gold' (Anonymous 2002, 5.1.5). The murderers are given more space here than in both versions of the second part of *Henry VI*. At one point, one of them gives the mayor a detailed account of their unique 'art':

... See, my lord, here's first a towel with which we do intend to strangle him; but if he strive and this should chance to fail, I'll maul his old mazzard with this hammer, knock him down like an ox and after cut's throat. How like ye this? (5.1.7-11)

Similar to Suffolk, however, Lapoole insists that the murder be carried out 'so fair and cunningly / As if he died a common natural death' (5.1.12-13) and urges the murderers not to let the Duke's appearance unsettle them:

Believe me, sirs, his countenance is such,  
So full of dread and lordly majesty,  
Mixed with such mild and gentle behaviour  
As will, except you be resolved at full,  
Strike you with fear even with his princely looks. (5.1.19-23)

Upon the assassins' departure and still before the act, however, Lapoole himself in a longish soliloquy admits of his bad conscience, explicitly referring to Woodstock's innocence and God's revenge should the Duke die:

... now by my fairest hopes I swear  
The boldness of these villains to this murder

<sup>10</sup> Besides the obvious cultural connotations of the motif of a sinner deprived of peaceful sleep, the origins of this trope in the theatre can be traced back to the aforementioned liturgical plays (for instance, the image of the sleeping three kings, visited by an angel). In Elizabethan drama, a similar characterisation device can be found in Thomas Preston's historical morality *Cambyses, King of Persia* (c. 1561). The play contains two episodes in which Cambyses hires two assassins, with the allegorical names Murder and Cruelty, to dispose of the King's brother and wife. When Murder and Cruelty approach the Queen, she asks them, 'Yet before I dye some Psalme to God let me sing' (Preston c. 1584, F3r). The murderers comply with her request and, in a short monologue, the Queen bids farewell to the court, turns to God and forgives her cruel husband.

Makes me abhor them and the deed for ever.  
 Horror of conscience with the King's command  
 Fights a fell combat in my fearful breast;  
 The King commands his uncle here must die  
 And my sad conscience bids the contrary  
 And tells me that his innocent blood thus spilt  
 Heaven will revenge; murder's a heinous guilt,  
 A seven times crying sin. Accursèd man,  
 The further that I wade in this foul act  
 My troubled senses are the more distract,  
 Confounded and tormented past my reason.  
 But there's no lingering: either he must die  
 Or great King Richard vows my tragedy;  
 Then 'twixt two evils 'tis good to choose the least.  
 Let danger fright faint fools, I'll save mine own  
 And let him fall to black destruction.

*He draws the curtain [and discovers  
 Woodstock in bed].*

He sleeps upon his bed. The time serves fitly,  
 I'll call the murderers in. Sound music there  
 To rock his senses in eternal slumbers. *Music [sounds].*  
 Sleep, Woodstock, sleep, thou never more shalt wake.  
 This town of Calais shall for ever tell  
 Within her castle walls Plain Thomas fell. (5.1.31-54, square brackets original)

Compared to the second part of Shakespeare's *Henry VI*, the dramatic impact of the scene is markedly strengthened by means of the image of the sleeping Duke who is, in a dream (enacted directly on the stage), visited by the ghosts of Edward the Black Prince, King Richard's father, and King Edward III, Richard's uncle, to warn Woodstock against the King's scheme. The scared Duke wakes up and starts praying to God and the angels, thus frustrating the murderers' plans to kill him easily in sleep. Lapoole subsequently manages to soothe the Duke, upon which the murderers return on the scene to finish their business. Similarly to Shakespeare's play, here, too, one of the murderers suddenly feels a prick of conscience and openly regrets the deed, praising Duke Thomas's character at the same time:

*2 Murderer.* ... Pull, ye dog, and pull thy soul to hell in doing it, for thou hast killed the truest subject that ever breathed in England.  
*1 Murderer.* Pull, rogue, pull! Think of the gold we shall have for it and then let him and thee go to'th' devil together. Bring in the feather bed and roll him up in that till he be smothered and stifled and life and soul pressed out together. Quickly, ye hell hound. (5.1.232-239)

Upon Lapoole's return on the stage, a quick dialogue between him and the murderers follows, in which the mayor, similarly to Suffolk, instructs the men how to arrange the crime scene properly:

*Lapoole.* What, is he dead?  
*2 Murderer.* As a door-nail, my lord. What will ye do with his body?



*Lapoole.* Take it up gently; lay him in his bed.  
Then shut the door as if he there had died.

*1 Murderer.* It cannot be perceived otherwise, my lord. Never was murder done with such rare skill. At our return we shall expect reward, my lord.

*Lapoole.* 'Tis ready told.

Bear in the body, then return and take it.

*Exeunt* [Murderers] *with the body.* (5.1.247-256, square brackets original)

Unlike the second part of *Henry VI*, however, the murderers do not receive their reward and are killed by Lapoole's orders, their bodies thrown into the sea. What the two plays have in common is the fact that both murderers trigger an immediate uprising against the King. Both the scenes, therefore, play a similar role in the overall design of their respective plays.

So far, we have demonstrated an employment of the theatergram of the murder of a sleeping figure on the stage in two early history plays of the Elizabethan era. The obvious similarities between the plays indicate a relationship between them, be it a direct (the common author or an authorial collaboration) or an indirect one (an inspiration of one author by the other or a common inspiration by another source). However, before we attempt to pronounce a more definite judgement about the nature of this relationship, let us examine another play written in the same period, namely Christopher Marlowe's *Edward II*.

After a successful rebellion against King Edward II, in order to keep his newly gained political power, Mortimer the younger summons the mysterious Lightborn (whose name might signify a low-born person, but also a 'light-bearer', that is, Lucifer) to murder the deposed and imprisoned King. Just as the anonymous murderers in *Thomas of Woodstock* boast their 'rare skill' in front of Lapoole, Lightborn, too, in front of Mortimer talks about his 'brave' ways of killing a man, even exotic ones (Marlowe 1955, 5.4.37). Note the focus on murdering the victim in his sleep:

I learn'd in Naples how to poison flowers;  
To strangle with a lawn thrust through the throat;  
To pierce the windpipe with a needle's point;  
Or whilst one is asleep, to take a quill  
And blow a little powder in his ears:  
Or open his mouth and pour quicksilver down. (5.4.31-36)

Like Lapoole, Mortimer warns the murderer against irresolution in the face of the victim ('But at his looks, Lightborn, thou wilt relent', 5.4.26) and urges him, 'Well, do it bravely, and be secret' (5.4.28).

Although Marlowe has only one murderer in his play, the situation is enriched by two guards, Matrevis and Gurney, who assist Lightborn in the act, effectively becoming the co-murderers themselves. Upon requesting a hot spit, a table and a feather bed, Lightborn enters the King's cell. Once the King spots the assassin, he guesses at his commission and relies on God's spiritual support at his last moment:

These looks of thine can harbour nought but death:  
I see my tragedy written in thy brows.  
Yet stay awhile; forbear thy bloody hand,  
And let me see the stroke before it comes,  
That even then when I shall lose my life,  
My mind may be more steadfast on my God. (5.5.72-77)

Lightborn assures the King of the innocence of his intentions and encourages him repeatedly to lie down and sleep. At last, Edward does fall asleep; however, before Lightborn manages to commit the crime, he wakes up again, terrified (similarly to Woodstock in the anonymous play), which postpones his death:

*King Edward.* [*waking*] O let me not die yet: stay, O stay a while!

*Lightborn.* How now, my lord?

*King Edward.* Something still buzzeth in mine ears,

And tells me if I sleep I never wake;

This fear is that which makes me tremble thus.

And therefore tell me, wherefore art thou come? (5.5.100-105, square brackets original)

Upon this exchange, Matrevis and Gurney enter the scene and the King is murdered by being pressed on the bed by the table, on which the murderers stamp. Instead of receiving his reward, Lightborn is killed immediately after the act by Mortimer's secret order and his body, similarly to the bodies of the murderers in *Thomas of Woodstock*, is thrown into the moat. At the very beginning of the following scene, Matrevis gives a report of what happened to Baron Mortimer, which – in terms of both the overall situation and certain verbal details – is markedly similar to the conversation between the murderers of Duke Humphrey and Suffolk:

*Young Mortimer.* Is't done, Matrevis, and the murtherer dead?

*Matrevis.* Ay, my good lord; I would it were undone.

*Young Mortimer.* Matrevis, if thou now growest penitent

I'll be thy ghostly father; therefore choose,

Whether thou wilt be secret in this,

Or else die by the hand of Mortimer. (5.6.1-6)

As has been mentioned above, the numerous commonplaces between these plays can hardly be attributed to coincidence. Nor is it very possible that the similarities are simply the isolated borrowing of one author from another (a phenomenon which was otherwise quite common in English Renaissance theatre). The nature of the mutual dependence of the plays under study is not obvious at first sight: in a number of details, Marlowe's play is more similar to the anonymous *Thomas of Woodstock* (the course of the murder itself, the subsequent killing of the perpetrator and the disposal of his body, the use of the feather bed as a tool for murder); in others, it is closer to Shakespeare's play (Matrevis' report to Mortimer). Rather than a straightforward influence of one text on another, a more complex connection within a group of related texts should be considered. This idea might be supported by the fact that *Thomas of Woodstock* and the Quarto version of the second part of *Henry VI* both call for a curtain, behind which the victim's bedroom is discovered. The Elizabethan edition of *Edward II* lacks a scenic direction that would announce the discovery of the King in his cell; however, from the immediate context, this scenic solution seems entirely possible and even probable.

Since the analysed plays were written around the same time and the order of their composition is uncertain, it cannot be determined which author was inspired by which or whether they collaborated in any manner. Irving Ribner, for instance, questions the traditional hypothesis that *Thomas of Woodstock* is based on *Edward II*, maintaining that 'there is a good reason to suppose that *Woodstock* may be an earlier play than *Edward II* (2005, 133). Without further justification, however, he also assumes that *Thomas of Woodstock* draws from *Henry VI, Part Two*, which may or may not be the case (Shakespeare could as well draw from Marlowe or *Woodstock* or both).



The solid link between the texts could be the company who owned and produced them. On the title page of the 1594 Octavo of *Edward II*, we read that the play was ‘sundrie times publiquely acted in the honourable citie of London, by the right honourable the Earle of Pembroke his servants’. Although the title pages of the early editions of the second part of *Henry VI* do not mention the name of the company, Pembroke’s Men are mentioned on the title page of the Octavo edition of *Henry VI, Part Three* (1595). It can, therefore, be assumed that even the previous part belonged to the same troupe.<sup>11</sup> The shared manner of the staging of the discovery of the victim’s bed with Shakespeare and (possibly) Marlowe indicates that even *Thomas of Woodstock* might have been originally owned by the same company and staged in the same playhouse.<sup>12</sup> That might explain the numerous similarities between all the plays, not only in the design of one particular scene, but also in the delineation of some of the plays’ characters and the design of their overall plots. It is therefore possible that the affinities between the works in question are not the result of a spontaneous creative process (or three processes); rather, their source might have been the demands of the theatre company which, by means of recycling popular tropes, wanted to appease the tastes of their audiences and raise the commercial success of its productions.

Of all the plays in the present group, Shakespeare’s *Richard III* was probably written last and is the best demonstration of how Shakespeare treated the theatergram of the murder of a sleeping character for the purposes of his dramaturgy. Unlike the previous three cases, the murder scene takes place at the beginning of the play, which might be related the fact that the audience knows both the victim and the contractor of the murder from the previous parts of the tetralogy and there is no reason for any extensive exposition of the characters involved. Also, the murder scene plays a different role in the overall design of the play as the plot begins rather than culminates in it.

After Richard’s brother George Clarence is, as a result of the former’s intrigues, imprisoned in the Tower as an enemy of the King, Richard of Gloucester (the future King Richard III) sends for a pair of assassins to murder the Duke in his cell. Before these enter the scene, Clarence confides to his jailer Brackenbury the ‘fearful dreams’ and ‘ugly sights’ (*Richard III*, 1.4.3) that he saw the previous night, in which he met with the ghosts of the Earl of Warwick and Edward, Prince of Wales, for whose deaths he was responsible.<sup>13</sup> A parallel to the ghosts’ visitation in *Thomas of Woodstock* is obvious, except that whereas the ghosts of the Black Prince and Edward III came to warn Duke Thomas, the ghosts of Clarence’s dream condemn the dreamer, sending ‘a legion of foul fiends’ on him (1.4.58).<sup>14</sup> Affected by his nightmare, however, Clarence turns to God (similarly to Duke Thomas), whom he asks to ‘execute Thy wrath in me alone; / O spare my guiltless wife and my poor children’ (1.4.71-72).<sup>15</sup>

The characters of the assassins, albeit still remaining unnamed, are given most prominence of all the plays from the group. When the men enter the scene and Brackenbury leaves them

<sup>11</sup> Pembroke’s Men also appear on the title pages of early editions of Shakespeare’s *Titus Andronicus* and the (possibly) pre-Shakespearean comedy *The Taming of a Shrew*. It appears that Shakespeare collaborated with the company before his later engagement with the Lord Chamberlain’s Men. See also George 1981 and Gurr 1996, 266-273.

<sup>12</sup> There are no witnesses of the stage history of *Thomas of Woodstock*. A connection with several theatre troupes was suggested in the past (Chambers 1923, 42-43). The first one to propose a relationship between *Thomas of Woodstock* and the Pembroke’s Men was Wilhelmina P. Fijlinck (Anonymous 1929, xxv).

<sup>13</sup> Clarence’s three-part account of his dream remains, in the words of Geoffrey Tillotson, one of ‘the most telling in Elizabethan drama’ (Tillotson 1933, 519). For a discussion of the possible sources of Clarence’s dream, see Brooks 1979.

<sup>14</sup> With the exception of the Quarto and Folio versions of the second part of *Henry VI* (Shakespeare 1594 and Shakespeare 1623 respectively), all quotations from Shakespeare are taken from the latest Arden Shakespeare one-volume edition of his works (Shakespeare 2011).

<sup>15</sup> This prayer can only be found in the Folio version of the play. The Quarto text (1597) omits the entire appeal to God, perhaps because Clarence’s real-life wife, Isabel Neville, was already dead at that point. With the correction of Shakespeare’s historical error, the play loses the strongest moment of Clarence’s piety.

alone with the sleeping Clarence, the second murderer feels the prick of conscience and is resolved not to commit the crime:

- 2 *Murderer*. What, shall we stab him as he sleeps?  
 1 *Murderer*. No: he'll say 'twas done cowardly, when he wakes.  
 2 *Murderer*. Why, he shall never wake until the great Judgment Day.  
 1 *Murderer*. Why, then he'll say we stabbed him sleeping.  
 2 *Murderer*. The urging of that word, 'Judgment', hath bred a kind of remorse in me.  
 1 *Murderer*. What, art thou afraid?  
 2 *Murderer*. Not to kill him – having a warrant – but to be damned for killing him, from which no warrant can defend us.  
 1 *Murderer*. I thought thou hadst been resolute.  
 2 *Murderer*. So I am – to let him live. (1.4.99-113)

Similarly to the analogous situation in *Thomas of Woodstock*, the first murderer reminds the second of the generous reward which awaits them for the killing of Clarence, which makes the second man cast all doubts aside:

- 1 *Murderer*. Remember our reward, when the deed's done.  
 2 *Murderer*. Zounds, he dies! I had forgot the reward.  
 1 *Murderer*. Where's thy conscience now?  
 2 *Murderer*. Oh, in the Duke of Gloucester's purse. (1.4.122-126)

The second murderer's monologue on the issue of conscience shortly follows and, more than in any of the other plays, grants the audience a deeper insight into this otherwise stock figure. What is remarkable is the response of the first murderer since, this time, it is him who starts doubting the crime – something that we have not encountered in any of the plays before:

- 2 *Murderer*. I'll not meddle with it; it makes a man a coward. A man cannot steal but it accuseth him; a man cannot swear but it checks him; a man cannot lie with his neighbour's wife but it detects him. 'Tis a blushing, shamefaced spirit, that mutinies in a man's bosom. It fills one full of obstacles; it made me once restore a purse of gold that by chance I found. It beggars any man that keeps it; it is turned out of all towns and cities for a dangerous thing; and every man that means to live well endeavours to trust to himself, and live without it.  
 1 *Murderer*. Zounds, 'tis even now at my elbow, persuading me not to kill the Duke. (1.4.132-144)

The murderers ultimately wake Clarence up and hold a longish conversation with him, during which they rather surprisingly (and, perhaps, somewhat inappropriately) remind him of his previous sins and the betrayal of the Lancastrian cause. The murderers thus do not merely play the role of the executioners, but also the judges who decide on the guilt or innocence of the accused. Note how Clarence's words echo the response of King Edward II from Marlowe's play:

- Clarence*. How darkly, and how deadly dost thou speak.  
 Your eyes do menace me; why look you pale?  
 Who sent you hither? Wherefore do you come?  
*Both*. To – to –to – (1.4.167-170)

Unlike Lightborn, who, in response to the King's question 'Wherefore art thou come?', presently says, 'To rid thee of thy life' (Marlowe 1955, 5.5.106), the murderers in *Richard III*, when

confronted with the victim, are not capable of giving an answer. It appears that Shakespeare, if he had not known *Edward II* when writing the second part of *Henry VI*, was almost certainly familiar with the play when working on his *Richard III* and did not just allude to it by means of direct citations, but also creatively expanded on, and modified, its details for his own purposes. The same can also be said about the anonymous *Thomas of Woodstock*, with which Shakespeare's play shares a number of elements as well (chiefly both of the victims' dreams), which are each time employed for a different purpose and with a different effect.

It is also interesting to observe how the strong element of piousness and humility, which can be observed even in the morally ambiguous Edward II, is in Shakespeare's *Richard III* partly transferred from the victim to the murderers: in this case, it is the assassins who urge the Duke to turn to God before his death:

*2 Murderer.* Make peace with God, for you must die, my lord.  
*Clarence.* Hast thou that holy feeling in your souls  
 To counsel me to make my peace with God,  
 And are you yet to your own soul so blind  
 That you will war with God by murd'ring me? (1.4.246-250)

The question remains whether these attempts to expand on the originally episodic figures, who in other plays pronounce no more than a handful of lines and whose delineation is barely existent, do not lead to the characters' overdesign and a loss of their dramatic credibility. Even Marlowe, who let his murderer appear in more scenes and, by providing him with a name and background, lent him certain individuality, did not attempt to deepen the character in ethical or even philosophical terms and, during the performance of the crime itself, let him act in the same manner as other stock murderers on the Elizabethan stage. It appears that in *Richard III* Shakespeare found special interest in the murderers of the sleeping victim and their dramatic potential – an interest which years later took the form of fully developed dramatic characters such as Othello.

Just as in all the aforementioned plays, the scene ends with a murder, after which the second murderer again expresses remorse (the motif thus occurs for a third time) and, by means of an almost identical remark to that of the second murderer in the Folio version of *Henry VI, Part Two* and Matrevis in *Edward II*, wishes that the crime had not been committed:

*2 Murderer.* A bloody deed, and desperately dispatch'd.  
 How fain, like Pilate, would I wash my hands  
 Of this most grievous murder.

*Enter First Murderer.*

*1 Murderer.* How now! What mean'st thou that thou help'st me not?  
 By heavens, the Duke shall know how slack you have been.  
*2 Murderer.* I would he knew that I had sav'd his brother. (1.4.268-273)

What is noteworthy about the scene of Duke Clarence's murder is, however, not merely its particular details, which testify to the development of the established dramatic pattern and Shakespeare's attempt to invest it with additional dramatic significance. An aspect of the scene also deserving our attention is its relation to the parallel situation in the anonymous *True Tragedy of Richard III*, whose author and exact date of composition remain unknown, but which appears

to be a direct model for *Richard III* and to which Shakespeare alluded even in his later works (Bullough 1960, 237-239). In the *True Tragedy*, Duke Clarence's murder is not presented on the stage at all and the model for Act 1, Scene 4 of Shakespeare's play was, in fact, the murder of the Princes in the Tower in Scene 12 of *The True Tragedy*.

The murder scene in *The True Tragedy* shares a number of elements with *Thomas of Woodstock* and *Edward II*, indicating that the play was in some way connected with *Henry VI*, *Woodstock* and *Edward II*, or was written somewhat later with these in mind. After Brackenbury hands over to Terrell (Tyrrel) the keys to the Tower where the Princes are, the latter brings a Myles Forest, who has upon Richard's request hired two assassins, named Will Slawter and Jack Denton. After their introduction, Terrell, similarly to Lapoole in *Thomas of Woodstock* or Mortimer in *Edward II*, instructs the men to remain firm and show no mercy:

*Terrell.* Come hither sirs, to make a long discourse were but a folly, you seeme to be resolute in this cause that Myles Forest hath delivered to you, therefore you must cast away pitie, & not so much as thinke upon favour, for the more stearne that you are, the more shall you please the King.

*Will.* Zowne sir, nere talke to us of favour, tis not the first that Jack and I have gone about. (12.1223-1229)<sup>16</sup>

A rather bizarre discussion follows about the way in which the murderers will assassinate the Princes: whether with a gun or by crushing their heads against the wall or cutting their throats. In comparison with the list of the murderers' abilities in *Thomas of Woodstock* and *Edward II* mentioned above, which are delivered in chilling seriousness, this exchange in *The True Tragedy* sounds almost parodic, resembling the ingenious, but vain efforts of the pair of murderers in one of the Shakespeare apocrypha, *Arden of Faversham* (1592), who repeatedly and in various ways attempt to murder the title character of Arden upon Arden's wife request.<sup>17</sup> Ultimately it is Terrell who decides about the method of the murder:

*Terrell.* Nay sirs, then heare me, I will have it done in this order, when they be both a bed and at rest, Myles Forest thou shalt bring them up both, and betweene two feather beds smother them both.

*Forest.* Why this is verie good ... (*The True Tragedy*, 12.1245-1248)

Note the detail common with *Thomas of Woodstock* and *Edward II*, the feather bed which is used for smothering the victims. Another commonplace of all the plays is the pattern according to which one of the murderers, when facing the victim, regrets the act while the other castigates him harshly (in Marlowe's play, the murderers' roles are assigned to Matrevis and Mortimer; the effect, however, is similar):

*Denton.* I promise thee Will, it grieves mee to see what mone these yoong Princes make, I had rather then fortie pounds I had neere tane it in hand, tis a dangerous matter to kill innocent princes, I like it not.

<sup>16</sup> Quotations from *The True Tragedy* are drawn from Bullough 1960, 317-345.

<sup>17</sup> Although there is no murder of a sleeping victim in *Arden of Faversham*, a relationship between *Arden* and *True Tragedy* cannot be ruled out. They were both most probably written not more than a few years apart and one of the murderers in *The True Tragedy*, Will Slawter, is nicknamed Black Will, which is the name of one of Arden's murderers both according to the anonymous play and Holinshed's *Chronicles*, which gives an account of the real event on which the play was based.

*Will.* Why you base slave, are you faint hearted, a little thing would make me strike thee, I promise thee.

*Denton.* Nay go forward, for now I am resolute: but come, lets too it. (12.1295-1302)

The text of the Quarto edition of *The True Tragedy* is generally very sketchy and it is not obvious how exactly the murder was executed on the stage. During the act itself, the Princes are not assigned any spoken lines; similarly to Duke Humphrey in Shakespeare's *Henry VI*, the victims could thus remain silent during the performance. It is significant, however, that one of the murderers calls the princes 'innocent', which similarly to the word 'penitent' in the second part of *Henry VI* emphasises the moral purity of the victims, contrasting them with the viciousness of the real criminal (that is, the contractor of the murder, Richard of Gloucester, rather than the actual murderers). Like the second murderer in *Thomas of Woodstock*, immediately after the act, Denton asks how to deal with the dead bodies:

*Jack [Denton].* Come presse them downe, it bootes not to cry againe, Jack upon them so lustily. But maister Forest now they are dead what shall we do with them?

*Forest.* Why goe and bury them at the heape of stones at the staire foote, while I goe and tell maister Terrell that the deed is done.

*Will.* Well we will, farewell maister Forest. (12.1311-1317)

There are several possible reasons why Shakespeare decided to utilise the murder of the Princes in the Tower for the murder of Clarence at the beginning of his play. Firstly, his *Richard III* – unlike *The True Tragedy* – is the culmination of a long dramatic saga in which George Clarence played an important part and his death needed to be physically represented or, at least, given an extensive account. At the same time, however, Shakespeare might have seen a dramatic potential in the confrontation of the murderers with the Duke – one that was not present in the murderers' encounter with the Princes, who could hardly become the murderers' interlocutors in the same manner as the adult and experienced Clarence. Similarly to Marlowe's Edward II, Clarence, too, is a highly ambiguous figure who, in the course of the conflict between the Lancasters and Yorks, did not hesitate to lie, murder and betray his close ones. His assassination can be simultaneously understood as a bloody crime at the beginning of Richard of Gloucester's path to the throne, but also as a punishment for Clarence's previous sins. This might be why his murderers play both the roles of judges and executioners, as has been mentioned above. The subsequent death of the Princes in the fourth act of Shakespeare's version of the story is, on the one hand, an important breaking point where Richard loses all the remaining sympathies of the audience and, as such, the situation deserves the emotional emphasis which a scenic realisation would provide; on the other hand, Shakespeare probably felt that Tyrrel's moving account of the off-stage murder ('Dighton and Forrest ... / Albeit they were flesh'd villains, bloody dogs – / Melted with tenderness and compassion, / Wept like two children, in their deaths' sad story', *Richard III*, 4.3.4-8) would serve this purpose very well and the visualisation of the theatergram would be more effective at a different point in the story. It can be observed that, while other authors more or less adhered to convention and merely replicated the ready-made theatergram with a handful of small alternations, Shakespeare handled it in a more independent and creative fashion, as if sensing room for its further expansion and development.

### 3. *Sleeping Innocence and Murderous Lust on the Jacobean Stage (c. 1603-1615)*

Even after the wave of histories from the early 1590s had tapered off, Shakespeare did not lose interest in the theatergram and returned to it regularly in various forms throughout his

entire dramatic career. Although the death of King Richard II at the end of the play of the same title does not include a sleeping victim, the situation shares some key elements with the aforementioned histories, namely the King's murder by a group of assassins in his cell and the immediate notion of one of them that 'this deed is chronicled in hell' (*King Richard II*, 5.5.116). An echo of this scene can also be found in *King Lear*, when Edmund commissions a murderer to hang the imprisoned Cordelia and Lear and, at the very last minute, wishes to do 'Some good' and avert the tragedy (5.3.241). An assassination of an actual sleeper is reconstructed in a detective-like fashion in 'The Murder of Gonzago' in *Hamlet*. After all, when the ghost of old Hamlet informs the prince of the 'most foul, strange and unnatural' (1.5.28) murder of the late King, he might refer not only to the fact that he was killed by his own brother, but also that the crime happened in his sleep. Despite this unbroken popularity of the trope on the early modern stage, however, there seem to be several loosely related Jacobean plays which employ the motif in a distinct enough way to allow us to put them in one tentative group, similar to that from the early 1590s, to observe the growth of the theatergram and its influence on dramatic language at one specific point in the history of English theatre.

By the early Jacobean period, theatre had undergone marked changes, and new themes, forms and genres, such as musical drama, satires, sex comedies, chastity plays and violent revenge tragedies, were gaining prominence in the repertoires of London playhouses. Despite this shift in the taste of English audiences, the motif of an innocent sleeper who finds himself or herself defenceless against a violent perpetrator proved to be versatile and viable enough to retain its previous popularity. Although, just as in the case of the Elizabethan histories discussed above, it is difficult to determine the exact relationship between the plays from this period of time linked by the trope, it is interesting to observe that all of them are somehow connected with the King's Men and William Shakespeare, who, as we have seen, greatly contributed to the popularity of the motif in the previous decade and experimented with its dramaturgical possibilities.

A prime (and perhaps the earliest) example of an early Jacobean employment of the theatergram of the victimised sleeper is the infamous bedroom scene in Shakespeare's *Othello* (c. 1603). At its beginning, the audience watches the play's eponymous protagonist cautiously approaching his very own bed, with a lamp in his hand, and drawing back its curtain. Although he has expected to find there what he has just found, he stays petrified for a moment and the dramatic action of the play temporarily ceases as well. The image of the beautiful Desdemona fills Othello with almost sacred awe and makes him once more question the intention with which he came. The flow of dramatic time, as it were, stops and the audience is left to observe how Othello, having for a moment exchanged rage for scopophilic lust, observes his sleeping wife:

It is the cause, it is the cause, my soul!  
 Let me not name it to you, you chaste stars,  
 It is the cause. Yet I'll not shed her blood  
 Nor scar that whiter skin of hers than snow  
 And smooth as monumental alabaster:  
 Yet she must die, else she'll betray more men.  
 Put out the light, and then put out the light!  
 If I quench thee, thou flaming minister,  
 I can again thy former light restore  
 Should I repent me. But once put out thy light,  
 Thou cunning'st pattern of excelling nature,  
 I know not where is that Promethean heat  
 That can thy light relume: when I have plucked thy rose



I cannot give it vital growth again,  
 It must needs wither. I'll smell it on the tree;  
 O balmy breath, that dost almost persuade  
 Justice to break her sword! Once more, once more:  
 Be thus when thou art dead and I will kill thee  
 And love thee after. Once more, and that's the last.  
 [He smells, then kisses her.]  
 So sweet was ne'er so fatal. I must weep,  
 But they are cruel tears. This sorrow's heavenly,  
 It strikes where it doth love. She wakes. (5.2.1-22, square brackets original)

The phrase 'to observe how Othello observes' is a key one here, since, although the focal point of Othello's words is Desdemona, her role within the situation is merely structural. Indeed, Desdemona's radiant beauty, as praised by Othello, is no more real than the starry night on which the scene takes place and all the audience can 'see' is, in fact, a purely verbal, not visual, image delivered by Othello's soliloquy.<sup>18</sup> The way in which Othello describes what he sees, however, gives the viewers just enough information to create an entirely different image: that of his character and momentary mental disposition. In *Othello*, the depiction of sleep thus does not judge the sleeping victim, whose purity has already been proven by the previous dramatic narrative, but the potential perpetrator, whose deeds are yet to be determined.

We can see that, since the 1590s, the motif had undergone a number of important changes. Most obviously, the political animosities and machinations that were indispensable in Elizabethan histories are replaced by a highly personal, intimate conflict, which is one of the cornerstones of Jacobean chastity plays. The basic situation, however, remains largely unaltered. From the technical point of view, instead of two murderers, the play employs just one, who has to act out the moral dilemma of the earlier plays on his own. Indeed, whereas previously the audience witnessed an argument between two characters, one of whom feels pangs of conscience and decides not to commit the crime, here the fight between action and inaction takes place inside the protagonist. For Othello, the journey from 'Yet I'll not shed her blood' (5.2.3) to 'Yet she must die' (5.2.6) is just as arduous as the one from the affectionate 'Excellent wretch' (3.3.90) to the hateful 'lewd minx' (3.3.478), as he calls Desdemona at various stages of the 'temptation scene', the longest scene of the play. The image of the murderer over the sleeping body in *Othello* thus primarily becomes a means of re-enacting the whole conflict of the play before it can finally be resolved.

While Tobin and Carver are correct when identifying the ultimate source of the scene in the story of Cupid and Psyche from Apuleius's *Metamorphoses* (Tobin 1979, 38; Carver 2007, 432-433), perhaps even more important is the fact that Othello's soliloquy shares a number of verbal parallels with Tyrrel's report of the death of the young Princes in Shakespeare's *Richard III*. While Othello calls Desdemona the 'cunning'st pattern of excelling nature' (5.2.11), Dighton and Forrest call the Princes 'The most replenished sweet work of Nature' (*Richard III*, 4.3.18); Desdemona's 'whiter skin ... than snow / And smooth as monumental alabaster' (*Othello*, 5.2.4-5) has a clear antecedent in the Princes' 'alabaster innocent arms' with which they held each other at the moment of death (*Richard III* 4.3.11); the Princes' lips were 'four red roses on a stalk, / And in their summer beauty kiss'd each other' (4.3.12-13), while Othello calls Desdemona herself a rose, wishing to kiss her for the last time ('Once more, once more' 5.2.17);

<sup>18</sup> In early seventeenth-century productions, 'Desdemona' was in fact a boy in costume, who in a large theatre would hardly have been visible to the majority of the audience in any case, while the 'night' was induced by the presence of lamps, torches or candles, since performances in public theatres took place in the early afternoon.

finally, while the murderers 'Wept like two children' at the sight of the sleeping Princes and the thought of the crime which they were about to commit (*Richard III* 4.3.8), Othello, at the sight of his sleeping wife, sheds 'cruel tears' (5.2.21), which ultimately wake Desdemona up. Although each of the scenes serves a different purpose within the structures of their respective plays, the shared vocabulary shows the continuity of a single dramatic pattern to which Shakespeare returned years later in order to employ it in the context of a different dramatic genre and style.

It appears that Shakespeare was not the only Jacobean playwright who liked to employ this situation for the sake of his dramaturgy (or, simply, for its sensational effect) and it is possible that it was Shakespeare's *Othello* that motivated other authors of the period to include a similar situation into their works. In terms of the scene's iconography, the same basic situation can be found in the Faustian tragedy *The Devil's Charter*, written by Barnabe Barnes and staged by the King's Men in 1607 at court in the presence of James I. In the play, the vicious and corrupt Alexander VI (who signed a pact with the devil to become Pope) murders a number of people for political or hegemonic reasons. Among his victims are his lover, the Italian Prince Astor, and the Prince's brother Philipppo, whom the Pope decides to kill in order to get Astor's lands. When he approaches the bed with the sleeping men, he soliloquises in a similar manner to Othello, revealing his criminal intentions:

Sleepe both secure vpon your fatall bed,  
 Now that the God of silence *Morpheus*,  
 Hath with his signet of black horne seal'd vp,  
 Your langued eye lids loaden with pale death,  
 Sleepe vntill you draw your latest breath,  
 Poore harmeles boyes strangers to sinne and euill,  
 Oh were my soule as innocent as yours! (Barnes 1904, 4.5.2509-2515)

Before Alexander manages to commit the murder, however, both men stir in their bed and pray in their sleep, as if in an anticipation of their demise:

*Ast.* Faire gracious Angell of eternall light,  
 Which reachest out that hand of happines.  
 Hayling my spirit to that triumphant throne,  
 Of endles comfort I adore thy grace.  
*Phi.* *In his sleepe.* Oh goulden light of neuer setting Sunne,  
 Harke brother *Astor* harke my soule is rapt,  
 Into the ioyes of heauen with harmony.  
*Alex.* Doe they not sleepe? are they not yet a sleepe?  
 Be not their sences yet lockt vp in sleepe. (4.5.2532-2540)

Although Barnes's play lacks Shakespeare's language and sophistication, the similarity between the scene of Othello killing his wife and Pope Alexander killing his lover is obvious. While the motif of the murderer's dilemma is absent in *The Devil's Charter*, the moment of the innocent victims praying in their sleep is evocative of the murder of King Duncan in Shakespeare's *Macbeth* (c. 1604-1605), when the Scottish King's sleeping bodyguards in the adjacent room start praying and Macbeth finds himself unable to participate by pronouncing 'Amen' (2.2.28).<sup>19</sup> Another possible reference to Shakespeare is the rather bizarre method by which the Pope murders the Princes: he poisons them with asps, which he calls '*Cleopatraes* birds', telling the sleeping Princes, 'With *Cleopatra* share in death and fate' (Barnes 1904, 4.5.2547 and 2556). It might be assumed that *The Devil's Charter* was staged shortly after Shakespeare's *Antony and*

<sup>19</sup> For a detailed discussion of this scene and the theological implications of Macbeth's failure to pray, see Jochums 1969.



*Cleopatra* (c. 1606-1607), which would still have been clear in the memories of the audiences of the King's Men, and the murder capitalised on the former play's success.

With the roles of the villain and the victim switched, a scene resembling *Othello* and *The Devil's Charter* also appears in Francis Beaumont and John Fletcher's *The Maid's Tragedy*, which combines elements of Jacobean chastity plays and revenge tragedies and which also belonged to the King's Men's repertoire. In the scene in question, the unnamed King's mistress Evadne avenges the shame caused to her by her royal lover. When approaching the King's bed, she wonders how he can sleep so soundly and asks God, 'Why give you peace to this untemperate beast / That hath so long transgressed you?' (Beaumont and Fletcher 1988, 5.1.25-26). Then Evadne decides that she 'must not / Thus tamely do it [murder the King] as he sleeps' (5.1.28-29), but rather that 'my vengeance / Shall take him waking, and then lay before him / The number of his wrongs and punishments' (5.1.30-32). Ultimately, she ties the King to his bed, awakes him and stabs him to death, despite his begging for mercy.

In the rather obscure play *The Valiant Welshman* (before 1615), sometimes attributed to the King's Men's comic actor Robert Armin, the King of Britain's brother Gald hides, invisible with the help of magic, in the bedroom of his wife Voada, who has been abducted by the Roman Marcus Gallicus, and watches how Marcus, with a candle and a sword in his hands, 'like bloody *Tarquin*' (Anonymous 1902, 5.1.14) lustfully approaches Voada's bed:

[*Marcus*]. ... Behold the locall residence of loue,  
Euen in the Rosie tincture of her cheeke.  
I am all fire, and must needs be quencht,  
Or the whole house of nature will be burnt.  
Fayre *Voada*, awake: tis I, awake. (5.1.38-42)

Before Marcus Gallicus manages to touch the woman, however, Gald and his associate Bluso the magician burst forward, 'tumble Marcus ouer the bed' and take Voada off stage (SD after 5.1.72). In terms of its poetry, *The Valiant Welshman* can again hardly be compared to plays by Shakespeare or Beaumont and Fletcher, and the resolution of the situation, combined with the presence of magic, creates a markedly different atmosphere from those in the aforementioned plays. Since *The Valiant Welshman* was possibly written more than a decade after *Othello* and five to ten years after the rest of the other Jacobean plays discussed here, the author might have wanted to subvert the well-known situation. After all, Thomas Middleton's grotesque employment of the Hamletian skull in his 1606 *The Revenger's Tragedy* shows that this technique was not uncommon in English Renaissance theatre. The reference to *Tarquin* in *The Valiant Welshman* might, however, evoke a sense of imminent danger, and the sole physical detail describing Voada's 'Rosie tincture of her cheeke' echoes the physical description of Desdemona provided by *Othello*, as well as the language of Shakespeare's *The Rape of Lucrece*.<sup>20</sup>

In the Beaumont and Fletcher apocryphal play *The Faithful Friends* (1604-1626), which only survives in a manuscript, the Roman general Marcus Tullius, having been falsely persuaded that in his absence his friend Armanus served as a pander in his (Tullius') wife Philadelphas's affair with King Titus Martius, finds Armanus asleep in a forest, remarking that

he is so vsed to sin  
nott the black furies that still houle about him

<sup>20</sup> In Shakespeare's *The Rape of Lucrece*, a full eleven stanzas are devoted to *Tarquin's* observation of the sleeping Lucrece, explicitly mentioning her 'rosy cheek' (l. 386).

nor his own guilt that euer calling him  
can waken him. (Anonymous 1975, 4.1.2311-2314)

Although Tullius seems to be determined to take revenge at first, he ultimately finds himself overcome with very Othellian doubts:

my hand shakes  
Reuenge and furie gard mee round about  
and force calme pittie and compassion back  
once more haue at thee, still my arme wants strength  
and cannot hold my weapon. (4.1.2318-2322, square brackets original)

The basic situation, which revolves around a husband who is unjustly jealous of his wife and wants to avenge her infidelity and his humiliation, is similar to Othello's (although, in *The Faithful Friends*, the King indeed wants to seduce Philadelpha, who is moreover still a virgin as her and Tullius' marriage has not yet been consummated). Unlike Othello's Desdemona, however, when Armanus awakes, he assures Tullius of his innocence and Philadelpha's faithfulness and the friends are reconciled. Since the scene does not directly involve a female character, it lacks any physical description of the potential sleeping victim. What is, however, significant is the mention of the quality of Armanus's sleep – Marcus Tullius wonders how such a sinful person might sleep so calmly. While in *The Maid's Tragedy*, a similar remark ('Why give you peace to this untemperate beast / That hath so long transgressed you?', Beaumont and Fletcher 1988, 5.1.25-26) creates little tension since Evadne's assessment of the King's character is accurate, in *The Faithful Friends* (Anonymous 1975), the audience knows that Armanus is innocent and his undisturbed sleep serves, as it were, as an indicator of the quality of his character – a role similar to the piousness of the sleeping victims in Elizabethan tragedies discussed above.<sup>21</sup>

The recurrent motif of female chastity, which seems to be the crux and the common denominator of all the scenes from this group (with the exception of *The Devil's Charter*, where the lover is male and the reason for the murder is purely materialistic), is also strongly present in *Cymbeline*, a play which again shows Shakespeare's creative approach to the dramatic convention. While in many respects following the pattern of *Othello*, Shakespeare in *Cymbeline* decided to ascribe the theatergram a dramaturgical function different from the parallel situation in the older play. The scene does no longer mark the climax of the play's main conflict – instead, it plays a necessary role in its creation. Moreover, while in *Othello*, and all the plays we have mentioned so far, the sleeping character was in imminent physical peril, in *Cymbeline* the actual death is replaced by the assassination of the victim's character. The theme of chastity is thus emphasized even more, creating equivalence between the value of female virtue and the value of her life (especially if the supposed loss of the former ultimately leads to Imogen's husband Posthumus' demand for the latter).

The scene again takes place in the middle of the night, showing sleeping Imogen and Iachimo, hidden in her bedroom, attempting to secure false evidence which would incriminate Imogen in the eyes of her husband:

<sup>21</sup> As already mentioned, the belief in the correlation between the quality of sleep and the quality of the sleeper was an early-modern commonplace: 'For do but consider what an excellent thing sleep is: it is so inestimable a jewel, that, if a tyrant would give his crown for an hour's slumber, it cannot be bought' (Dekker 1905, 25). See also King Henry's soliloquy on sleep in Shakespeare's *Henry IV, Part Two* (3.1.4-31).

*Iachimo.* The crickets sing, and man's o'er-laboured sense  
 Repairs itself by rest. Our Tarquin thus  
 Did softly press the rushes, ere he waken'd  
 The chastity he wounded. Cytherea,  
 How bravely thou becom'st thy bed! fresh lily!  
 And whiter than the sheets! That I might touch!  
 But kiss, one kiss! Rubies unparagon'd,  
 How dearly they do't: 'tis her breathing that  
 Perfumes the chamber thus:

...

Such, and such pictures: there the window, such  
 Th'adornment of her bed; the arras, figures,  
 Why, such, and such; and the contents o'th' story.  
 Ah, but some natural notes about her body,  
 Above ten thousand meaner moveables  
 Would testify, t'enrich mine inventory.  
 O sleep, thou ape of death, lie dull upon her,  
 And be her sense but as a monument,  
 Thus in a chapel lying.

...

[*taking off her bracelet*]

...

'Tis mine, and this will witness outwardly,  
 As strongly as the conscience does within,  
 To th' madding of her lord. On her left breast  
 A mole, cinque-spotted: like the crimson drops  
 I'th' bottom of a cowslip. Here's a voucher,  
 Stronger than ever law could make; this secret  
 Will force him think I have pick'd the lock and ta'en  
 The treasure of her honour.

...

... She hath been reading late,  
 The tale of Tereus, here the leaf's turned down  
 Where Philomel gave up. I have enough: (*Cymbeline*, 2.2.11-46)

Despite the verbal similarities with the bedroom scene in *Othello* (especially in the description of the sleeping woman: 'fresh lily, / And whiter than the sheets', 'Rubies unparagon'd / How dearly they do't', 'her breathing that / Perfumes the chamber') and the common iconography of the situation, the scenes' overall mood and dramaturgical purpose are substantially different. Rather in the fashion of the theatergram in *Richard III*, Shakespeare decided to insert the scene at an earlier stage in the play, making it an impulse for the further development of the story and a source of future dramatic tension in the central plot of the play. As such, the roles of the characters involved are largely altered: while the character of the innocent sleeper remains (in this case, her virtue is even supported by the name Imogen, which is sometimes transcribed Innogen, and the pseudonym Fidele, which she adopts later on in the play), the perpetrator is not, and cannot be, charged with a dilemma similar to Othello's or Tullius'. This kind of emotion is attributed later on to Posthumus, who orders his wife to be murdered for her supposed crime; in the bedroom scene of *Cymbeline*, Iachimo assumes the role of Iago who, in like manner invented a false 'nocturnal story' of Cassio's talking in his sleep about his affair with Desdemona (3.3.421-428). Iachimo's taking Imogen's bracelet is the equivalent of Iago's obtaining of Desdemona's handkerchief, which becomes a tangible proof of his fabricated narrative.

The strength of the scene again lies in the visual representation of the criminal looming over the defenceless victim. The emotional effect on the audience, however, seems to differ from the aforementioned examples: although the spectators are not supposed to sympathise with Iachimo and his scheme,<sup>22</sup> the graphic detail of his language and his resourcefulness in the situation makes them share the villain's perspective and participate with him in his crime, if only for a brief moment. The suspense which the image generates is no longer based on the audience's hoping that the criminal will ultimately change his mind and spare the victim, or that the victim will wake up in time and manage to escape – rather, the theatregoers, while still dreading the outcome, are invited to adopt the violator's desire that the sleeper will *not* wake up ('O sleep, thou ape of death, lie dull upon her' 2.2.31) and that he will manage to execute his plan. We might say that Othello's inner fight in *Cymbeline* vicariously become the spectators', who, at the same time, lack any influence on Iachimo's decisions or the consequences of his actions. While deprived of some of its original functions, the theatergram thus gains a new structural and dramaturgical significance, testifying both to its versatility and ongoing popularity with Jacobean audiences, as well to Shakespeare's capability of constantly reframing the well-known convention in new dramatic and cultural contexts.

One more use of the motif of an endangered sleeping victim by Shakespeare can be found in his presumably last play, *The Tempest*. Although from the strictly chronological perspective, *The Tempest* might be considered a member of the same group as the aforementioned Jacobean plays, in terms of its dramatic language it rather resembles a bridge of a kind between the Elizabethan and Jacobean variants of the theatergram or, perhaps, an amalgamation of the two. In Act 2, Scene 1 of the play, Ariel puts to sleep Alonso, King of Naples, and his companions, who have just been shipwrecked on Prospero's enchanted island. The only ones remaining awake are Alonso's brother, Sebastian, and Antonio, usurper Duke of Milan. Antonio urges Sebastian to kill the sleeping King and assume the throne of Naples in a fashion similar to that in which Sebastian banished his own brother (whom he presumes dead) twelve years before and replaced him as Duke of Milan. The motif of the usurper's conscience, albeit briefly, surfaces:

*Sebastian.* But for your conscience?

*Antonio.* Ay, sir, where lies that? If 'twere a kibe  
 'Twould put me to my slipper, but I feel not  
 This deity in my bosom. Twenty consciences  
 That stand 'twixt me and Milan, candied be they  
 And melt ere they molest! Here lies your brother,  
 No better than the earth he lies upon.

...

*Sebastian.* Thy case, dear friend,  
 Shall be my precedent. As thou got'st Milan,  
 I'll come by Naples. Draw thy sword! One stroke  
 Shall free thee from the tribute which thou payest,  
 And I the king shall love thee. (2.1.277-296)

Structurally, the scene effectively mirrors the central conflict in the story, between the ousted Prospero and his brother Antonio. In the vein of Shakespeare's late romances, the action is

<sup>22</sup> The gravity of his crime is, again, emphasised at the beginning of the scene when Iachimo likens himself to Tarquin. This allusion, just as the later reference to the story of Tereus' rape of Philomela from Ovid's *Metamorphoses*, can be understood as a kind of *mise en abyme* of the scene.

interrupted by magic when Ariel wakes Alonso up before the regicide can be committed, paving the way for the overall consolatory tone of the work. Although, just like in the other Jacobean plays under study, the scene is centred on the prospective perpetrators, their motivation and tendencies, the presence of magic controlling human behaviour and Prospero's ultimate forgiveness to his past wrongdoers weaken the moral overtones of the situation. It is interesting to observe how Shakespeare revises the older form of the theatergram, having two potential assassins rather than one, who encourage each other and spurn the possible pangs of conscience. The theme of chastity or revenge, which was the leitmotif of the plays from the later group of plays and sometimes even a source of voyeuristic pleasure for the audience, is absent here as well, being replaced by political machinations and expediency, as known from Elizabethan history plays. As such, the reiteration of the theatergram in *The Tempest* combines elements of both variants of the dramatic pattern, lending the trope a unique feel and yet new dramaturgical role – perhaps more mannerist than structurally effective, but definitely retaining much of its thematic value thanks to the cultural sensitivities of the period and the rich tradition that helped to establish the situation among the popular staples of the language of early modern English theatre.

#### 4. Conclusion

Sleep in the early modern period enjoyed a special cultural status with a number of thematic connotations. The common idea of dangers which sleepers potentially face every night proved to be a particularly productive dramaturgical device, which was frequently employed in Renaissance plays for various technical purposes. We have seen that a distinct type of this device was the depiction of a defenceless sleeping character on the stage, who is to be either murdered or in another way victimised. Although the basic dramatic situation was in essence mediaeval, English Renaissance dramatists appear to have been especially fond of its iconography and strove to make use of its dramaturgical potential to the fullest.

While the two groups of plays discussed in the present article might seem to be separated from each other by roughly a decade and the end of one theatre epoch and beginning of another one, there appears to be a natural connection between them. Firstly, although the chronology of the works in question is uncertain, there is a continual tendency to shift in their focus from the sleeper to the criminal. This tendency is discernible even in earlier histories, such as Marlowe's *Edward II*, which introduces Lightborn with some features typical of Marlovian (anti) heroes, and Shakespeare's *Richard III*, where the characters of the anonymous murderers seem to be stretched to the very limit of their dramatic potential. The same focus can be observed in the Jacobean plays under study, where the role of the victim within the scene becomes largely structural and it is the perpetrator who dominates the scene.

Second, it can be seen that the scenes played an ever greater role within the structures of their respective plots. Even in the second part of *Henry VI*, Shakespeare obviously wanted the spectacle of Duke Humphrey's murder to have more significant consequences for the story; in his *Cymbeline* some two decades later, the crime against the sleeping figure directly influences the further development of the plot and creates a conflict that is only resolved at the very end of the play. Besides these examples, however, there were also authors who primarily utilised the scene for its attractive visual potential and its ability to generate immediate dramatic suspense, such as Barnabe Barnes in *The Devil's Charter* or Robert Armin (?) in his *The Valiant Welshman*. Even these, however, existed within the context of more complex employments of the same dramatic situation, which probably made the former highly evocative in the eyes of Jacobean theatregoers. This observation can also be applied to Shakespeare's late comedy *The Tempest*,

where the same dramatic situation is on the one hand employed somewhat to reduce the moral overtones while, on the other, it still remains recognisable.

Finally, all the plays in question revolve around William Shakespeare and his playing company, which might indicate that the company's shareholders wanted to recycle the trope because of its popularity among their audiences and its commercial potential. The early Elizabethan histories which we have discussed here seem to have been connected with Lord Pembroke's Men, with whom Shakespeare collaborated before his engagement with the Lord Chamberlain's (later the King's) Men.<sup>23</sup> Several years later, when Shakespeare was the principal playwright for the King's Men and one of the company's shareholders, he probably revived the theatergram with which he had extensively worked before, adapting it for the new tastes of London audiences. His example was possibly followed by other authors writing for the company, either on the shareholders' demand or because they themselves wanted to include the then fashionable dramatic device. Although this explanation remains speculative, the recurring dramaturgical patterns in the plays and their (albeit sketchy) stage history make it plausible.

The longevity of the 'murdering sleep' motif on the early modern English stages and its adaptability to the changing tastes and genres of early modern English theatre testify to the universal value of the theatergram and the cultural significance of the situation which it depicts. Especially thanks to authors such as William Shakespeare, the motif contributed to the artistic development of early modern English theatre and some of its most memorable scenes.

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<sup>23</sup> While the standard dating of *Richard III* remains the early 1590s, given the qualitative leap between the three parts of *Henry VI* and *Richard III*, it is not inconceivable that Shakespeare wrote the latter for the Lord Chamberlain's Men in 1594. The 1594 publication of the older *True Tragedy* could very well be the publisher's attempt to capitalise on the then new and popular play by Shakespeare, which saw print as late as 1597.



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# Crime and Punishment in William Davenant's *Macbeth* A Stoic Perception

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## Abstract

The article challenges the dominant critical perception which assumes that Davenant's *Macbeth* is a simple adaptation of Shakespeare's tragedy. Against this reading, and in harmony with Barthes' theory of the text, *Macbeth* is here read as a dynamic and independent dramatic agent rather than a copy of a superior text. Seen in this perspective, Davenant's *Macbeth* emerges as a manifestation of the Roman Stoics' moral perception of ambition with its destructive course and tragic end. To the Roman Stoics, ambition is a disease that affects the individual's soul and leads to his or her ultimate destruction. Macbeth and Lady Macbeth display the symptoms the Stoics associate with this disease: they exist outside the bounds of nature; experience grave unhappiness; and follow Fortune to their deaths. As a result, the play is not only a dramatic manifestation, but rather a genuine moral examination of the key characters' crimes and their unavoidable punishment. The crimes of Macbeth and his Lady, motivated by their ambition, along with their final downfall are Davenant's dramatic attempt to control the Restoration public's behaviour and warn them against unruly emotions. By association, Davenant urges his audience to denounce the English Civil War and prove their allegiance to the newly restored monarchy. Thus, Davenant's adaptation emerges as an independent play, and as a moral medium which produces a political message suitable to his own challenging time and to the newly restored monarchy.

Keywords: *Ambition, Davenant and Shakespeare, Disease, Stoicism*

## 1. Introduction

Daniel Fischlin and Mark Fortier note that 'the Restoration was an early highpoint in the adaptation of Shakespeare' (2014, 1). Understandably, the literary practice of adapting the Bard's plays attracts considerable amount of critical attention. Blanca López Román identifies two different approaches within this critical oeuvre. One approach considers the adapted plays as 'products of the rules of Restoration ... stage'; the other examines the differences and similarities between the adapted and the original play. Such reading is often perceived 'as part of the history of attitudes towards Shakespeare' (1990, 209). The

critical evaluation of Davenant's *Macbeth* follows the same directions. Jean Marsden argues that Davenant's *Macbeth* reveals 'Simplification of Shakespeare's language [and] extensive process of clarification'. She also points out that Davenant turns Shakespeare's 'complex characters into easily comprehensible types' (2015, 24). In her view, such changes 'demonstrate ... the poetic language and the idea of what constitutes a literary work' as perceived by the Restoration audience and their aesthetic taste (1). Marsden condemns the results of such dramatic manipulation as an 'embarrassing group of obscure plays symbolizing the enlightenment's poetic bad taste' (*ibid.*). Blanca López Román shares Marsden's censure of Davenant's simplified version, arguing that he transforms '*Macbeth* to the comparatively superficial level on which Restoration tragedy and characterization commonly operate' (1990, 221).

Davenant's *Macbeth*'s critical accusation of simplicity is rejected by Simon Williams, who points out that 'Davenant's adaptation of *Macbeth* ... has been treated with scant respect by scholars, most of whom consider it to be little more than a travesty of Shakespeare' (2004, 56). According to him, Davenant's dramatic manipulation gives the play 'a transparency' that Shakespeare's original 'lacks' (57). Like Williams, Mathew Biberman opposes the condemnation of Davenant's *Macbeth*. In his view, *Macbeth* is clear rather than simple. He defends it against accusations of simplicity and writes that, 'After all, *Macbeth* is a tragedy, and as such, it functions best when you know the outcome' (2017, 67). He also proposes that such clarity is essential to the moral message of tragedies, arguing that 'We need the intervening layer provided by the adaptation to perceive how the unconscious resides in the original layer. This bond then mutually informs the meaning we ascribe to those additional layers – the unconscious and the superconscious as well' (69). According to Biberman, Davenant's particular adaptation of *Macbeth* enables the Restoration audience to deconstruct the original *Macbeth* and go beyond the conscious to embrace the unconscious and super-conscious levels. By doing that, they are ready to reconstruct the play and embrace its new meaning on the conscious level. Derek Hughes, one of the foremost critics of Restoration drama, disputes the accuracy of characterizing the dramatic adaptations of the era as superficial. The restoration of theatres in England, which happened at the same time as the restoration of the Stuart monarchy in 1660, made adaptations of popular plays an unavoidable choice (2002, 1-29). Fiona Ritchie and Peter Sabor explain that theatre managers were under tremendous pressure to stage plays for the newly restored monarch, King Charles II, and the London audience (2012, 4). David Roberts explains that the historical milieu of the Restoration was laden with political, social and literary tensions, not only in England but on the continent as well (2014, 7). Thus, adapting and modifying plays emerged as a quick solution to the mounting demands. Understandably, Restoration drama's 'attempts at defusing, resolving, aggravating and skating over the tension' mounted due to the political situation of the time (8).

Emma Depledge argues that modern critics tend to overlook an essential difference between their perception of Shakespeare and that of the Restoration era (2018, 39-66). To the Restoration audience, Shakespeare did not command the dramatic reverence he enjoys in modern times. During the Restoration he was merely one of the popular Renaissance dramatists (Clark 2005, 1-13; Lynch 2007, 8-9 and 11-30). Thus, modifying Shakespeare's plays to suit the dramatic tastes and needs of the time was a necessity, if not a normal practice, dictated by the events that shaped the Restoration era (Hughes 2002, 1-29; Ritchie and Sabor 2012, 4). Fischlin and Fortier criticize the critical double standard when it comes to Shakespeare himself. They argue that 'Shakespeare in his own works was not original ... [as he] produced theatrical adaptations'. They elaborate that his 'theatrical adaptation has remained a relatively marginalized and under-theorized activity' (2014, 4). Thus, Fischlin and Fortier question the

critical legitimacy of accusing others of pillaging Shakespeare and labelling him an original dramatist, when he himself borrowed extensively from other sources.

In his essay 'The Theory of the Text', Roland Barthes insists that 'any text is intertext; other texts are present in it ... the text of the previous and surrounding cultures' (1981, 39). In Barthes' view, the text is not a self-contained object with a single meaning, but rather a dynamic and living entity with historical and cultural transformational abilities. Barthes goes further and insists that 'other texts are present not only as acknowledged sources or influences but also as a general field of anonymous formulae whose origin can scarcely ever be located' (*ibid.*). For a text to be perceived as a common legacy, Barthes insists that the author must die. In his article 'The Death of the Author', he argues, 'to give a text an author is to impose a limit on that text, to furnish it with a final signified, to close the writing' (1977, 148). The author's presence has a restricting influence on the text. The claim to authorship, along with cultural and ideological factors that surround the author, deny a dynamic reading of any given text. As a result, Barthes concludes, 'we know that to give writing its future, it is necessary to overthrow the myth: the birth of the reader must be at the cost of the death of the Author' (*ibid.*). If we adopt this perspective, it becomes legitimate to consider Davenant's adaptation of *Macbeth* as an assimilation of Barthes' concept of intertextuality.<sup>1</sup> Davenant kills Shakespeare and gives life to his own audience. This is understandable as the text was written for the Restoration audience who lived in a cultural and historical environment with particular ideologies and literary aesthetics. The era was one of the most turbulent times in English history. It witnessed a Civil War, the execution of a legitimate King (Charles I), the abolition of the monarchy and its restoration in 1660 under Charles II. Tim Harris reports the initial joyful atmosphere of the Restoration of the monarchy: 'The mood was certainly festive ... great concourses of people gathered in all the towns through which the King passed as he made his way from Dover ... The streets all along the way [in London] were "straw'd with flowers" and hung with tapestries' (2006, 1). Unfortunately, the 'honeymoon period of the Restoration did not last long and the rejoicing of 1660 soon gave way to disillusionment' (Harris 1990, 62). The newly restored king executed those who were involved in the trial and execution of his father Charles I (Weight and Haggith 2014, 18-21). Furthermore, the failure to restore religious tolerance played an essential role in ending the festive atmosphere. Harris writes that 'many who had initially welcomed – and even actively striven for – the return of monarchy found themselves facing persecution for their religious beliefs' (1990, 62). Religion played a major role in the English Civil War and was a destabilizing force during the Restoration. Jacqueline Rose asserts that 'the Restoration Settlement restored both the powers and the problems which had existed in 1641' (2011, 89).

Needless to say, Shakespeare's *Macbeth* was written for a different audience with particular religious, political and consequently social conditions (Bate 1989, 61-104). The different contexts of Shakespeare's and Davenant's motivate Ann Thompson to suggest the need for a deeper analysis of Davenant's *Macbeth* as an independent play rather than an adaptation. She complains that '*Macbeth* has been somewhat neglected during the critical revolution that has galvanized Shakespeare studies since the 1980s' (2014, 1). *Macbeth's* neglect, as stressed by Thompson, can be attributed to several factors. Clearly, the available criticism lacks enough diversity, in terms of authorship and argument. Furthermore, the failure among commentators to reach consensus regarding its dramatic and ideological value in the history of theatre renders

<sup>1</sup> According to V.M. Simandan, Barthes is the 'most eloquent theorist of intertextuality, who always attacked the notions of stable meaning and unquestionable truth' (2010, 25). For a more in-depth discussion of intertextuality see Allen 2011, 8-55 and 59-91.

Davenant's *Macbeth* unattractive to many critics. The arguments developed in this article follow Thompson's suggestion and take an independent approach, detaching Davenant's *Macbeth* from the dominant critical environment to read it not as an adaptation but as an independent play. In my reading, I argue that Davenant's *Macbeth* is firmly connected to the Restoration milieu as the play is meant to prevent the repetition of the Civil War scenario through controlling the emotion of the vulnerable public and securing their allegiance to the newly restored monarchy. This is achieved through the dramatic manifestation of crime and punishment as perceived through Roman Stoicism's philosophical construct.<sup>2</sup> Central to the Roman Stoics' moral manifestation of crime and punishment in *Macbeth* is ambition as displayed by the main characters, Macbeth and Lady Macbeth. *Macbeth's* Roman Stoic perception of ambition, with its particularly destructive course and tragic end is highlighted, in my article, through an analysis of the dramatic dynamism displayed by Macbeth and his Lady. Their ambition is not simply a moral trait but a dynamic force that shapes their dramatic action and consequently the entire play. The argument follows Macbeth and his lady's close emulation of the Stoics' dynamism of ambition into three stages: existence outside the boundaries of nature; grave unhappiness; and subjection to the changing Fortune that leads to ultimate destruction.

This integral relationship between the moral and the dynamic is central to Stoic philosophy. John Sellars clarifies this point and asserts that Stoicism is not only a theoretical construct but also a practical philosophy that can provide moral guidance (2018, 1-7). Stoicism's position, therefore, can be seen as a practical philosophy apt to explain the popularity of Davenant's *Macbeth* on the Restoration stage. In his *Diary* entry on Monday 7 January 1666, Samuel Pepys testifies to the play's popularity. Upon visiting the Duke House to see *Macbeth*, he writes: 'though I saw it lately, yet appears a most excellent play in all respects, though it be a deep tragedy; ... it being most popular here'.

The Restoration audience had a notorious reputation for being difficult and fickle (Langhans 2007, 1-17). David Roberts confirms that the Restoration theatre was 'a cut-throat business environment' (2014, 29); thus, a play needed to be very good to 'warrant polite attention' (Langhans 2007, 15). To ensure the needed result, during the Restoration 'successful performances made carefully planned use of the three hours or so that audiences could spend at a playhouse', enacting 'a series of calculated impacts on the audience' (Roach 2007, 33). Apparently, Davenant's *Macbeth* deserved the audience's attention, who made it popular and gave it a new life. Biberman refers to the audience's engagement with the play at the unconscious and super-conscious levels (2017, 69); however, he refrains from explaining these levels and their connections with the play and the audience. Apparently, Restoration audiences not only understood the underlying message but most importantly endorsed it as well. To be able to reach such an end, both Davenant and his audience must have been very familiar with Roman Stoicism as an acceptable moral construct. Davenant lived his life during an era that was known for its obsession with Roman Stoicism (Barbour 1998, 2 and 12). Douglas Stewart argues that England was not unique in embracing Roman Stoicism, 'since ... [it] was widespread among intellectuals in all European countries' (1997, 49). By the time Davenant staged *Macbeth* in 1664, Stoicism 'was already a vexed issue' in England (Rowe 2004, 173). The translation of the Roman Stoics' moral teachings was common in Restoration England, a factor that rendered it available to the sophisticated Restoration audience (Chew 1988, 6-8; Casellas 2004, 96). Gerald Marshall explains that the Restoration period was 'deeply affected by neoclassical ... values

<sup>2</sup> Throughout this paper I will refer to Roman Stoicism. Some critics label it as Neo-Stoicism or historical Stoicism to distinguish it from what they call ancient or primitive Greek Stoicism.

... which reflect magnificent attempts at ordering human experience into incarnate harmony, a unity that often contains deeply spiritual ... elements' (1997b, 10). Sarah Hutton stresses the fact that Roman Stoicism 'had a significant impact on seventeenth-century philosophy' in England. This impact was due to the 'Stoic emphasis on the passions ... natural law ... [and] cosmological views'. All of these components, according to Hutton, were essential to the 'moral philosophy of the period' (2015, 59). Hutton also says that, in England, Stoic philosophy 'was known directly through Cicero and Seneca' (60). Of similar importance was the influence exerted by the various English translations of the Stoics' philosophy and the Cambridge Platonists who promoted these works before and after the Restoration (Hutton 2013 and 2015, 59-61).

It is the era's concern with the neoclassical concept of order that made Stoicism appealing. Such appeal might seem odd considering the fact the Restoration was commonly labelled as the age of libertinism. The newly restored King Charles II, who was also known as the merry monarch, and his hedonistic court promoted libertinism. J.G. Turner gives an uncanny picture of Charles II's court:

To ... every eager consumer of gossip and lampoon, the Court presented a monstrous spectacle of "wanton tal" and obscene writing, drunken brawling, riot, injury, outrage ... and wife-snatching ... The age that coined the "noble Savage" also produced the savage noble. (2002, 166)

Libertinism, however, with its extreme emotional indulgence and lack of any type of restraint was not confined to the royal court. It found its way into the larger literary and public scenes. Jeremy Webster observes that

Throughout Charles II's reign, the libertine was a familiar figure as a sexual adventurer and radical questioner of social, political, and moral values. Not only was the libertine a dominant figure in the poems and plays of the Restoration period, but he was also a frequent subject of conversation in the alehouses and coffee shops of London, in the corridors of Whitehall, and in the drawing rooms of country houses. (2005, 2)

The sharp contrast between the moral construct of Stoicism and libertinism is more than obvious, and the co-existence of these two moral constructs during the Restoration has been acknowledged by critics (see Marshall 1997b, 7-8; Shifflett 1998, 174-186). By considering the historical context and consequently the mind construct of the Restoration, one can find logic in the strong presence of Roman Stoicism in the era. Davenant, who was a royalist during the Civil War and after the restoration of Charles II, along with *Macbeth's* performance was part of a historical moment marked by the strong appeal of Roman Stoicism.

The precarious political context of the Restoration, along with the bloody legacy of the Civil War, were a constant and serious threat to the stability of the period. Keeping in mind Davenant's brilliant theatrical mind along with the cut-throat business environment of the Restoration, staging *Macbeth* was far from being random (Roberts 2014, 29). The Roman version of Stoicism, which was dominant during the Restoration, 'produced a new awareness of the role of the individual within the cosmic plan' (Casellas 2004, 96). This awareness made the 'literature of the Stoic ... a literature ... of community' (Shifflett 1998, 5). This was most appealing to the Restoration mind that perceived history and its men as a guide to reach 'moral and political edification' (Marshall 1997b, 9-10; see also Woolf 1997, 209). Davenant taps into his audience's collective mind and embodies the Roman Stoics' perception of the individual's duty towards his community. With his *Macbeth*, Davenant created an instrument apt to warn his audience, who suffered tragically during the English Civil War, against the disease of ambition



with its strong individual traits and lack of emotional control. Katherine Rowe explains that by 1653 Davenant was concerned with the passion construct of the public, an issue that was of a major concern in seventeenth-century Europe (2004, 171). Such concern is the result of the constant wars that dominated Europe throughout the seventeenth century. The English Civil War and the destruction of the hereditary monarchy before its Restoration made the control of public passion a priority (172). It was believed that the public were 'prone to passion that overruled judgement' (*ibid.*). Such tendency means that 'allegiance can never be secured' (*ibid.*). To secure the Restoration public's allegiance to the newly restored monarchy, Davenant employs *Macbeth* to promote Roman Stoicism with its teaching to accept one's position in life and control passion for the good of the community.

The Stoic writings of Seneca, Cicero and Marcus Aurelius about the perception of ambition as a disease that has a negative effect on the community and the individual is a key element in the argument. The rationale behind the choice of the Roman Stoics is connected to three reasons: the first factor is their moral construct which promotes duty toward the community; second is the strong presence of Roman Stoicism in seventeenth-century England in general and the Restoration period in particular; the third factor behind the choice of the Roman Stoics is their identity as Romans and the nature of their lives. Ancient Rome was known for its ruthless military and political ambition, a theme that is at the heart of *Macbeth*.<sup>3</sup> Furthermore, the chosen philosophers were at the centre of political power with its moral challenges. Their particular circumstances made them a suitable choice to discern the mechanism of ambition along with its destructive end. Seneca (4 BCE-65 CE) was a powerful Roman senator and imperial advisor. Through his experience and close relationships with ambitious emperors and treacherous friends, he forged his Stoic philosophy (Wilson 2014, 1-22). The game of power led him to exile and death sentences by Emperors Caligula, Claudius and Nero (who was also his pupil). Nero accused Seneca of being part of a Pisonian conspiracy against his life and ordered him to kill himself, which he did with a true Stoic spirit. Marcus Tullius Cicero (106 BCE-43 CE) was a Roman consul, statesman, philosopher and one of Rome's greatest orators (Tempest 2014, 9-19). He was deeply involved in Rome's power struggle before and after Julius Caesar's assassination. Like Seneca, he was exiled by the Senate (113-114). Eventually, the notorious bloody struggle for political supremacy in Rome led to his murder, ordered by his enemy Mark Antony and the reluctant concession of Octavius Caesar. His head and hands were nailed on the Rostra, in the Forum Romanum (2). The reign of Roman emperor Marcus Aurelius (CE 121-180), or the philosopher king, was dominated by Rome's wars against rebellious and ambitious states, like Parthia, Syria, Britain, Armenia, and the Germanic tribes who were seeking independence. Due to the nature of his position as an emperor, Marcus Aurelius was constantly and directly challenged by ambitious and corrupt men pursuing their own self-interest (McLynn 2009, xi-xvii). The political and moral experience of the chosen philosophers positions the legacy of Roman Stoicism at the heart of Davenant's *Macbeth*.

## 2. *Ambition and the Sick Souls: Macbeth and Lady Macbeth*

Before examining Davenant's *Macbeth* and *Lady Macbeth's* dramatic course of crime and punishment, it is essential to discuss the moral perception of ambition as conceived by the Roman Stoics. Thus, by highlighting the Stoics' definition of ambition, it will be possible to

<sup>3</sup> For a panoramic yet rich view of Rome's wars as a republic and an empire, see Goldsworthy 2000. For information about the Roman generals who fought Rome's ambitious wars see Goldsworthy 2003.

ascertain its traits as displayed by Macbeth and Lady Macbeth. Douglas Stewart confirms that the Restoration public 'looked on Seneca [as] perhaps the greatest Roman Stoic writer' (1997, 50). Cicero's *On Duty*, which was largely available, promotes the individual's duty toward his community (Reydams-Schils 2005, 63; Casellas 2004, 96). This means that the dramatic manifestation of the Roman Stoics' moral teachings could be easily perceived by the audience. In 'Of a Happy Life', Seneca defines ambition as 'the thirst of glory and dominion' (1834, 138); he adds that ambitious men 'run mad after wealth and honor' (*ibid.*). In 'Avarice and Ambition' he wonders: 'What is the end of ambition ... when at best, we are but stewards of what we falsely call our own? All those things we pursue with so much hazard and expense of blood, as well to keep as to get, for which we break faith and friendship' (Seneca 2011, 43). The Stoics attribute the suicidal behaviour of ambitious individuals to their sick and unhealthy souls. In *Disputations*, Cicero defines ambition as a disease that affects the soul. He also explains that the person who is infected by this disease displays 'intensely strong opinion, inherent and deeply seated, concerning some objects which ought not to be sought' (1886, 211). In his view, the intense desire for forbidden objects is the result of 'confusion of perverse opinion' (109). Such opinions 'deprive the soul of health, and trouble it with diseases' (*ibid.*). Furthermore, in his letter 'On the Disease of the Soul', Seneca argues that ambition is a 'disease of the mind' marked by 'persistent perversion of the judgement' (2016c, 204).

When we consider Macbeth and Lady Macbeth's reaction to the witches' prophecy that promises them greatness and kingship, the same symptoms the Stoics attributed to the disease of ambition become apparent. Both characters display perverse reasoning and intense desire for an object they should not seek. Upon meeting Macbeth for the first time, the witches greet him:

All hail, *Macbeth*, Hail to thee *Thane of Glamis*;  
 All hail, *Macbeth*, Hail to thee *Thane of Cawdor*.  
 All hail, *Macbeth*, who shall be King hereafter? (1.1, 5)<sup>4</sup>

The witches address Macbeth using his current title 'Thane of Glamis' followed by 'Thane of Cawdor' and then 'King'. Macbeth reacts to these greetings in a confused and irrational way. He orders the witches, 'Stay! You imperfect Speakers! Tell me more' (1.1, 5). Macbeth is left confused and, therefore, he demands clarification. Furthermore, his particular reaction shows that he takes the witches seriously. Bewildered, he asks:

But how of Cawdor, whilst that *Thane* yet lives?  
 And, for your promise, that I shall be King,  
 'Tis not within the prospect of belief. (1.1, 5)

In the middle of his confusion, he receives confirmation of the witches' first prophecy. Macduff, in fact, informs him:

...the King; ...  
 ...  
 Bad me, from him, to call you *Thane of Cawdor*:  
 In which Addition, Hail, most Noble *Thane!* (1.1, 6)

<sup>4</sup> All quotations from Davenant's *Macbeth* are taken from Davenant 1674. Since in this edition there are no line numbers, all quotes will be followed by act, scene, and page number.

Upon becoming the Thane of Cawdor, Macbeth immediately displays perverse judgement. Talking to himself, he gives his own assessment of the situation:

The Prince of *Cumberland!* that is a step  
On which I must fall down, or else o'er-leap;  
For in my way it lies. ... (1.1, 9)

Macbeth's deep desire for power causes him to think in an irrational manner. Legally, the prince of Cumberland is the legitimate heir to his father, King Duncan. Macbeth's desire to remove King Duncan's heir from his path and wear the crown means that he intends to remove Duncan as well. His intense desire for the throne engulfs his mind and causes his perverse judgement. Consequently, such judgement reveals his sick soul. Aware that he is seeking kingship that 'ought not to be sought', Macbeth warns:

... Stars! hide your fires,  
Let no light see my black and deep desires.  
The strange Idea of a bloody act. (1.1, 9)

Fully aware of the evil nature of his bloody desires, Macbeth does not seem to be uneasy about his black ambition: he simply wants to hide it.

However, he is not alone in having a black and bloody ambition; his wife, Lady Macbeth, suffers from the same disease. Upon reading Macbeth's letter, in which he informs her of the witches' prediction of future honours and greatness, she declares, '...I already feel / The future in the Instant' (1.1, 12). In embracing the witches' prophecy with such enthusiasm, Lady Macbeth reveals a lack of moral sense and sound judgement. With sheer, ill-placed determination, she transfers herself to the future where she is queen to King Macbeth. She confesses: '*Glamis* thou art, and *Cawdor*, and shalt be / What thou art promis'd...' (1.1, 12). Like Macbeth, the promise of a crown engulfs her mind completely as she ignores the presence of a living legitimate king and heir. Immediately, she starts to devise a plan to turn the witches' prophecy of kingship into a reality. To her, the only obstacle on the way to the crown is Macbeth himself. She complains that he

...  
Has too much of the milk of human kindness  
To take the nearest way: ...  
Thou do'st not want ambition: but the ill  
Which should attend it: ... (1.1, 11)

Lady Macbeth is concerned that Macbeth's kindness will prevent him from taking the throne. She believes him ambitious but she also knows that he does not possess the ruthless nature required to remove the obstacles in their path to the crown. Lady Macbeth's lack of sound judgement is clear not only through her insistence to turn the prophecy into a reality but also through her condemnation of upright moral conduct that deny her access to the crown. Lady Macbeth and Macbeth display the symptoms the Stoics associated with the disease of ambition. Their desire is so intense that it deprives them of sound opinion and judgement. As such, they are determined to obtain what does not belong to them through bloody and evil means. In 'Of a Happy Life', Seneca writes: 'Ambition aspires from great things to greater; and propounds matters even impossible, when it has once arrived at things beyond expectation. It is a kind of



dropsy; the more a man drinks, the more he covets' (1834, 138). Seneca further explains that ambition has no end and no boundaries. It goes beyond great things to seek the impossible, just like Macbeth and his Lady. In spite of their wealth and high social rank, they are not satisfied as they are in pursuit of Duncan's crown.

To confirm the notion that Macbeth and Lady Macbeth's souls are infected with ambition, it is useful to compare them with Banquo and Lady Macduff. Macbeth's response to the witches' prophecy stands in sharp contrast to that of Banquo. The witches inform Banquo, 'Thou shalt get Kings, thou shalt ne'r be one' (1.1, 5). Significantly, Banquo does not seem to be interested in the witches' promise that his descendants will be kings as he refrains from demanding more information. When the witches' prediction regarding Macbeth's attainment of the title Thane of Cawdor is fulfilled, he responds:

...  
 But many times to win us to our harm,  
 The Instruments of darkness tell us truths,  
 And tempt us with low trifles, that they may  
 Betray us in the things of high concern. (1.1, 7)

Banquo remains unaffected by the fulfilment of the prophecy. In fact, he remains cautious of their gifts and harm. He labels them as the instrument of darkness when Macbeth perceives them as the source of immortal knowledge and light. He even warns Macbeth against their fantastic temptation and tragic betrayal. Banquo's cautious words are in harmony with the Stoics' warning against ambition. From the Stoic perspective, Banquo's deep understanding of the danger of ambition qualifies him to be considered wise. Being wise means that he possesses stable judgement and consequently a healthy soul. Lady Macduff displays similar Stoic wisdom as she considers ambition an evil pursuit. Lady Macbeth tries to comfort Lady Macduff who is distressed and concerned for her husband's safety. In an attempt to comfort her, Lady Macbeth says, 'the bright glories which / He gain'd in battle might dispel those Clouds' (1.1, 10). Inconsolable, Lady Macduff responds

The world mistakes the glories gain'd in war,  
 Thinking their Lustre true: alas, they are  
 But Comets, Vapours! By some men exhal'd  
 From others bloud, and kindl'd in the Region  
 Of popular applause, in which they live  
 A-while; then vanish: and the very breath  
 Which first inflam'd them, blows them out agen. (1.1, 10)

Lady Macduff openly criticizes the dominant view that encourages ambitious men to achieve glory through blood and wars. To her there is nothing worthy or honourable in gains acquired on the dead bodies of many. In her view, ambition is a collective disease that engulfs the entire society, encouraging men to achieve glory only to destroy them. Lady Macduff's independent views encourage Anne Greenfield to oppose the dominant view of her character. She argues that Lady Macduff is far from being a 'flat icon of idealized and submissive' wife (2013, 40). Her bold condemnation of ambitious men seeking glory through death and destruction echoes Seneca's attitude as expressed in 'Avarice and Ambition.' In 'Of a Happy Life', Seneca wonders if ambitious men 'could but look into the hearts of men that have already gained these points, how it would startle them to see those hideous cares and crimes that wait upon ambitious

greatness: all those acquisitions that dazzle the eyes of the vulgar are but false pleasures, slippery and uncertain' (1834, 138). Seneca stresses the heavy price ambitious characters will eventually pay. He is surprised that people do not learn from the negative experiences and unhappy ends of those who follow self-centred designs.

In spite of the fact that, in this essay, *Macbeth* is not read as an adapted play, yet, it is essential to stress that Lady Macduff's scene is not in the original play (Shifflett 2016, 174-186). The addition of this scene serves to highlight the multileveled significance of Lady Macduff's clear condemnation of ambition, which stresses Davenant's intention to warn his audience of the grave consequences of ambition. In keeping with the Restoration's new tradition of allowing women to act, Lady Macduff's role was performed by Mrs. Long. Having a real female voice on the stage gives tremendous power to the female population. The actress's voice can be read as the women's voice in the audience who suffered during the Civil War and lost their loved ones, their houses and livelihoods. Cynthia Lowenthal writes that 'The late Restoration playhouse was filled with women – women spectators ... and women performers'. She stresses the powerful influence not only of the actresses but also of the 'female spectators' (2003, 111). On another level, Lady Macduff can be considered a female Stoic voice with respected rights to wisdom and opinion. Stoic tradition 'tended to emphasize the intellectual equivalency of the sexes' (Shifflett 1998, 6); thus, being intellectually equal to men, Stoics insist that women 'should study philosophy to enhance their rational decision-making' (Reydams-Schils 2016, 24). During the Civil War and after the Restoration, women, like men, were interested in the moral teachings of Roman Stoicism (Shifflett 1998, 9-11). The Stoic female voice of Lady Macduff is of strong influence on the audience who can easily remember the role played by ambition in the Civil War that destroyed their communities. The 1640s were the years of the English Civil War (1642-48), in which mature Davenant played an essential role in supporting the cause of King Charles I (Stubbs 2011, 1-16). Peter Gaunt writes about the direct effect of the war on the population by stating that 'A large proportion of the population was directly involved in the fighting ... Towns ... suffered attack [and] substantial war-related damage, ... plundering, violence and disease. The war was bloody, brutal and at times barbaric ... [It] caused death, destruction on a huge scale' (2003, 8-9). People not only lost their lives but their way of life as well. Ben Coates documents the destructive influence of the war on the economy. He explains that 'Domestic trade was directly affected ... Overseas trade slumped in the 1640s, with two major troughs in 1643 and 1648' (2016, 139 and 163). The Restoration looked at history and its men as a guide to reach 'moral and political edification,' (Marshall 1997b, 9-10; Woolf 1997, 209). In harmony with this perception, Davenant looked at the history of the Civil War and the moral teaching of Roman Stoicism to help his community to regain its strength. Rowe explains that, by 1653, Davenant was concerned with the passion construct of the public, an issue that was of a major concern in seventeenth-century Europe (2004, 171). Such concern is the result of the constant wars that dominated Europe. The English Civil War and the destruction of the hereditary monarchy before its Restoration made the control of public passion a priority (172). It was believed that the public were 'prone to passion that overrule[d] judgement' (*ibid.*). Such tendency means that 'allegiance can never be secured' (*ibid.*). Davenant allows Lady Macduff and Banquo to emerge as wise persons, guided by what the Stoics consider a healthy mind and soul. They stand in sharp contrast to Macbeth and his lady, with their sick souls and evil minds. With *Macbeth*, Davenant wants to warn his audience, who suffered tragically during the Civil War, against the disease of ambition and, at the same time, to secure the Restoration's public allegiance to the newly restored monarchy and create political stability, Davenant believed that Roman Stoicism was the most suitable perspective.

### 3. *The Existence outside the Bounds of Nature: Macbeth and Lady Macbeth*

According to the Stoics' moral construct, the ambitious person's way of life is marked by three characteristics: existence outside the bounds of nature; grave unhappiness; and subjection to fickle Fortune. Significantly, Macbeth and Lady Macbeth's way of life is a close emulation of these three characteristics. In 'Of a Happy Life' Seneca argues that mankind should follow the dictates of nature and be 'Content with his lot, without wishing what he has not, and that the great business of his life, like that of nature, is performed without ... noise' (1834, 85). Aurelius advises human beings to 'Lay ... aside all ... discontent with the portion which has been given' to them (2015 II, 72). By considering the Stoics' moral standpoint, it can be perceived that Macbeth's existence outside the bounds of nature is multi-layered. His discontent with his position in life is manifested through his pursuit of what does not belong to him, his murder of innocent people and his communication with the witches. Macbeth's desire for the crown, which does not rightfully belong to him, is one layer of his existence outside the boundaries of nature. After the witches' promise of the title Thane of Cawdor is fulfilled, Macbeth considers the crown. Talking to himself, he says,

Th'have told me truth as to the name of *Cawdor*,  
That may be prologue to the name of King.  
Less Titles shou'd the greater still fore-run,  
The morning Star doth usher in the Sun. (1.1, 7)

Legally, the crown belongs to Duncan and his direct descendants. However, Macbeth seems oblivious to this fact. He shows no respect for the natural course of things and chooses to seize the crown by force. In 'Of a Happy Life' Seneca condemns such behaviour and believes that 'it is only for a narrow mind to condemn the order of ... Nature' (1834, 114). Needless to say, Macbeth's lack of logic does indeed mark him as a narrow-minded character. To take the crown, he resorts to violence and murder: he murders not only his king, but also his best friend Banquo, and the family of his cousin Macduff. In *The Meditations*, Aurelius writes that by nature men are made for 'co-operation and not discord. ... To act against one another ... is contrary to nature' (2015 II, 72); in his opinion, man separates himself from nature when he acts against his fellow humans. Interestingly, Macbeth is aware that, by murdering King Duncan, he is also killing nature in himself. He perceives the murder as 'the Death of nature in my self' (1.1.14). In spite of the fact that Banquo is his devoted friend, Macbeth finds it necessary to sacrifice his life to cover up Duncan's murder. Unhappy with Banquo's share in the prophecy, Macbeth complains that the three witches

... hail'd him Father to line of Kings.  
Upon my head they plac'd a fruitless Crown,  
And put a barren Scepter in my hand:  
...  
For *Banquo's* Issue, I have stain'd my Soul  
For them: the gracious *Duncan* I have murder'd: (3.1, 30)

Although he is well aware of his vile crime, he fails to express any regrets. He is unhappy with the fact that the fruit of his crimes will go to Banquo's descendants. To him it means that he is wearing a 'fruitless Crown' and carrying a 'barren Scepter'; and he clearly expresses his fears in relation to Banquo's future:

I am no King till I am safely so,  
 My fears stick deep in *Banquo's* successors;  
 And in his Royalty of Nature reigns that  
 Which would be fear'd. ... (3.1, 29-30)

To prevent Banquo's descendants from inheriting the crown, Macbeth reveals a plan:

... I will attempt yet further,  
 And blot out, by their blood, what e're  
 Is written of them in the book of Fate. (3.1, 30)

Thus, he makes it clear that he is going to prevent the witches' prophecy from becoming a reality. To him murdering Banquo and his son is the only way to secure the crown for himself and his 'issue'. He gives clear instructions to kill both father and son. He explains to the assassins:

*Fleance*, his Son ... keeps him company;  
 Whose absence is no less material to me  
 Than that of *Banquo's*: he too must embrace the fate  
 Of that dark hour. ... (3.1, 32)

Macbeth's men kill Banquo but his son Fleance escapes. Unfortunately, Lady Macduff and her children fail to escape death. To secure the crown he has usurped, Macbeth orders the death of his cousin's family. Lenox informs Macduff of the tragic fate of his wife and children:

Your Castle is surpriz'd, your Wife and Children  
 Savagely Murder'd: to relate the Manner,  
 Were to increase the Butchery of them,  
 By adding to their fall the Death of You. (4.1, 55)

Lenox makes it clear that the murder is so savage that to describe it could kill Macduff with grief. Macbeth's divergence from nature goes further as he seeks the help of supernatural entities, the witches. He has absolute faith in their powers, and this motivates him to actively seek their advice to maintain his power and safety. According to the perception of witchcraft in seventeenth-century England, Macbeth and Lady Macbeth's reaction to the witches' prophecy was problematic if not a sin. Witches were considered wicked devil worshippers and the 'foe both of the King's laws and those of God' (Sharpe 2013, 14 and 33). As such, it was believed they should be avoided at all costs (34-39). The hostility to witches and witchcraft was so strong in England during the seventeenth century that it unleashed a real witch-hunt. As Ian Bostridge writes:

In the seventeenth century, witchcraft was a handy ideological tool. ... During the 1640s ... witchcraft prosecution had acquired a dangerous association with disorder, notably through the witch "craze." ... The discourse of witchcraft had not spent its force by 1660. ... There were established clerics in the British Isles busy persecuting witches ... many of them were Scottish. (1996, 312-313)<sup>5</sup>

Bostridge points out that during the Civil War period, witchcraft was associated with disorder. As a result, the pursuit and persecution of suspected witches were widespread. After the Restoration,

<sup>5</sup> For more information about witchcraft during the Civil War and the Restoration era, see Sharpe (2013, 70-76).

the hunt continued with the same force. This attitude allows the Restoration audience to view Macbeth's pursuit of the power of darkness to satisfy his ambition as an evil endeavour. In their turn, the Stoics have a rather complex view of witchcraft. Keimpe Algra complains that 'Demonology is among the less studied aspects of Stoic thought. ... This may be partly due to the fact that the evidence is scarce and scattered' (2009, 359). Indeed, the available information regarding the Stoic attitude to demonology is limited. In *The Meditations*, Aurelius writes: 'Nothing is more wretched than a man who ... pries into the things beneath the earth ... without perceiving that it is sufficient to attend to the daemon within him' (2015, 720). The Stoics agree that demons are psychic entities that could be internal or external. To the early Stoics, the view 'appears to have been that the inner demon simply is the self' (Algra 2009, 366), an inner demon, therefore, which reflects the inner voice of the person. The Stoic perspective also accepts the existence of external non-human demons, whose evil nature 'as in the case of humans, is due to their own choices' (385). From the Stoic perspective, it can be concluded that Macbeth is under the influence of both internal and external malevolent powers. While his inner demon can be connected with his sick soul which has been damaged by his ambition, the witches represent the external evil power that influences him. The very fact that he enlists their assistance to obtain what is not his diminishes the boundary that separates them. This is most obvious when he seeks their council in their cave. He asks: 'What Destinie's appointed for my Fate?' (4.1, 48), and also inquires about Banquo's issue: 'Tell me ... / Shall *Banquo's* Issue o're ... / This Kingdom raign?' (4.1, 48). By contacting them to protect his power, he becomes one of them and secures his place outside the limits of nature.

Like her husband, the ambitious Lady Macbeth reveals multifaceted unnatural inclinations. She desires the crown and for that she is willing to murder King Duncan and obtain the help of the demonic spirits. Talking to herself after receiving Macbeth's letter that reports the witches' prophecies, she makes it clear that she has a deep desire to be queen of Scotland. To attain such honour, her husband needs to be crowned as the king. She swears '... thou ... shalt be / What thou art promis'd: ...' (1.1, 11). Since she has no rightful claim to the crown, Lady Macbeth invokes unnatural and malevolent entities for support. She commands the evil spirits of darkness to de-sex and dehumanize her. Using highly charged metaphorical language, Lady Macbeth expresses a strong desire for a transformation into an unsexed entity. She calls:

... Come all you spirits  
That wait on mortal thoughts: unsex me here:  
...  
... come, and fill my breasts  
With gall instead of milk: ... (1.1, 12)

Lady Macbeth makes it clear that to kill Duncan she needs to renounce her nature as a human being and, more, as a woman. Conventionally, human beings do possess a definite sex, either a man or a woman. Lady Macbeth does not want to be either. Conventionally, women are associated with kindness and motherhood. Mother's milk symbolizes love and life. The desire to replace milk with poison, and love with hatred, is a testimony of her unnatural inclination. Her desire to be unsexed reminds us of the witches, who do not have a clear sexual identity. Her unnatural inclination is further stressed through her desire to be dehumanized. She invokes the evil spirits to

...  
Empty my Nature of humanity,  
And fill it up with cruelty: make thick  
My bloud, and stop all passage to remorse; (1.1, 12)

Lady Macbeth wants to be a monstrous entity that lacks empathy. She demands to be completely possessed by the 'murthering Spirits', so she can murder Duncan. She calls:

... make haste dark night,  
And hide me in a smoak as black as hell;  
That my keen steel see not the wounds it makes: (1.1, 12)

Being so detached from natural inclinations, it is easy for Lady Macbeth to be willing to commit the most outrageous crimes. The murder of King Duncan is a stark proof that Lady Macbeth, like Macbeth himself, has transcended the limits of humanity into an unnatural domain where death, evil, and darkness prevail.

#### 4. *Stoicism and an Unhappy Life: Macbeth and Lady Macbeth*

To the Stoics, the certain end of those who transcend the limit of the law of nature is grave unhappiness. In 'Of a Happy Life' Seneca writes that one reaches such a state because 'We make a false calculation of matters; because we advise with opinion, and not with Nature: and this ... leads us to a higher esteem for riches, honour and power, than they are worth' (1834, 144). Macbeth and his lady have exaggerated the value of kingship and power which, according to the laws of nature, are worthless. As such, and in accordance with the Stoics' readings, they face the tragic consequences of their ambition. The individual miscalculation of what is of value and what is not, pushes people away from happiness. Unknowingly, individuals tend to look for happiness in the wrong places. Seneca comments on such ill-navigated journeys:

There is not anything in this world, perhaps, that is more talked of, and less understood, than the business of a *happy life*. We live however, in a blind and eager pursuit of it; and the more progress we make in a wrong way the farther we are from our journey's end. (80)

To the Stoics, happiness can be achieved through tranquillity and not through ambition. As Seneca writes, 'The greatest blessings of mankind are within us ... *Tranquillity is a certain equality of mind, which no condition of fortune can either exalt or depress*. Nothing can make it less, for it is the state of human perfection' (81). Seneca believes that tranquillity is the essence of human happiness; it is a mental condition independent of any external influence. Significantly, King Macbeth and his queen fail to attain the expected happiness they attached to the crown. Their unhappiness is obvious through their lack of peace, which can be traced through two factors. First, they live their present under threat and anticipate their future with anxiety. Second, they suffer from what the Stoics call perturbation of the mind. After murdering King Duncan and claiming his crown, the new king and queen express their discontent with their present state. Talking to herself, the queen questions their contentment:

Where our desire is got without content,  
Alas, it is not Gain, but punishment!  
'Tis safer to be that which we destroy,  
Then by Destruction live in doubtful joy. (3.1, 36)

Lady Macbeth makes it clear that they live in a state of perpetual unease. It is true that they have gained the crown but they are not content. To her, the crown becomes a punishment rather than a reward. She even stresses that their previous state, which they have destroyed, was safer.



Since they cannot reverse time, they will need to endure their new condition of 'doubtful joy' (3.1, 36). Like his queen, Macbeth is keenly aware of their current precarious situation. Far from being satisfied, he warns her:

Alas, we have but scorch'd the Snake, not kill'd it,  
She'l close and be her self, whilst our poor malice  
Remains in danger of her former Sting. (3.1, 36)

Macbeth makes it clear that their situation is not safe. They live under the constant threat of their detractors and the consequences of their bloody actions. To the Stoics, such a situation is the expected consequence of breaking the natural law. In 'On the Shortness of Life' Seneca writes about those who, like Macbeth and his lady, follow their own passions but fail to enjoy what they gain. He writes:

Their own folly afflicts them with restless emotions which hurl themselves upon the very thing they fear ... Even their pleasures are uneasy and made anxious by various fears and at the very height of their rejoicing the worrying thought steals over them: "How long this last?" ... This feeling has caused kings to bewail their power, and they were not so much delighted by the greatness of their fortune as terrified by the thought of its inevitable end. (2005, 26-27)

Macbeth and his queen are not enjoying their power: they are terrified of losing it. Their concern with their precarious future prevents them from living in tranquillity. Macbeth tells his wife:

... I am in Blood  
Stept in so far, that should I wade no more,  
Returning were as bad, as to go o're. (3.1, 41)

In 'On the Shortness of Life', Seneca writes about the laborious troubled life of those who are discontent. He argues that

It is inevitable that life will be not only very short but very miserable for those who acquire by great toil what they must keep by greater toil. They achieve what they want laboriously; they possess what they have achieved anxiously. ... They do not look for an end to their misery. (2005, 28)

Macbeth and his lady are exactly in the position Seneca describes: they need to be constantly labouring to maintain their power. They are mired deep in blood, and they need to go even deeper to protect the crown. As such, they can be viewed as an accurate representation of Seneca's view of the miserable conditions of ambitious individuals. Their life is a constant misery, wasted in opposing nature, conspiring to gain what is not theirs and murdering family members and friends. Tragically, they do not have the time to enjoy their gain as they are anxiously striving to keep it.

Significantly, their physical world is not the only place where they need to labour constantly: their emotional state is just as turbulent. Both Macbeth and his Lady suffer from what the Stoics call 'perturbation' of the mind. In *Tusculan Disputations*, Cicero explains that this state of mind is the result of 'The confusion of perverse opinions and their mutual repugnancy [which] deprive the soul of health, and trouble it with diseases' (1886, 209). He gives more details about these 'inward perturbations.' He writes, 'Let it then be understood that the perturbation of mind, when inconsistent and confused opinions are tossed to and fro, implied perpetual unrest' (210). Lady Macbeth experiences perpetual unrest. Her strong desire to crown Macbeth, has

motivated her to encourage, plan Duncan's murder only to experience a change of heart and regret. She tells her once beloved husband:

... See me no more.  
As King your Crown sits heavy on your Head,  
But heavier on my heart: I have had too much  
Of Kings already. ... (4.1, 53)

The gulf that separates Macbeth and his queen is obvious. The queen, who has been inseparable from her husband, does not want to see him any longer. She is inwardly disturbed and his presence makes her feel worse. The picture she gives of her heavy heart, although metaphorical, is very eloquent. Mentally and emotionally disturbed, she declares that Duncan's ghost follows her as a shadow. She tells her husband:

*Duncan* is dead.  
...  
And yet to Me he Lives.  
His fatal Ghost is now my shadow, and pursues me  
Where e're I go. (4.1, 52)

Obviously, Lady Macbeth is mentally and emotionally disturbed. This is stressed through her sleep-walking. Her lady-in-waiting reports the queen's unusual actions:

I have seen her rise from her bed, throw  
Her Night-Gown on her, unlock her Closet,  
Take forth Paper, fold it, write upon't, read it,  
Afterwards Seal it, and again return to Bed,  
Yet all this while in a most fast sleep. (5.1, 56)

The queen's unusual state is made more alarming in her dialogue with herself while sleep-walking:

Out, out, out I say. ...  
'Tis time to do't: Fy my Lord, fy, a Souldier,  
And affraid? what need we fear? who knows it?  
...  
Yet who would have thought the old Man had  
So much Blood in him ... .  
...  
*Macduff* had once a Wife; where is she now?  
Will these Hands n'ere be clean? ...  
... Yet here's  
A smell of blood; not all the perfumes of *Arabia*  
Will sweeten this little Hand. (5.1, 57)

As a result of Lady Macbeth's confessions of their crimes while sleep-walking, she moves in a three dimensional level: physical, mental and metaphysical. She exists in the real physical world but at points she moves to the mental state of sleep while retaining her conscious condition. This is obvious through what can be called a 'sleep-conscious condition'. Within this state she displays actions usually performed in the conscious state, like rising from bed, dressing, writing, washing and talking. The metaphysical dimension is revealed through the queen's confessions



of her crimes while in the sleep-conscious state. Pushed by her seriously disturbed soul, she unconsciously reports her and Macbeth's crimes. Seaton tells Macbeth that the queen is, 'Not so Sick, ... as She is troubled / With disturbing Fancies' (5.3, 59).

Like his queen, Macbeth proves to be detached from the real world. When told that his thanes, who have abandoned him, are united with the English army against him, he responds:

Poor *Thanes*, you vainly hope for Victory:  
You'll find *Macbeth* Invincible; or if  
He can be O'rcome, it must be then  
By *Birnam Oaks*, and not by English-men. (5.3, 59)

It is obvious that Macbeth believes himself to be immortal and consequently untouchable. Such an unreasonable attitude from a professional warrior who knows death too well, is most telling about his mental state. To the Stoics the symptoms displayed by Macbeth and Lady Macbeth indicate a chronic disease. Cicero, in *Tusculan Disputations*, explains that 'evil flows into the veins and inheres in the bowels, and becomes a disease which, when chronic, cannot be extirpated' (1886, 210). Indeed, Macbeth and his queen's perturbation of the mind is a culmination of their evil passion and blind ambition. Their symptoms proved incurable and their tragic end is a direct consequence of this chronic disease.

#### 5. *Stoicism and Fickle Fortune: Macbeth and Lady Macbeth*

According to the Stoics' concept, the root of Macbeth and his queen's misery lies in their dependence on Fortune to wear Duncan's crown. In 'Of a Happy Life' Seneca writes, 'Never pronounce any man happy that depends upon fortune for his happiness; for nothing can be more preposterous than to place the good of a reasonable creature in unreasonable things' (1834, 125). In his epistle, 'On Business as the Enemy of Philosophy', Seneca explains that it is a mistake to depend on Fortune, since it 'gives us nothing we can really own' (2016b, 190). The witches can be read as the instrument of Fortune. Both Macbeth and his lady have allowed themselves to be guided by their predictions. They have made a mistake and 'depend upon fortune for the felicity of life' (123). When the witches' first prophecy is fulfilled, Macbeth responds:

Th' have told me truth as to the name of *Cawdor*,  
That may be prologue to the name King.  
...  
Fortune, methinks, which rains down Honour on me,  
Seems to rain bloud too: ... (1.1, 7)

Macbeth believes that Fortune will shower him with great honours. His obsession with such an unforeseen prospect is most obvious through his letter about the witches' prophecies, which he immediately sends to Lady Macbeth. It reads:

*This have I imparted to thee, (my dearest partner of Greatness) that thou might'st not lose thy rights of rejoicing, by being ignorant of what is promis'd. ... (1.1, 11)*

His words reveal that the promise of a crown has transported him into a state of ecstasy. Seneca does not approve of such an attitude towards Fortune's promises. In 'On Business as the Enemy of Philosophy', Seneca writes with condemnation of man's reaction when Fortune smiles. He

asserts, 'we stand expectant, and whatever Fortune has thrown to us we forthwith bolt . . . to catch' (2016b, 190). Indeed, this is exactly how Macbeth reacts to the witches' tidings: he rushes after the prophecies to report to his Lady, instantly building hopes and visualizing the future. Significantly, Lady Macbeth proves similar to Macbeth and places great hopes on the words of the witches. Upon her first encounter with Macbeth after receiving his letter, Lady Macbeth greets him:

Great *Glamis!* worthy *Cawdor!*  
 Greater than both, by the all-Hail hereafter;  
 Thy Letters have transported me beyond  
 My present posture; I already feel  
 The future in the instant. (1.1, 12)

Like her husband, Lady Macbeth is transported to the glorious future promised by the witches. Significantly, the queen does not survive long enough to enjoy what she craved, that is Duncan's crown. Upon hearing the news of his wife's death, Macbeth laments:

I brought Her here, to see my Victines, not to Die.  
 To Morrow, to Morrow, and to Morrow,  
 ...  
 ... all our Yesterdays have lighted Fools ...  
 ... Out, out that Candle,  
 Life's but a Walking Shaddow, a poor Player  
 That Struts and Frets his Hour upon the Stage  
 And then is Heard no more. It is a Tale  
 Told by an Ideot, full of Sound and Fury  
 Signifying Nothing. (5.4, 61)

This is an expected conclusion of a man with a sick mind and soul like Macbeth. He believes that his life turns out to be an empty apparatus with no significance. In his letter to Lucillius, 'On the Fickleness of Fortune', Seneca writes that a wise man, 'reflects on the possible ups and downs in human affairs before he feels their force' (2016d, 351). However, Macbeth proves to be unwise to the very end. His lack of wisdom is obvious through his failure to perceive the tragic consequences of the crimes he committed along with his wife to gain the crown. Such an end, along with the Stoics' reading of ambition and its destructive course, has a strong resonance with the war-weary Restoration audience. They are directed to perceive Macbeth and his wife's mistakes and learn from them. Davenant does not want them to become like Macbeth and Lady Macbeth, who not only fail to control their emotions but also fail to acknowledge their mistakes before it is too late. The audience are urged to act like true Stoics and learn from past mistakes and try to avoid living them again. The Civil War was started by ambitious characters, like Macbeth and his Lady, who wanted what did not belong to them. *Macbeth* manipulates the audience to understand that the key to stability is to acknowledge their place in the community and support the newly restored monarchy.

## 6. Conclusion

Davenant makes it clear that theatre is a key tool to control the audience's emotions and secure their political allegiance. *Macbeth*, which he staged in 1664 after the Restoration of Charles II in 1660, is a clear manifestation of such a concept. The play dramatizes crime and punishment through Roman Stoicism's moral construct of ambition. Davenant intends his play as a dramatic warning message against ambition and disloyalty toward the newly restored monarchy. Such an

approach confirms that Davenant and the Restoration audience were familiar with the Roman concept of Stoicism. This suggests that the audience can comprehend Davenant's political message. This proved most obvious by the popularity of *Macbeth* on the Restoration stage. Davenant allows his key characters, Macbeth and Lady Macbeth, to be a faithful dramatic manifestation of the Roman Stoic's concept of the disease of ambition with its evil course and unavoidable tragic end. Macbeth and his lady display the symptoms of ambition as indicated by the Roman Stoics: the existence outside the boundaries of nature, the experience of grave unhappiness and the pursuit of Fortune to tragic ends. Macbeth and Lady Macbeth's lack of wisdom motivate them to follow passion rather than reason. Being ambitious, they fail to accept their position in life and desire King Duncan's crown. By desiring what does not belong to them they place themselves outside the boundaries of nature.

Under the evil influence of their ambition, they realize that the only way to obtain what does not belong to them is to oppose the laws of nature. Their unnatural course is most obvious through their violence and contact with evil supernatural powers. By opposing the laws of nature, they find themselves living under constant threat and fear. As a result, they suffer what the Stoics call perturbation of the mind – a chronic and incurable affliction of the mental faculties. The ambitious Lady Macbeth is constantly haunted by the ghosts of those they murdered. Macbeth, in his turn, becomes more and more bloody and violent. Their misery and lack of security cause the full disintegration of their world. Unable to bear the mental and emotional pressure, Lady Macbeth dies, and Macbeth is killed by Duncan's legitimate heir. From the Stoics' perspective, the unhappy life and tragic end of Macbeth and his queen are natural punishment for their ambition and its bloody course. The tragic consequences of their actions remind the Restoration audience of the destructive Civil War that took place through the deeds of ambitious men like Macbeth, who desired what does not belong to them. In such situations the audience are expected to follow the Stoics' teachings, be wise and learn from past mistakes, control their emotions, and avoid another destructive war. To achieve these goals, they need to be dutiful to their community, accept their position in life, and show their allegiance to the newly restored Charles II.

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## *Forms of Resistance*







# 'The Original Hoods' Late Medieval English Crime Fiction

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## Abstract

Early crime fiction is usually linked to the true crime stories that developed into *The Newgate Calendar* by the mid-eighteenth century, but there were late medieval and early modern narratives in popular poetry that described and even celebrated actions by free peasants against the authorities of the church and the then somewhat fragmentary state. Four domains of such narratives – seen here as the ancestors of the crime novel – are described and explored. They are: Robin Hood ballads, focusing on the early major texts, 'Robin Hood and the Monk', 'Robin Hood and the Potter', 'Robin Hood and Guy of Gisborne' and 'A Gest of Robyn Hode'. Popular ballads recording family crimes, 'The Twa Sisters', 'The Cruel Brother', 'Edward', or 'Lord Randal' or presenting conflicts with the supernatural, 'Lady Isabel and the Elf-Knight' and 'Gil Brenton'. Anglo-Scottish border ballads of politico-military conflict, 'Johnie Armstrong' and 'Tam Lin'. Early modern verse narratives usually called 'King and Subject Narratives', where a free peasant directly challenges the anonymous monarch and finally meets him, awkwardly, at court: 'King Edward the Fourth and a Tanner of Tamworth', 'John the Reeve' and 'King Edward and the Shepherd', with its intriguingly open ending. Across these little known rich popular narratives are transcribed the patterns of early and politically-resistant crime fiction.

Keywords: *Border-Conflict, Crime, Outlaws, Paesants, Politics*

## 1. Looking Back

The past of the massive genre of crime fiction has attracted different responses. Those seeking high-culture connections have argued that Sophocles' *Oedipus Rex* offers the first family crime detection, while others have explored the Old Testament for distant accreditation, as in the false-arrest story of 'Susannah and the Elders' found in The Book of Daniel. However, facts and evidence, as a detective might say, link the genre to the allegedly true crime stories that flourished from the seventeenth century on in Britain, France and America, and even before. In London, in

1591, you might have excitedly read *Sundry strange and inhumaine Murthers, lately committed*, and admired the illustration showing a crazy-eyed man axing three children to death.

That illustration and parallel stories are to be found in Marshburn and Velie's *Blood and Knavery* (1973). The narratives can be dark and disturbing – the axe-murderer was hired by the children's father – or comic and outlaw-like, as with *The Merry Life and Mad Exploits of Captain James Hind*, whose protagonist, arrested in 1651, hated 'the caterpillars of the commonwealth', professional men and officials (1973, 103). But, as in nineteenth-century crime fiction, murder was not then the dominant misdeed – modernity and its individualism have privileged that kind of mystery. Most early crime pamphlets dealt with 'cony-catchers', urban crooks who caught 'conies', human rabbits, by being pickpockets or con-men. Such crime reports, and their often executorial outcomes, would take a more formal pattern in *The Newgate Calendar*, a highly popular series that started in 1728 and overlapped with the rise of clever specialised detectives in the 1840s, the beginning of the crime fiction genre that still flourishes.

But there was more, further back. Most modern genres took their rise in the late medieval period with towns, non-servile workers, social mobility, printing and the beginnings of general literacy: all of these changed social culture massively, and inherently modernly. Then as now, ordinary people made known their thoughts on social challenge and social change, and a series of popular literary forms, first oral, but fortunately also soon literary, emerged as the people disputed the authoritarian practices of the local representatives of the church and the king, and committed crimes that readers sympathised with, as they would do in the crime novel.

## 2. *Robin Hood, Outlaw Crime Hero*

Most accounts of crime fiction see the crime novel as a modern formation linked to the realist fiction of between-wars America, when writers like W.R. Burnett and J.M. Cain explored the contexts and the minds of focal criminals, rather than merely making mystery out of their crimes. The sub-genre can be more fully analysed – Martin Priestman shrewdly observed a similarity between Burnett's *Little Caesar* and the Newgate Novel of the 1830s-40s, when authors like Bulwer Lytton and Ainsworth treated real major criminals quasi-heroically (1998, 39). The crime novel was also active elsewhere – in 1930s Britain A.B. Cox (writing as 'Francis Iles' and 'Anthony Berkeley') explored the criminal's mind so fully his novels can be seen as early psychothrillers. Further away in time and place, the fact that white Australia started in 1788 with nothing but convicts and warders made heroic police detectives very rare in the national crime fiction, especially by men. Peter Temple's *The Broken Shore* (2005) is the first real success in that mode, but from the mid-nineteenth century to the present there have been many successful Australian crime novels, such as Marcus Clarke's powerful *His Natural Life* (1870-1872), the earlier novels of Arthur Gask in the 1920s and in the present Garry Disher realising and celebrating a master criminal named Wyatt.

Ernest Mandel saw the crime novel as a 'phenomen[on] of social decomposition' (1984, 94), and in each of the contexts just mentioned social changes and strains were strongly evident. But stories about crime told with sympathy for the apparent criminal also appear in Britain from the late medieval period, when the world of feudalism and serfdom was itself decomposing, and large numbers of men were no longer bound to a lord but had skills for which they earned money – and so had personal and social mobility, and also hostility to official and clerical oppression. The earliest preserved and most obviously socio-political of criminal celebrations are the many ballads about Robin Hood and his men, first mentioned in the mid-1370s,

surviving in some cases from the fifteenth century, and thriving as single-sheet printed ballads in seventeenth-century London.

The crime-oriented politics of the Robin Hood cycle are full and varied. The two earliest ballads will be discussed in some detail as they encompass the major themes of the mode, then variant features will be illustrated from other texts. The earliest survivor is 'Robin Hood and the Monk', from about 1450, when popular poetry is beginning to be written down. It starts, of course, in the forest:

In somer, when the shawes be sheyne, [groves are bright]  
 And leves be large and long,  
 Hit is full mery in feyre foreste  
 To here the foullys [birds] song. (ll. 1-4)<sup>1</sup>

For the forest outlaws it is always summer, and they shelter 'Under the grene wode tre' (l. 8) – a line often repeated. This may seem idyllic, but actual outlaws rarely stayed in the forests in winter. More realism occurs: while later Romantic forest celebrations would be in distant, hilly locations, Robin Hood's forest is always conveniently close next to a town – Sherwood beside Nottingham, especially, but other locations occur, notably Barnsdale near York. The action recurrently engages with people from the nearby town: Richard Tardif has argued (1983) that the prime early audience of the outlaw myth was town-dwelling 'journeymen', the lower element of urban tradesmen, and that the outlaw activities project the journeymen's dissatisfaction with social and church officials. The audience of the printed ballads was clearly primarily urban – they are very early in printed, marketable, single-sheet form. And the hero's name is meaningful. Robin is a diminutive of Robert, suggesting he is young, or at least not status-claiming. And a hood is a hat worn by a simple man – and also it could make identification difficult. There are hyper-individualists who want to find a 'real Robin Hood' – usually amateur historians who live in the outlaw myth areas – but there is no evidence supporting any of their factitious fantasies: if there is an origin, it is the sturdy peasant Robin des Bois [of the Woods] in thirteenth-century French *pastourelle* and *bergerie* poems, who defends his beloved Marian against incursive knights and clerics.

Though the outlaws often attack church officials, they are not pagan. Robin says at the start he is grieved to have not attended "mas nor matyns" (l. 24) for more than a fortnight, and today he will go to Nottingham, "With the myght of mylde Marye" (l. 28): worship of Mary developed strongly in the fifteenth century, as a more humanly accessible mode of religious feeling.

Much the miller's son warns Robin to take twelve men for protection, but he replies he only needs Little John, to "beyre my bow" (l. 37). John objects, saying he will carry his own bow, and so will Robin: they can "shete [shoot for] a peny" (l. 41). Robin says no, he will give him odds, three pennies for one. As Robin assumes a form of mastery, John resists – and when after a while John says he has won five shillings, Robin denies it and 'smote [struck] hym with his hande' (l. 56). John is angry, pulls out his sword, then says "Were thou not my maister" ... / "Thou shuldys by hit ful sore" (ll. 59-60). Though John recognises Robin's leadership, that does not allow Robin to dominate.

The danger of such dissent soon becomes evident. They separate, Robin enters Nottingham alone; he is recognised by a 'gret-hedid munke' (l. 75) he recently robbed of £100, who hurries

<sup>1</sup> Robin Hood texts (Section 2) are quoted from Knight and Ohlgren 1997, other ballads (Section 3 and elsewhere) from Leach 1955, while 'King and Commoner' texts (Section 4) are from Furrow 2013.

to inform the sheriff and his men. They fight, Robin kills twelve and wounds more, then breaks his sword on the sheriff's head and runs into the church, presumably for sanctuary. A leaf of the text is missing here, and the story re-starts with outlaws in the forest swooning at the news of Robin's capture. Only Little John is calm: he and Much will look for the monk, and rescue Robin.

They see the monk on his way to the king with the sheriff's letter about Robin. They pretend also to be Robin's victims, so the monk is off his guard. Then John says "He was my maister" ... / "That thou hase browght in bale [danger]" (ll. 199-200): they kill the monk, and his page, and take the letter to the king. He gives them twenty pounds, makes them yeomen of the crown and sends with John a seal for the sheriff to use to bring Robin to the king. When they reach Nottingham the gates are barred because Robin Hood is in jail and his men's attack is feared. Entering with the seal, they give the sheriff the king's letter: when he asks where the monk is, John wryly says the king has made him Abbot of Westminster. They feast well: when the sheriff is drunk and asleep, John kills the jailer, frees Robin, and the three jump off the lowest point of the city wall.

Back in Sherwood they are all 'As light as lef on lynde' [leaf on tree] (l. 302). John says to Robin "I have done the a gode turne for an ill" (l. 305) in bringing you back "under the grene-wode lyne" (l. 309), and then says simply "Fare wel, and have gode day." (l. 310). But:

"Nay, be my trouth", seid Robyn,  
 "So shall hit never be;  
 I make the maister," seid Robyn  
 "Of alle my men and me." (ll. 311-314)

John rejects this way of resolving their difference, using at first his chosen master's own language:

"Nay, be my trouth," seid Litull John,  
 "So shalle hit never be;  
 But lat me be a fellow," seid Litull John  
 "No noder kepe I be." [No other I care to be] (ll. 315-318)

The outlaws are always 'fellows' and they select Robin as leader of their fellowship. New fellows often appear. A dozen 'Robin Meets His Match' ballads tell about his personal conflict with a stranger to the forest: they either draw or Robin loses, but the stranger joins the band. His title shows he too is a skilled freeman – Robin fights a Tanner, a Butcher, a Ranger, a Pindar (pound-keeper) – and, in what seems a back-dated story, when Little John himself arrives in the forest they fight on a bridge and Robin finally falls in the river.

'Robin Hood and the Monk' offers crime – the past theft from the monk, as well as the killings for rescue: fourteen men and a page-boy die. There is a ready use of pretence to outwit the outlaws' enemies – the monk, the king, the sheriff and the jailer. A crucial sense is that safety lies in numbers, but also it is asserted the fellows are all equals, in some way even including their chosen leader.

Similar criminal-cum-political themes appear in the other early-surviving ballad 'Robin Hood and the Potter', which involves town action, and focuses more closely on the sheriff. The manuscript is dated around 1500, and opens very similarly to its predecessor:

In schomer [summer], when the leves spryng,  
 The bloschoms [blossoms] on every bowe,

So merey doyt [doth] the berdys [birds] syng  
Yn wodys merey [very merry] now. (ll. 1-4)

We hear that the ‘god yeman’ (l. 5) Robin Hood is ‘boyt corteys and fre’ [both courteous and generous] (l. 10), and also that ‘For the loffe [love] of owre ladey, / All wemen weschepeyd he’ (ll. 11-12). The worshipping of ‘all women’, rather than just Mary, is unusual for Robin – the early outlaw ballads have no Maid Marian: women did not join their outlawed men in the forests. Later in the ballad it will become clear why ‘women’ are mentioned here.

Robin and his men, in the forest, see coming ‘a pround potter’ (l. 15) – ‘proud’ here and elsewhere is not necessarily negative, but seems to indicate someone with a strong sense of self. Robin comments this potter never pays any toll for passing through the forest; Little John says he is a good fighter, and bets forty shillings he will beat anyone. Robin takes the bet, and asks the potter for a toll. He refuses, and takes his fighting staff from his cart. Robin uses a sword and buckler, but the potter, using well his simpler weapon, hits the buckler out of Robin’s hand and, as he stoops for it, knocks him down with a blow to the neck.

Robin pays John. The potter says it is very rude to hinder a yeoman in this way. Robin comments that he ‘“seys god yemenrey”’ (l. 90) and asks if he would like ‘“A felischepe”’ [fellowship] (l. 94) – then suggests they exchange clothing and Robin take his pots to Nottingham to sell. The potter agrees, saying Robin will ‘“feynde [find] me a felow gode”’ (l. 98). John warns Robin to beware of the sheriff ‘“For he ys leytell [little] howr [our] frende”’, (l. 108), but Robin says ‘“Felowhes, let me alone”’ (l. 110) and hurries off in the cart.

In town Robin sets up his pot-stall ‘agenest the screffeys gate’ (l. 129), suggesting he has mischief in mind. He sells the pots so cheaply that people think – ironically with truth – ‘he had be no potter long’ (l. 136). Urban commercial greed is being mocked by Robin, it seems, and with only five pots left, he sends them to the sheriff’s wife – she is delighted, calls him ‘“sir”’ (l. 146), and invites him to have dinner with them. When they are dining ‘With a nobell chere’ (l. 166) the sheriff’s men speak of an up-coming shooting match for forty shillings – the sum Robin lost to Little John.

The ‘potter’ attends the match, and says if he had a bow he would show them something; the sheriff offers some bows. Like Little John with the king, Robin is infiltrating the world of authority – a very common feature of the crime novel. Robin’s first shot is good, and he wins when, in the final round, ‘He cleffed [cleaved] the preke on thre’ (l. 208) – the ‘prick’ is the peg that holds the target’s centre to its background, and here it is hit like a bull’s-eye. The sheriff is impressed, and the potter, as if casually, mentions he has in his cart a bow he got from Robin Hood. The sheriff says he would rather meet the outlaw than have a hundred pounds. The quasi-potter says come with me and meet him. The trap is sprung: there was a criminal purpose as Robin Hood played one of Tardif’s urban tradesmen.

As they leave, Robin says to the sheriff’s wife ‘“Dam, for mey loffe [for my love] and ye well thys were, / Y geffe [give] yow here a golde ryng.”’ (ll. 240-241) She is very pleased; her husband is too, because they are to head for the forest. But when they reach it, Robin blows his horn and his men run to him: Little John asks ‘“How haffe yow solde yowre ware?”’ (l. 263) and Robin answers ‘“Y haffe browt the screffe of Notynggam, / For all howre chaffare.”’ [For all our business] (ll. 266-267).

They take the sheriff’s horse and ‘“all yowre hother gere”’ [your other gear] (l. 279) – presumably valuables and equipment – and tell him to walk home. Robin says ‘“gret [greet] well they weyffe at home”’ (l. 284) and sends her a fine white palfrey: he tells the sheriff if it were not for her ‘“Off more sorow scholde yow seyng.”’ [sing] (l. 289) This relation with the

wife is part of Robin's manipulation of urban forces. In the early trade context, a tradesman's wife had a major role in the business and often inherited it when her husband died: this too is a theme for Tardif's journeymen. When her husband returns she laughs and says ' "Now haffe yow payed for all the pottys / That Roben gaffe to me." ' (ll. 304-305) The wife motif, like the lack of bloodshed, makes this a more subtle account of outlaw crime than 'Robin Hood and the Monk'.

Back in the forest Robin asks the potter what the pots were worth – two nobles he says (old style, thirteen shillings and fourpence). Robin gives him ten pounds, fifteen times as much, showing noble, but also yeomanly, generosity. Robin and the potter part 'Ondernethe the grene wod tre' (l. 321) – and the poet finally wishes God's mercy 'on Roben Hodys solle [soul] / And saffe [save] all god yemanrey!' (ll. 322-323).

'Yeoman' was originally a term for a person of medial feudal status, between labouring serf and exploitative lord, like Chaucer's Reeve or Miller, themselves both socially challenging figures. The term was also used for such figures once they fully escaped feudalism and set up to earn alone, through a trade. These fictional yeomen, Robin, Little John, the potter and the other 'Meets His Match' new fellows, exercise freedom, courage, cunning and the support of their fellowship to demonstrate new values of liberty and resistance to the containing and conservative forces of church and state.

The first two lengthy ballads provide a broad view of Robin's quasi-criminal actions and values, whether in the forest or under threat or disguise in the town. The force of that hero of a new social formation, speaking for people who felt crimes were being done against them, would both survive and develop. 'Robin Hood and Guy of Gisborne' is a somewhat later survival, only preserved in Thomas Percy's famous manuscript of earlier works, written in about 1646 – but there is a short play from c.1475 which uses some of its action. This positive crime story again starts in the beauty of summer as Robin and John go to seek two men Robin thinks, or perhaps has dreamed, attacked him. They see a threatening figure, dressed in horse-hide, but once again they fall out – John wants to attack the man, but Robin will not stand back. They argue and separate; John goes back to the forest, to find the sheriff's men attacking, two of Robin's men dead, and then he is caught.

Without acknowledging his own identity, Robin finds this person – whose name is Guy of Gisborne – who is looking for Robin Hood on behalf of the sheriff. They compete at shooting, Robin wins, and reveals who he is. Now they fight seriously: Robin stumbles on a root, but he thinks on 'Our Lady deere' (l. 159), leaps up and beheads Guy with 'an awkwarde stroke' [backhand] (l. 161). He changes clothes with Guy, cuts his face with a knife to make it unrecognisable, and puts the head on the end of his own bow.

He returns to Barnsdale disguised as Guy, blows Guy's horn and asks the sheriff to be allowed to kill ' "the knave" ' (l. 200), Little John, as he has done to John's ' "master" ' (l. 199). At once he cuts John's bonds and gives him Guy's bow: the sheriff runs away but John 'with an arrow broade, / Did cleave his heart in twinn.' (ll. 233-234). In this ballad we again find a conflict among the outlaws, resolved harmoniously; Robin and John both show courage, while this time Robin defeats the sheriff when in disguise and saves John. The grim ending is only in Percy's manuscript: when he printed the ballad in his *Reliques of English Poetry* (1765), John merely shot the sheriff 'into the backe-syde' (l. 236).

The hero's social and criminal aggression could be real, not just literary – the outlaw figure was at times cited in the context of actual political and criminal resistance. When Sir Piers Venables rescued a prisoner and escaped to the forest in 1439 he was said to have behaved 'like Robyn Hode and his meyne' [band of men] (Knight 1994, 25). In 1441 a group of yeomen



and labourers blocked a road in Norfolk, threatening to kill a local landowner and chanting 'We arn [are] Robynhodesmen war, war, war' [beware] (108).

This sense of justified resistance in the name of Robin Hood, literary and real, was a new and English formation. There are instances from the fourteenth century of what are called 'Robin Hood play-games', which celebrate the hero as something like a lord of the forest – in late May processions might weave from the local woods into the centre of small towns, where there would be celebratory games and collections for civic use. These 'play-games', which had no scripts, just town records, lasted into the seventeenth century, but they initially had no crime or outlaw element. The origin of this genial, local-hero Robin appears to be the thirteenth-century French *pastourelles* and *bergeries* mentioned above: the figure was known for these non-outlaw 'play games' in towns in south-western England and south-eastern Scotland, both linked with the French wine trade. But the benign local hero became darker in the very troubled English fourteenth century, as major social change and official hostility to newly free workers made authority seem to ordinary people increasingly threatening, so stimulating the Robin Hood outlaw ballads in a mode like early crime novels.<sup>2</sup>

Apparently as a result of Robin's anti-official possibilities, a number of towns banned the Robin Hood 'play-games' as being socially disruptive: famously, when in 1561 Edinburgh banned such a performance, the people refused to accept this, held the event and in addition released the prisoners from the town jail, and put the magistrates in. In response to such challenges, conservative culture began to oppose the ballad-based celebration of the outlaw and his crimes by reworking and effectively gentrifying the myth. This process would change Robin from a yeoman outlaw resisting social and church authority to, eventually, a nobleman only resisting a bad king and corrupt clergy. This process developed slowly: a first instance was 'A Gest of Robyn Hode', from the mid to late fifteenth century. It is in ballad metre but is lengthy, with 1824 lines. Its title claims some social relocation – 'Gest' is not the word 'jest', but from Latin 'Res Gestae', 'things done', and was used as a title for accounts of prestige-claiming gentry heroes.

From the start of the poem, Robin is somewhat upgraded. Before dining, he wants first to meet some 'bolde baron', 'a lord or sire', 'Or some knyght or squyer' (ll. 23, 25 and 27). This is like King Arthur delaying the court's dinner until some promise of exciting adventures arrives. After they say mass, Robin sends John and Will off to find a 'gest' – this time a guest – and a knight appears to them, looking very miserable as he rides slowly along. As they begin to feast, Robin indicates he should pay for the meal – 'It was never the maner, by dere worthi God, / A yoman to pay for a knight' (ll. 147-148). The knight says with shame that he has only ten shillings: John checks his purse, and this is correct. Robin will not take it, and the knight tells him all. He is of high and ancient family; his son has killed another knight and to fund the boy's freedom his father has mortgaged his lands and goods for £400 to the abbot of St Mary's, York.

Robin says they will help him – John counts out £400, which they lend him for a year; they give him new clothing, a fine horse and saddle, even Little John to act as his yeoman. The pair head off to York: the abbot, supported by a 'justice', is rude when the knight asks for more time to pay – so the knight produces the money. He goes home, and in the following year raises the £400 for Robin, but also buys a hundred fine sets of bows and arrows to give Robin, and at Wentbridge on the way to the forest he helps a good yeoman who is alone and in danger: the social positions of knighthood and outlaw yeomanry are coming together. Before the year of the loan elapses, Robin has taken £800 from the St Mary's abbey cellarer, who was travelling

<sup>2</sup> On the play-games and the outlawing of Robin Hood, see Knight 2008.

to London to pay for gaining the knight's lands permanently for the abbey. With quasi-lordly generosity, Robin not only tells the knight to keep the £400 but splits the £800 evenly with him.

This socially new semi-gentrifying sequence has taken a third of the poem: there will be more innovation to come, but now follows some familiar outlaw behaviour. Little John's shooting skills are admired by the sheriff and the knight passes him on to be the sheriff's yeoman, now named (the disguise role again) 'Reynalde Grenelefe'. With his new friend the sheriff's cook – another journeyman – John steals from the sheriff's 'tresoure hows' [house] (l. 693) gold and silver vessels and more than £300 in coin: they take everything to Robin. John then tricks the sheriff into the forest, where Robin's men take him, and to save his life he vows always to support Robin and his men. Later in the story he breaks this oath by having Little John shot in the leg. The knight, now back at home, looks after John until he is healed, so the sheriff besieges his castle and takes the knight to Nottingham to be executed for harbouring the king's enemies. The knight's wife tells Robin, who walks into Nottingham, shoots the sheriff with an arrow, cuts off his head and frees the knight.

That old-style anti-sheriff sequence converts to more outlaw elevation, this time on a royal level. The king and some of his men seize the knight's lands, but cannot track him or Robin. They enter the forest in disguise as monks, with the king as their abbot, and meet Robin, who demands half their money. The abbot-king splits his £40, and then says ' "Edwarde, our Kyng" ' (l. 1533), invites Robin to Nottingham to dine – and shows him the king's seal. Robin immediately kneels and says ' "I love no man in all the worlde / So well as I do my kyng" ' (ll. 1541-1542). He invites the visitors to dinner in the forest, after which they all enjoy wrestling and shooting. Soon both Robin and the knight recognise the king, and they and all the outlaws kneel. The king asks for mercy, but so does Robin. At peace together, the king invites Robin to come to court ' "And there dwell with me." ' (l. 1658) Robin agrees but does not fully commit himself: ' "But me lyke well your servyse, / I come agayne full soone." ' [If I do not like your service, I will return at once.] (ll. 1665-1666).

Robin will assert that independence. The *Gest* is a compromise with the criminal hero, making him assist the knight, even respect the king, but retain a separate identity. Robin finds it very expensive 'to gete hym grete renowne' at court (l. 1736), and one day when he sees young men shooting bows, he recalls being the finest archer in England and says ' "Yf I dwele lenger with the kyng, / Sorowe wyll me sloo." ' [slay] (ll. 1751-1752). The king gives him leave to go to the forest to visit the chapel Robin devoted to St Mary Magdalene – the good outlaw of the New Testament. Robin only has permission for a seven days' visit, but he has gone for good. In the forest he kills a deer, blows his horn and his men welcome him – with their hoods off, in their freedom. He stays there for twenty-two years, but is eventually betrayed by his cousin, a prioress who loves an enemy knight. When Robin goes to the priory to have blood drawn they betray him – no detail is given, simply a sudden statement of Robin's death, remembering him merely as being a 'good outlawe, / And dyde pore men moch god' [good] (ll. 1823-1824).

In this narrative so much is made of the knight and the king that, along with the title and almost dismissive ending, the *Gest* takes a major step towards depoliticising the resistant social force of the early ballads – often not operating like a crime novel but more like a sub-Arthurian story. The conservative appropriation of the criminal outlaw would go much further by the end of the sixteenth century. Gentrifying the outlaw was fully developed in 1598-1599 in Anthony Munday's two plays *The Downfall of Robert, Earle of Huntingdon* (1601) and *The Death of Robert Earle of Huntington* (1601). Robin Hood is the pseudonym the earl takes when he is outlawed, betrayed by his uncle the Prior of York. Moving to the forest is the 'downfall' of a noble lord, not the means of a yeoman's heroism: in the second play King Richard returns



from the crusades and frees Robin, but his enemies, led by the Prior, manage to poison him. The Catholic church at the time of Reformation is Robin's enemy, but so is 'bad King John', seen throughout the Tudor period as negative, and therefore permitting Robin to show loyalty to true royalty in Richard the Lionheart, as well as to the Protestant church.

In the forest Munday's Lord Robin enacts very few of the yeoman's traditional crimes or challenges – he does help with a gallows rescue, but not nearly as effectively or boldly as yeoman Robin does in a ballad when he rescues a widow's three sons from the sheriff's gallows, and hangs the sheriff. The now noble Robin spends much amorous time with his lady – lords must have one to produce an inheritor. Marian, also from early French, is only her forest name: she is Lady Matilda Fitzwater.

Though lordly Robin was welcomed by the literary gentry, the inevitable removal of his low-life crime excitements made the aristocratised outlaw texts relatively uninteresting and never popular. Through the seventeenth and eighteenth centuries the directly criminal outlaw ballads thrived, though there were some signs of gentrification: the forest band is at times joined by figures from above the yeoman class like Alan a Dale and, according to one ballad, Will Scarlett. Another one, 'Robin Hood and Maid Marian', accepts him as a lord with a lady – though here, unlike in Munday, he finally just stays in the forest, with Marian. The gentry ballads survive in very small numbers, unlike the outlaw versions. On the stage the hero appeared in the eighteenth century, usually in gentry form, with Marian and song and dance, a mode which became nineteenth-century pantomime, where the crime novel-style core was much reduced – and Robin as 'Principal Boy' was usually played by a tall woman with fine legs.

Romantic medievalism combined social resistance with gentrification. A crucial condensation of lordliness and narrative vigour appeared in 1822 from the lively-minded Thomas Love Peacock. In his innovatively titled short novel *Maid Marian*, he returns to Lord Robin most of the vigorous adventures and fighting skills of the early outlaw. This drew on Joseph Ritson's 1795 outlaw ballad anthology, where a long introduction links Robin strongly to medieval political and resistance, but also gives him Norman heritage. Scott's massively popular *Ivanhoe* (1819) uses Robin as an illiterate tough yeoman outlaw, but he is also involved in gentrification because he supports Lord Ivanhoe, himself exiled by Prince John – so both the earlier Robin Hoods, of different social levels, are in effect present. With major influence on later versions, Robin's toughness is by Scott re-directed into nationalism: he is, for the first time, an anti-French Anglo-Saxon. This re-creation extends to masculinism: here, splitting the peg becomes splitting the arrow. That is how Robin defeats a Norman archer whose grandfather fought at Hastings – a national and phallic triumphant heroism that has remained central to the hero myth.

This less than criminal, highly nationalistic and hyper-male Robin features in a series of nineteenth-century popular novels in heroic adventure mode. The figure turned into the internationally noble, if still liberal, Robin in films, notably Douglas Fairbanks' large-earning 1922 silent and Errol Flynn's very popular 1938 version of Sir Robin of Loxley – technicolour bringing him well-filled green tights, an interesting but surely not trans-gender borrowing from the Principal Boy tradition. The old crime novel mode now only recurs if the writer is a modern radical like Geoffrey Trease in the frankly Marxist *Bows Against the Barons* (1934), linking Robin to the Peasants' Revolt of 1381, or Richard Carpenter, author of the British television series *Robin of Sherwood*, starting in 1984, where Michael Praed played Robin as a young peasant, both class-conscious and environmentally sensitive.

Such rare modern versions of the medieval criminal hero dissent from the steady depoliticization of the figure – yet even in the past when Robin killed his enemies in numbers

and shared leadership with his men, he was not a revolutionary. He was never against the king himself, and always firmly faithful to the Virgin Mary. He was only against corrupt officials, the exploiters of ordinary people – and in that respect he basically shares the standpoint of most of the heroes of the twentieth-century crime novel, and even the tough-guy detectives who are only just separated from them.

While they are the most notable late medieval versions of the crime novel, the Robin Hood ballads were not the only examples of the mode. Admired characters who undertook crime and dissent for good reasons were explored in two other late medieval and popular forms, the folk ballad and the ‘King and Commoner’ tradition.

### 3. *The Popular Ballads of Resistance*

Where the Robin Hood ballads were almost all printed by the seventeenth century, had modern tunes (Bronson 1966, 13-14), and were consumed in the cities and towns by readers, the folk ballad was more rural, communal and oral, some with modally old tunes. They were being gathered and reprinted by the early nineteenth century, and the major scholar of the form, aware of folk ballad traditions across Europe, was the Harvard professor Francis James Child, with his ten volumes of the *English and Scottish Popular Ballads*, 1882-1898. A more recent edition is *The Ballad Book* (1955), edited by the American scholar MacEdward Leach, who reprinted two-thirds of Child’s 305 Ballads and added 45 America-developed ballads.

Many of the texts celebrate love, war, superstition, children, wisdom and other human and semi-human topics, but about a fifth make a social and personal crime central and either indicate guilt or show the crime to be justified in terms of defending one’s rights and resisting damaging authority, so fitting into the pattern nominated here as the late medieval popular crime novel: these are ordinary people who behave like what we call hoods – and quite often wear them.

Sudden crimes of dark passion are the simplest. The late medieval ‘The Twa Sisters’, with an elaborately repetitive six-line stanza, tells a bleak story. A knight seemed to court the elder of two Edinburgh sisters, with gloves and a ring, but he actually ‘lovd the youngest above a thing’ [all thing] (Leach 1955, A, 2, l. 2). The elder sister, filled with ‘grief an spite’ (A, 5, l. 2) flings her sister into the sea. The youngest begs for life, offering her land, her gold and never to marry – but the killer refuses saying ‘“Your cherry cheeks and yallow hair / Gars me gae maiden for evermair”’ [Make me go maiden evermore] (A, 1, ll. 1-2). The girl drowns, a harper sees her, sighs deeply, strings his harp with her hair and that night plays to the King ‘“Farewell to my father the king”’ then ‘“Farewell to my mother the queen”’ and then ‘“Wae [Woe] to my sister, fair Ellen.”’ (A, 26, l. 2; A, 27, l. 2; A, 28, l. 2).

Different marriage trouble comes in another early folk ballad, ‘The Cruel Brother’. A knight woos three sisters, chooses the youngest; her sisters and parents consent, but he ‘forgot to spiek to her brother John’ (A, 10, l. 2). At the wedding all admire the beauty – ‘and her brother John set her on her horse.’ (A, 15, l. 2) Then, as she leans down to kiss her brother: ‘He has taen [taken] a knife, baith [both] lang and sharp, / And stabbd that bonny bride to the heart’ (A, 17, ll. 1-2).

She is bleeding: the best man says she is pale, she asks to ‘“make my will”’ (A, 20, l. 2). She leaves her father her horse, her mother her dress, to one sister her scarf and fan, to the other her bloody clothes to wash. Finally, to her brother John she leaves ‘“The gallows-tree to hang him on.”’ (A, 25, l. 2); to his brother’s wife she leaves ‘“The wilderness to end her life.”’ (A, 26, l. 2). She is buried and ‘it would have made your heart right sair, / To see the bridegroom

rive his haire’ (A, 28, ll. 1-2). Some commentators think the crime is motivated by brother-sister incest, but male vanity seems a more likely motive for this stark, and yet banal, melodrama.

Different in its sources of malice is a very popular short ballad, with many versions and varying titles. In the best-known example, ‘Lord Randal’, his mother addresses him, and the second line of each quatrain ends with her saying ‘“my handsome young man”’: the second half of each line 3, the first of his reply, is right through the poem ‘“mother, mak my bed soon”’. For the first five stanzas the last line is him saying ‘“For I’m wearied wi hunting and fain wad [desire to] lie down.”’. At stanza six this changes to ‘“For I’m sick at the heart and I fain wad lie down.”’.

His mother asks where he has been – out hunting and with ‘“my true-love”’ (A, 2, l. 3), who gave him food. The mother asks what food, he says ‘“Eels fried in a pan mother, mak my bed soon,”’ (A, 3, l. 3) – different versions of the ballad describe various types of poison-containing food. His mother asks who got his leavings of food, and what happened to them – he gave them to his hawks and hounds and ‘“They stretched their legs out an died, mother, mak my bed soon,”’ (A, 5, l. 3). He agrees he is poisoned; and in the next four stanzas is asked what he leaves to people. To his mother ‘“Four and twenty milk kye”’ [cows] (A, 7, l. 3), to his sister his gold and silver, to his brother ‘“My houses and my lands”’ (A, 9, l. 3) and to his ‘“true-love”’: ‘“I leave her hell and fire, mother, mak my bed soon, / For I’m sick at the heart and I fain wad lie down.”’ (A, 10, ll. 3-4).

The motive for this almost lyrically told tragedy is never indicated, nor any actual penalty suggested, beyond the betrayed lover’s grim last wish.

Other early verse-stories are as dark, if not as poetic, and can have an element of surprise at the end. In ‘Edward’ his mother asks why there is blood on his coat: he replies he has killed ‘“my hauke sae guid”’ [good] (B, 1, l. 5); she says a hawk’s blood was never so red, so he says it was ‘“my reid-roan steid”’ [red-roan steed] (B, 2, l. 5). She replies the horse was old and he has more, so he says ‘“O I hae killed my fadir deir, / Alas, and wae [woe] is mee O!”’ (B, 3, ll. 7-8). She asks what penance he will do – he will sail ‘“ovir the sea O.”’ (B, 4, l. 8). She asks what he will do with ‘“your towris and your ha”’ [hall] (B, 5, l. 1) – he will ‘“let thame stand tul they doun fa”’ [fall down] (B, 5, l. 7). She asks what he will leave to ‘“your bairns and your wife”’ – the answer is ‘“The warldis room, late them beg thrae life”’ [through] (B, 6, ll. 3 and 5). Finally she asks what he will leave ‘“to your ain mither deir”’ [own mother dear] (B, 7, ll. 1 and 3). He replies – and everything changes – ‘“The curse of hell frae me sall ye beir, / Sic [such] counseils ye gave to me O.”’ (B, 7, ll. 7-8).

This memorable ballad adds to the grim crime novel structure a final shocking element of Christie-like in-family guilt-revelation. But woman can also play the hero, as it were. Probably the most popular ballad in Europe was ‘Lady Isabel and the Elf Knight’, ancient and very numerous, a short, potent, female-dominant form of something like the Bluebeard myth, with a woman defeating a would-be seducer bully. Lady Isabel who ‘sits in her bower sewing’ (A, 1, l. 1) hears an ‘elf knight’ (A, 1, l. 3) blowing his horn, on ‘The first morning in May’ (A, 1, l. 4). A woman of some confidence, she thinks she would like to have ‘“yon elf knight to sleep in my bosom.”’ (A, 2, l. 2). He appears, says ‘“ye call on me”’ (A, 4, l. 2), and they ride ‘to the greenwood together’ (A, 6, l. 2). But this is not the outlaw greenwood: when they arrive he tells her ‘“Light down”’ as ‘“We are come to the place where ye are to die.”’ (A, 7, ll. 1 and 2). She asks for mercy and to see her father and mother: he replies he has here killed seven king’s daughters ‘“And ye shall be the eight o them.”’ (A, 9, l. 2) She says he should ‘“O sit down a while, lay your head on my knee / That we may hae some rest before that I die.”’ (A, 10, ll. 1-2) He accepts, and ‘Wi a sma charm she lulld him fast asleep.’ [small] (A, 11, l. 2).

Now she acts: ‘Wi his ain sword belt sae fast as she ban him [bound him], / Wi his ain dag-durk sae sair as she dang him.’ [With his own dagger so sorely she struck him] (A, 12, ll. 1-2). The calm and mistakenly attracted princess dismisses her attacker with royal dignity: ‘“If seven king’s-daughters here ye hae slain, / Lye ye here, a husband to them a’.”’ [all] (A, 13, ll. 1-2). There are longer, more padded versions, but this is about as condensed as a crime-repaid ballad can be, as Lady Isabel first imitates female submission and then switches to resistance through fatal violence.

A more complicated form of resistance emerges in ‘Gil Brenton’ – he may have once been another elf-knight, but here has a more human outcome. In this quite late text we hear that Gil has acquired an overseas wife, brought home to ‘the greenwood tree’ (2, l. 2) by his seven score ships. She regrets leaving her mother, and asks a ‘bonny boy’ (15, l. 1) what are the customs of his country. Brusquely he tells her that their king Gil Brenton has married seven king’s daughters, has ‘“cutted the paps frae [from] their breast-bane [bone]”’ (18, l. 1) and sent them mourning home again. He advises the new queen to be sure she is a virgin before going to bed with Gil, so she asks her ‘bowr woman’ (25, l. 1), for £500, to sleep with him in her place. Gil elvishly asks the blankets and sheets if this woman is a maid and they reply ‘“It’s nae a maid that you ha wedded, / But it’s a maid that you ha [have] bedded.”’ (31, ll. 1-2).

With this information, Gil goes to his mother and complains he wooed a maid but has married ‘“a woman great wi child”’ (35, l. 2). The ‘auld queen’ (38, l. 1) says she will speak to ‘“yon base whore”’ (37, l. 2). She smashes down the new queen’s door and asks roughly who is the father of her child. She calmly replies that she, the youngest of seven princesses, was in the greenwood strewing flowers in her mother’s bower when a ‘“jelly hind greeme”’ [a fine young fellow] (51, l. 2) appeared: he kept her there and gave her specific gifts, a lock of yellow hair, a string of black beads, a gold ring, a little penknife, and, by implication, a baby. She shows the gifts to the old queen, who recognises them – they are in effect clues – and goes to her son demanding to know what he did with those things. He says he gave them to ‘“a lady gay / I met i the greenwood on a day”’ (68, ll. 1-2). He adds he would give everything to have ‘“that bright burd [fine lady] i my bowrs [chambers].”’ (70, l. 2) His mother says that is exactly who he has. Within a month a son is born, and there is inscribed on his ‘breast-bane, ‘“Gil Brenton is my father’s name.”’ (74, l. 2). All ends happily: it seems Gil’s prior crimes are forgotten as a result of him being mastered by his doughty queen.

With impassioned crime, whether directly recounted or subtly implied, with brave resistance, from men and also often from women, the early folk ballads speak directly, dramatically and in varied modes about crime at work in the family. Other late medieval ballads deal with malice of a more political and even national kind, and though they are in a sense more like war-stories, effectively they narrate nationally justified crimes, particularly between the English and Scottish along their border.

A classic border ballad is ‘Johnie Armstrong’ – the leader of his well-named English warrior family, he has three thousand men to follow him. King James V of Scotland sees him as a ‘“bold out-law”’ who has ‘“robbèd all the north country”’ (3, ll. 3 and 4), so he cunningly invites him to the pleasures of court. Johnie and eight-score men arrive, finely dressed, but when they meet, the king announces they will all be hanged tomorrow. Johnie says there is no point in ‘“Asking grace of a graceles face”’ (11, l. 3): he and his men fight hard. When ‘fowerscore and tenn of Ionnès best men / Lay gasping all upon the ground’ (14, ll. 3-4) he is himself stabbed from behind by ‘a falce Scot’ (15, l. 3). Johnie tells his men to fight on – he will bleed for a while and then join them. When the news of his death comes to his young son ‘As he stood by his nurse’s knee,’ he vows ‘“if ere he liv’d for to be a man, / O [On] the treacherous Scots revengd he’d be”’ (17, ll. 2 and 3-4).

Not all the Scottish crime stories are so ferocious. In 'Tam Lin', which was said to be old in 1549, and later recorded by Robert Burns himself, Janet, with her kirtle above her knee and yellow hair down to her eyebrows, goes to a well at Carterhaugh, in southern Scotland, to meet Tam Lin, 'Little Tom', notorious lover of young women. She pulls two roses to suggest her interest: he tells her she should not do that, but she replies "Carterhaugh, it is my ain" [own] (7, l. 1) and she will do what she likes. Back at home she resists criticism, saying her lover is "an elfin grey" (15, l. 2) and his horse is shod with silver in front and "burning gowd [gold] behind" (16, l. 4).

She visits the well again, and pulls two more roses. Tam appears and tells her to stop, or their child might die. She asks who he is: he explains he is a human who was out hunting when he was taken by the Queen of the Fairies. Living in fairy land has been very pleasant, but after seven years "We pay a tiend [tribute] to hell" (24, l. 4) and he thinks this Halloween, this very night, the tribute will be himself. He asks her to save him. He describes his milk-white horse: she must pull him from it and hold him, though the Queen turns him into "an esk [lizard] and adder" (31, l. 2): then, when he has been turned into a "burning gleed" [coal] (34, l. 2) Janet should throw him into the well water – and then she can cover, with her green mantle, her "naked knight" (35, l. 2). That night, at midnight, she does all this, and both of them are 'As blythe's a bird in spring' (39, l. 4).

The Queen of the Fairies admits the woman who has taken Tam Lin "Has gotten a stately groom" (40, l. 4) – he was "the boniest [handsomest] knight / In a' my companie" (41, ll. 5-6). She hopes "an ill deth may she die" (41, l. 4), but all she can offer as her final word is that had she known, she would have taken out Tam's two grey eyes, "and put in twa een of tree." [two eyes of wood] (42, l. 4).

The balladeers of England and Scotland can in this way add noble, potent young women to the tough warriors and outlaws of their troubled lands, so developing in family, gender and nationally political terms the sense of resistance to wrongful authority through justified crime central to the early Robin Hood ballads. There is one more set of late medieval encounters with honourable criminal resistance, the very little-known but richly suggestive genre known as 'King and Commoner' ballads or, as Mark Truesdale prefers to call them in his very recent book on the genre (2018), and Melissa Furrow does in her edition (2013), 'bourdes' – popular and in part humorous narratives.

#### 4. *The Disguised King and the Resistant Yeoman*

In this group of long ballads from the late medieval and early modern period there is a repeating pattern of events. They differ in detail, but have the same narrative trajectory and outcome, showing sympathetically in crime novel mode a lower-class subject meeting the anonymous king and exercising some form of resistance to, even crime against, royal authority. The king, wandering on his own, meets just the sort of person Robin Hood would engage in his band, and presents himself as having some connection to the court. Though he and the yeoman argue, they do not fight: the king is entertained at home by the commoner, who usually wears a hood: he reveals a range of anti-authority attitudes and even past actions. Still concealing his identity, the monarch almost always invites the commoner to court. After some celebrations there, the royal identity will be revealed – and the commoner horrified. The stories end with different details, but in none of them is the commoner punished: the conclusion always in some way leaves the quasi-outlaw position seem apparently justified, even to the king.

Each 'bourde' has new and intriguing elements, but they cover a similar range of situations and sense of resistance. An early example is 'King Edward the Fourth and a Tanner of Tamworth'



– an unnumbered ‘King Edward and a Tanner’ also appear with Robin Hood. A ballad with this title was licensed in 1564 and there are four surviving copies from the seventeenth century on.

It starts ‘In summer time, when leaves grew green, / and birds were singing on every tree’ (Leach 1955, 1, ll. 1-2): into this Robin Hood-like setting rides King Edward, out hunting with many local lords. Seeing ‘a bold tanner’ (2, l. 3) on a good horse, he tells his lords to disappear, rides up and asks him the way to Drayton Bassett, a small town near Tamworth. He provides some instructions, but the king says that is not ‘“the ready way”’ (7, l. 2). The tanner responds crossly to this assumption of authority, telling the stranger he is ‘“out of thy wit”’ (8, l. 2) and he himself is hungry. The king invites him to eat and drink in Drayton Bassett at his cost, but the tanner is again offended ‘“thou shalt pay for no dinner of mine”’ (10, l. 2), and says he has more money than him. The king is polite, but the tanner says he is ‘“weary of thy company”’ (7, l. 4) and that the stranger is suspiciously well-dressed: when the king says he did not steal his clothes – the tanner replies ‘“Thou art some ruffian of the country.”’ (13, l. 3) The tanner is riding on a cow-hide, not a saddle, and the king suggests they change horses – the tanner asks for a gold noble, the king offers the very small sum of twenty groats. They change horses, the tanner throws his cow-hide over the king’s saddle, asks for a leg up, and as the king gives him one, lets out a fart.

The horse is frightened by the cow-hide – which still has horns and a tail on it – and throws the tanner heavily. He requests his own horse back: the king asks a noble, but the tanner gives him back the twenty groats. The king blows his horn, and five hundred lords and knights suddenly appear. The tanner says ‘“Thou art a strong thief,”’ (32, l. 3) and the king says these are the lords of Drayton Bassett – the tanner wishes he was far away. The king calls for ‘“A collar!”’ (35, l. 1), presumably to dress the tanner up, but the tanner thinks he means a halter ‘“and I shall be hanged tomorrow.”’ (36, l. 4) The king says ‘“do not fear”’ and he will give him not a halter but ‘“a fee”’ (37, ll. 1 and 4). He presents him with Plompton Park, worth ‘“three hundred pound a year”’ (38, l. 3) and, perhaps not by accident, the estate where in ‘A Gest of Robyn Hode’ the king finds his deer have been stolen. The tanner maintains his sense of personal equality: while he thanks the king with ‘“Godamercy, Godamercy”’ (‘King Edward the Fourth and a Tanner of Tamworth’, 39, l. 1), the last two lines express a sense of equality, as he says to the king ‘“If ever thou comest to merry Tamworth / thou shalt have clouting-leather for thy shone.”’ [shoes] (39, ll. 3-4).

A more serious challenge to authority is in ‘John the Reeve’, only found in the mid-seventeenth century Percy manuscript, but well-known in Scotland after 1500, being mentioned by three major poets of that time and region, Gavin Douglas, William Dunbar and Sir David Lindsay. This is set back in time as the king is ‘Edward with the long shankes’ (in Furrow 2013, l. 17), who must be Edward I, ruling 1272-1307. When he is out hunting with a bishop and an earl, they meet ‘a carle stout’ [sturdy fellow] (l. 47) and ask him to take them to some town ‘“Amonge lordes and gentlemen”’ (l. 113) – they will requite him. He is annoyed: ‘“Of lordes,” sayeth hee, “speake no moe: [more] / With them I have nothing to doe”’ (ll. 115-116): he would rather ‘“be brought in bale”’ [suffering] (l. 118) than ‘“On them to crouch or crave”’ [cringe or beg] (l. 120).

He tells the king he is a royal bondman, as are his neighbours Hodgkin Long and Hobb of the Lath [of the barn]: he is named ‘John de Reeve’ (l. 196), so presumably is, like Chaucer’s Reeve, a fairly senior organiser of serfs. But though they are all officially bondsmen of the king, they all have ‘freeledge’ (l. 176) – independence. In return, the earl says the king is ‘“Peeres Pay-for-all,”’ (l. 260) the queen’s falconer, the bishop is ‘“a pore chaplaine”’ (l. 272) and he himself is ‘“a sumpter man”’ [packhorse driver] (l. 274).

The earl comments John is ‘“a comly knight”’ (l. 299) but he repeats he is ‘“the kings bondman”’ (l. 302) and shows them his weapons – a pitchfork and a wide-bladed knife. When they arrive at his house for dinner his two daughters join them for ‘Salt bacon, rusted and redd / ... Leane salt beefe of a yeere old, / Ale that was both sower and cold’ (ll. 392-395). The royal guest complains about the poor dinner, and after some argument John says:

‘Swere to me by booke and bell  
That thou shalt never John Reeve bettell [inform upon]  
Unto Edwarde our kinge.’ (ll. 412-414)

They agree and a very fine dinner is produced – a boar’s head, capons, venison, swans, curlews, red wine and fine ale. Many of these wild animals are protected royal game, so criminal for a bondman to possess or eat. In a kindly, but also ironical, manner the earl says ‘“John, you serve us royallye”’ (l. 477) – and comments that even King Edward if he were here would enjoy the meal. No, John says, he would be angry with me. The guests laugh, and speak in Latin, which annoys the excluded John, but soon they have dancing, with the daughters, and also Hodgkin and Hobb.

Back at Windsor, the king sends for John. He tries to dress up, but cannot pull his sword out of the scabbard. Outside the court knights and porters ask who he is: ‘John bade them kisse the devilles arse’ (l. 673). They are hostile, so he attacks them with his pitchfork, hurts a porter and kills four men. Then he sees one of his house-guests, who welcomes him, and he goes into the court where ‘He vayed [doffed] neither hatt nor hood’ (l. 770). He recognises the king as in charge, though he is disguised as the queen’s falconer, and says, hopefully it would seem, ‘“lord, thy word is honourable”’ (l. 790) and then ‘“spoke to him with sturdye mood”’ (l. 796). The king honours their previous encounter and gives him ‘“Thy manner place”’ (l. 807) – his house and land in his own hands, not in feudal tenancy, as before, and also a hundred pounds. Then the king takes a ‘“coller bright”’ (l. 814) to make John a knight. He thinks ‘“after a coller comes a rope”’ (l. 820), but he does not speak, and resumes his meal.

The porters John attacked come in, one bleeding. John explains what happened and the king says ‘“my porters were to blame / You did nothing but right”’ (ll. 866-867). The four men John killed – itself very briefly mentioned in the text – are not discussed: this may be a technical error, but that crime might have seemed so serious a challenge that it cannot be resolved, and the story wants to end things with complete harmony, and without John backing down in any way. The king re-assures him: he will make one of his sons a knight and the other ‘“a parson of a kirke”’ (l. 895), and will arrange his two daughters’ marriages at court – even Hodgkin and Hobb will be made freemen. So John is fully honoured, and in return behaves nobly: he ‘ever after kept open bord [board] / For gwestes that God him send’ (ll. 905-906).

John’s anger at gentry habits and attitudes is the key feature here, rather than actual crimes by those in authority. Another ballad presentation of the ‘King and Commoner’ genre makes crime from above much more clearly the cause of criminal resistance from below, and also, possibly in response to this added seriousness, fails to offer a resolution of any kind. This is ‘King Edward and the Shepherd’: the story itself is dated about 1350, since the King is Edward III and his son, the Black Prince, born in 1330, is now a drinking young man. Basically, in a northern dialect, it is a unique copy, and appears in the same mid-fifteenth-century manuscript anthology as the single copy of ‘Robin Hood and the Monk’ (Cambridge University Library Manuscript, Ms. Ff. 5.48).

The king is alone, and meets a shepherd named Adam, who does not remove his hat and in response to a question says he was born in Windsor but ‘“I am so pyllid with [so pillaged by] the kyng / That I most fle fro my wonyng”’ [from my home] (ll. 31-32). The king says he is ‘Joly Robyn’ (l. 124) – an interesting choice of name. He claims to be a merchant who is often at court, and his son is now with the queen: as a merchant he is himself playing a transitional social figure. They have a lengthy argument, the king saying it is others, not the king who are to blame, but the shepherd insists it was king’s men who robbed him, twice, and the second time ‘“Be [By] my doghtur thei lay al nyght”’ (l. 166) – apparently a mass-rape. He and three friends are planning to find that second gang and use their stone-slings against the king’s men’s bows and arrows.

The king encourages him to kill a bird with his sling, but the shepherd says that would be poaching, which would lead to prison because ‘“the warner” [warrener, warden] is “hardy and fell”’ [tough and ruthless] (l. 235). They have dinner, and like John the Reeve’s second service, it is rich with wild birds, obviously poached. The pair also play a drinking game: one drains the cup having said ‘Passilodion’, the other does the same, saying ‘Berafrynde’. In her edition, *Ten Bourdes*, Melissa Furrow translates these as ‘raisin wine ... game’ and ‘barley-friend’ (2013, notes to 317 and 320) – though for the latter the Middle English dictionary offers ‘Bottoms up’. After this the shepherd shows the king his secret chamber full of poached animals and fine, presumably stolen, wine. As the king is leaving, the shepherd kills some birds with his sling, showing remarkable, even threatening, skill.

The king invites the shepherd to court, and, dressed up somewhat, he arrives. The king has explained things to the court officials: the shepherd is given a seat of honour and plays the ‘Passilodion’ drinking game with Joly Robyn’s son – actually the Prince of Wales. Half-way through the dinner, the shepherd is brought to the king and suddenly: ‘He clawed his hed, his hare he rent, / He wende wel to have be schent’ [to be ruined] (ll. 1022-1023) and prays to Jesus to ‘“Bryng me fayre out of this place.”’ (l. 1030) He has been taken aback by the Latin and French being spoken, but it seems he is seriously frightened when he realises it was the king to whom he revealed all at his house. The king cheers the shepherd up and he finishes his dinner – though he does reflect he should have attacked Joly Robyn with his sling. Finally, he simply puts down his hood – an intriguing moment – and begs for mercy.

The narrative ends abruptly, and the text reads below ‘NON FINIS SED PUNCTUS’, ‘Not an end but a stop’. All other ‘King and Commoner’ texts have endings that deploy substantial royal generosity. Is it because this text has shown such a serious challenge to authority that such an ending seemed improbable – or at least beyond the author’s imagination? If the text was well-known, as seems the case from its anthology-style manuscript source, some form of ending must have been in existence. Perhaps this is a deliberate aperture, to draw attention to the serious, even insoluble nature of the conflict that has been realised: the crimes here may have seemed too assertive to be handled with the sympathetic confidence of the other texts in this genre. When the text of ‘John the Reeve’ seems to overlook his killing four men when he arrived at court would appear to be a response to the same kind of ideological strain.

Truesdale sees this poem as enacting an ‘inversion of medieval hierarchical boundaries’ and making direct reference to medieval complaint literature (2018, 43). More generally he speaks of the ‘King and Commoner’ poems – in terms which also fit the early Robin Hood ballads – as a domain in which ‘[u]sual perceptions are toyed with and turned upside down, as the woods situated on society’s margins become transformed into the centre of justice and life, while the court becomes a strange liminal space imbued with injustice and death’ (51). Truesdale takes a Bakhtinian approach to the genre, highlighting its carnivalesque but also serious dimension



and seeing the threat posed by social reversals in a narrative. In all these 'King and Commoner' ballads, the events may have some comedy in them, but they still imply serious situations. That sense of potential social disorder, both convincingly presented and only technically resolved by the story's formal ending, if it has one, is also to be found in the early Robin Hood ballads, and indeed is implicit in the sudden threats to power, male, royal, fairy, and familial, which are found in the folk ballads. That duality, offering both threat and incomplete resolution is of course also basic to giving a comprehending, even sympathetic, realisation of the self-conscious criminal, as found in the modern crime novel.

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# The Intricacies of Office Constables, Thieves and the Uses of Literacy in *Moll Flanders* and *Colonel Jack*

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## Abstract

Among the many duties of constables during the early modern period was that of 'carrying' suspects taken by ordinary people before justices and then to prison. *Moll Flanders* and *Colonel Jack* are justifiably terrified when one arrives on the scene, but on all occasions – except that of Moll's last arrest – they manage to get themselves out of the hands of the law. The article discusses three episodes in *Moll Flanders* and one in *Colonel Jack*, showing how thieves use hard-won knowledge of the intricacies of a constable's office and their 'tactic mobility' to frustrate law enforcement. In conclusion, it follows Hitchcock's and Shoemaker's attribution of unself-conscious agency to plebeian Londoners, stressing the urgent needs that force the poor and the criminal to acquire that knowledge and develop defensive tactics. It also suggests that in diffusing that know-how through print the two fictions may have, thanks to the growth of literacy, been of help to thieves as well as officers of the law, and indirectly weakened public confidence in amateur policing.

Keywords: *Colonel Jack*, *Constables*, *Duties*, *Moll Flanders*, *Tactics*

## 1. Gatekeepers

... the saucy Wenches were run even before they were sent, and had fetch'd a Constable, and then the Master said, he could not go back, I must go before a Justice, and answer'd his Wife that he might come into Trouble himself if he should let me go.

THE sight of the Constable indeed struck me with terror, and I thought I should have sunk to the Ground; I fell into faintings, and indeed the People themselves thought I would have died ... (Defoe 2011, 227-228)<sup>1</sup>

<sup>1</sup> In the wake of Furbank and Owen's questioning of the Defoe canon (1988), Ashley Marshall has argued that, although the authorship of *Colonel*

... at last being overcome with Sleep, I Dropt, but was immediately Rouz'd with Noise of People knocking at the Door, as if they would beat it down, and Crying and Calling out to the People of the House, Rise, and let in the Constable here, we come for your Lodger in the Garret.

I WAS frightened to the last degree, and started up in my Bed; but when I was awake, I heard no Noise at all, but of two *Watch-men* thumping at the Doors with their Staves, and giving the Hour past Three a Clock, and a Rainy wet Morning *for such it was*: I was very glad when I found it was but a Dream, and went to Bed again, but was soon Rouz'd a Second time, with the same, very same Noise, and Words ...

I LAY'D no stress upon the thing call'd a Dream, neither till now did I understand that Dreams were of any Importance. (Defoe 2016, 124-125)

The two passages quoted above mark crucial transitions in the progress of Defoe's fictional thieves along the 'corridor' of cultural spaces that made up early modern England's system of justice.<sup>2</sup> Until well into the eighteenth century, it was up to ordinary people to detect, apprehend and prosecute most felons, including the thieves and robbers that obsessed late Stuart and early Georgian London. For the most part, victims and those they called on to help seem to have been ready to chase and arrest, but the disincentives to organising a formal prosecution were many,<sup>3</sup> and a high proportion of those taken must have been let off with a beating, an apology and/or financial compensation. Even so, enough apprehenders were keen enough to send their captives to court for 4,522 trials for theft to have been heard at the Old Bailey between 1715 and 1725, the years immediately before and after the publication of *Moll Flanders* and *Colonel Jack* (The Proceedings of the Old Bailey, 1674-1913, Hitchcock *et al.* 2012; henceforth *OBP*). Of the reports of these trials, only 225 mention constables explicitly, but many more legal processes would have been set in motion by someone calling in an officer of the law to charge a suspect, 'carry' him or her before a justice of the peace, and then to prison to await the convening of assizes.

Though unpaid and given no legal training, constables and their subordinates, the headboroughs, had powers and duties which ordinary people did not. Among their special functions was that of acting as gatekeepers to justices' parlours, courtrooms, houses of correction and prisons, the 'proper places' of law enforcement (de Certeau 1984, 35-36): hence the terror they induce in Moll and Jack. The officer before whom the former falls 'into faintings' will indeed march her off to a magistrate, who then commits her to Newgate, while the latter will learn 'the importance of dreams' when he sees a flesh-and-blood constable and three men running towards him bearing an arrest warrant. Yet before the magistrate Jack manages to argue himself free, and on a series of earlier occasions Moll has fallen into but wriggled out of the 'Hand of Justice'. They succeed in this, I suggest, through a combination

*Jack* seems fairly certain, 'satisfactory substantiation for the attributions of ... [*Moll Flanders* and *Roxana*] has not yet been offered' (2010, 232). The arguments put forward here do not depend on the two novels being by the author of journalism and pamphlets more securely attributed to Defoe, but do assume that they are by the same author.

<sup>2</sup> Peter King describes the system as consisting of 'several interconnected spheres of contested judicial space in each of which deeply discretionary choice were made. Those accused of offences in the eighteenth century found themselves propelled on an often-bewildering journey along a route which can best be compared to a corridor of connected rooms or stage sets. From each room one door led on towards eventual criminalization, conviction and punishment, but every room also had other exits. Each had doors indicating legally accepted ways in which the accused could get away from the arms of the law, while some rooms also had illegal tunnels through which the accused could sometimes escape to safety' (2000, 1). The literature on crime and justice in the long eighteenth century is vast: Sharpe (1984) is still useful as an introduction, while the work of Beattie, Shoemaker, Langbein as well as King offer deep analyses of specific areas. Defoe's 'crime' fiction has attracted attention from many literary critics, but Faller (1993) and Gladfelder (2001) are the most useful for the new focus on law enforcement proposed here and in my other explorations of the 'rooms' along King's 'corridor'; see Clegg 2008 and 2016.

<sup>3</sup> Costs in time and money, risks of unpopularity or retaliation, the prospect of the case either ending with an extreme penalty or being dismissed; Beattie 1986, ch. 2.

of the accumulated legal knowledge on which Beth Swan has remarked (1997, 150-157), and a talent for ‘Watch[ing] the Advantages of other People’s Mistakes’ (Defoe 2011, 244).

Michel de Certeau’s distinction between ‘strategies’ and ‘tactics’ is useful here. Whereas the former ‘postulates a *place* that can be delimited as its own and serve as a base from which relations with an exteriority composed of targets or threats ... can be managed’, the latter are of necessity constantly mobile, and

must accept the chance offerings of the moment, and seize on the wing the possibilities that offer themselves at any given moment. It must vigilantly make use of the cracks that particular conjunctions open in the surveillance of the proprietary powers. It poaches in them. It creates surprises in them. It can be where it is least expected. It is a guileful ruse. (1988, 36-37)

Tim Hitchcock and Robert Shoemaker have used this idea to explain the limited but ‘real and effective agency’ of eighteenth-century plebeian Londoners:

the very poverty and apparent powerlessness of the poor and the criminal – their identification as ‘problems’ – both ensure that they become the object of ‘strategies’ and in turn give greater significance to their tactics. Additionally, the highly pressured circumstances they confront – hunger and possible execution – make them doubly motivated to develop a profound knowledge of the narrow social system with which they were forced to engage. (2015, 20)

This essay will illustrate the knowledge and the tactics used to open up those ‘cracks in surveillance’ in three episodes involving constables in *Moll Flanders* and one in *Colonel Jack*. In narrating these incidents Defoe takes for granted his readers’ familiarity with the ‘social system with which they are forced to engage’ – customs, laws and apparatus of norms, regulations and provisos to which we in the twenty-first century are culturally blind.<sup>4</sup> In my central sections, contemporary primary sources – conduct books and trial reports – will help bring these implicits to the surface, but it will be useful to begin by looking briefly at what historians of crime and justice can tell us about the general functions and powers of early modern constables and how these were being *de facto* bureaucratized and professionalised over the long eighteenth century. In conclusion, I shall suggest that in exposing his thieves’ ‘imaginative exploitation of the systems of “police”’ (Hitchcock and Shoemaker 2015, 20), these fictions could have been of help to thieves as well as to constables, and also helped undermine an already declining confidence in amateur law enforcement.

## 2. *An Insupportable Hardship*

Of all the ‘punishments’ that could be inflicted on a householder by a parish vestry, thundered Andrew Moreton in *Parochial Tyranny*,

the most terrible is to that of the Constable, or Parish-Drudge, for he is in Effect a greater Slave than the Beadle ... The Imposition of this Office is an insupportable Hardship; it takes up so much of a Man’s time that his own Affairs are frequently totally neglected, too often to his Ruin; yet there is neither Profit nor Pleasure therein, but an inconceivable Fatigue. Besides the Office is so intricate that a Man is generally out of his Constabship before he has learn’d half his Duty. (Defoe 1727, 16-17)

<sup>4</sup> Similarly, in *Moll Flanders* and *Roxana* Defoe assumes ‘that the reader will recognise the relevant laws’ (Swan 1997, 68).

The office had certainly become 'intricate' by the time Defoe wrote this, in 1719, although the constableness had never been a simple institution. Originally heads of local self-governing communities, constables had by Tudor times been made subordinate to the central government judiciary, a change which forced them into what Joan Kent calls a 'dual allegiance': 'On the one hand, the constable was the lowest officer in a hierarchy of authority that stretched from the monarchy to the village ... On the other hand, the constable also had to represent the village's interests to his superiors' (1981, 30-31).

In another classic essay, Keith Wrightson described early modern constables as torn between 'two concepts of order': on the one hand, responsible for 'the maintenance of harmony between neighbours in the face-to-face and day-to-day relationships,' on the other, obliged to uphold a positive concept of order, 'a pattern of authority and an ultimate scheme of values' (1980, 24 and 32). Their ability to do either in practice would have been limited by the temporary nature of their mandate and consequent reliance on local good will, aspects of the constableness underlined by Cynthia Herrup:

Both the staff of office and its aura of expertise would, within a few months, be transferred into new hands ... at best the headborough or the constable was an equal among equals; that meant that he was likely to be resisted at times by other people, and that he could not counter that resistance without popular support. (1989, 69-70)

Over the sixteenth and seventeenth centuries, the duties of constables became increasingly burdensome as the scope of criminal, social and economic legislation expanded. Traditionally, they had been responsible for apprehending or reporting breakers of the peace, nightwalkers and 'lewd men and women'; to these were by stages added other perpetrators of victimless offenses: vagrants, disorderly persons and gamblers, tipplers, certain kinds of religious offenders, violators of social and economic regulations, and on occasions 'such diverse offenders as conventiclers, profaners of the Sabbath, keepers of unlicensed or disorderly alehouses, prostitutes, players of "drolls and interludes", singers of seditious ballads, people who sold oranges from wheelbarrows, and landlords who divided tenements or kept inmates' (Shoemaker 2008b, 217). In the rapidly growing capital, they had also to direct increasingly chaotic traffic and keep the peace among 'more and bigger crowds of people, more frequent riots, larger gatherings at pillories, at hangings, at royal processes and holidays, the latter now often perilously enlivened by fireworks' (Beattie 2001, 124 and 155). Shoemaker remarks that it is 'unlikely that constables and their parish colleague systematically fulfilled the manifold duties with which they were burdened' and cites allegations by the JPs of Middlesex and Westminster of their failure to carry out 'the most basic of them'. He notes also that 'Where popular support for laws was absent or divided, as was the case with the laws against vice and conventicles, constables were particularly reluctant to act'; for the unscrupulous, however, such laws offered opportunities for extortion in return for "screening" from prosecution (2008b, 220-222). Hurl-Eamon (2005, 463-464) relates actual corruption to public expectations of constables' behaviour, expectations which must have fed off old stereotypes still cultivated in rogue literature, satirical ballads and plays (such as Bullock's *Per-Juror*, 1717). The ever-larger statutory rewards offered by late seventeenth- and eighteenth-century governments for convicting robbers and thieves of all kinds provided another source of income, but also associated constables with professional informers and thief-catchers intent on 'blood money', and thus eroded popular support still further. In making arrests, especially in London, constables were increasingly exposed to threats, physical violence, and counter prosecution for assault, theft and false imprisonment (Hay 1989, Shore 2009; Hitchcock and Shoemaker 2015, 107-121). By 1754 Saunders Welch, High Constable of Holborn, assistant

to and later fellow justice of Henry then John Fielding, was complaining bitterly about the effects of declining public support on his fellow officers' ability to enforce the law: the 'necessary power of calling in aid – lodged in you ... has of late years been treated with contempt by the commonalty' (6).

Welch's *Observations on the Office of Constable. With Cautions for the more safe Execution of that Duty. Drawn from Experience* (1754) was a latecomer to the genre of advice literature for officials that flourished between the late sixteenth and mid-eighteenth century. Maurizio Ascari notices how the very existence and organisation of conduct books, such as William Lambard's *The Duties of Constables, Borsholders, Tythingmen, and such other Lowe Ministers of the Peace* (1582), assumes literacy and specialisation among the various types of 'lowe and lay Ministers', and that in *Much Ado about Nothing* Hugh Oatcake and George Seacole are considered fit to be constables in that they can read and write (2016, 80). The prefatory matter of officials' manuals harps on the necessity of guidance, given what one author refers to as, on the one hand, the 'large extent of the Constables Office' and, on the other, the 'little skill many of you have who are called upon to take upon you the same Office' (Meriton 1682, A3r). The same author also warned that the chief guide books in use at this time were 'very unsafe': 'Mr. Lambert's Book being a Discourse principally of the Common Law cases, is now much alter'd by Statute since' (*ibid.*), another full of 'unwarrantable Authorities and gross Errors,' (*ibid.*) yet another vitiated by including legislation of the Interregnum years no longer in force. Meriton no doubt hoped to sell more copies of his own manual by denigrating the others, and would have had an interest in repeatedly updating himself; his seventh edition proclaimed that the sixth, published just three years earlier, had already been 'found by late Experience to be a Blind Guide, apt rather to lead thee out of the way, than to direct thee' (A2r). With the institution of tri-annual parliaments after the Glorious Revolution the rate of legislating increased even more; this, together with the ever-growing bulk of case law, must have made it increasingly difficult for the authors of these books – never mind the 'Parish Drudges' who bought and studied them – to keep abreast.

Yet to do so became ever more imperative. Already by 1703 enough suits for assault and false arrest were being brought against constables for Henry Care to have to remind his readers that there was legal obligation to serve, and 'it would go hard, if, for every trivial Slip, he should run the Risk of being ruined by Vexations Suits' (188). In 1705 'P.S. Gent.' expressly hoped that his *A Help To Magistrates* – and other officers – would do

a great deal of Good: *First*, In giving Men an Insight into what they ought legally to do. And, *Secondly*, What they ought to avoid, as not warrantable, in the one Kind to rest secure, and in the other to keep out of Danger, saving themselves much Trouble and Expence. (1721, A2r)

How to protect oneself, not so much from physical violence (although that too was a problem), as from fines from above and lawsuits from below was a constant concern of these manuals, which represent the world of the constable as a minefield of pitfalls to be avoided and obstacles to be overcome. To keep them 'out of Danger' they offer detailed, technical instruction on matters such as how to draw up testimonials for servants, how to distinguish between *ex officio* duties and those which required warrants, and how to decide which warrants were faulty and should not be obeyed – and much more. Andrew Moreton was not exaggerating when he estimated that a year was insufficient for a constable to learn 'half his duty,' and that even that short service could so distract a man from his own affairs as to ruin him financially. As Robert Gardiner, Clerk to the Court of Common Pleas, reminded those responsible for selecting them, 'Constables have no Allowance, but are bound to performs their Office gratis', for which reason 'This Office ought not to be put upon the poorer sort ... for they are usually most ignorant and fearful, and less able to attend their office; their Necessity requiring them to mind their own Trade and Employment' (1710, 7).



Parish vestries would have found it difficult to avoid choosing from among the ‘poorer sort’ however, as over the previous century Londoners of the richer sort had become increasingly unwilling to take on civic duties, preferring to pay the fine for avoiding service, purchase a ‘Tyburn ticket’ giving exemption, or finance men poorer than themselves to take their places (Beattie 2001, 134). By the 1720s over 100 out of 360 constables in the metropolis were deputies, and by the 1750s some 90% of those elected were buying their way out. Many hired men served repeatedly, sometimes taking on other paid posts such as that of beadle, and/or acting as or with thief-takers. In the meantime, the night watch, itself originally an unpaid obligation of local householders, had become in effect a paid office, a development Moreton seems to support (Defoe 1719; Reynolds 1998, ch. 2; Beattie 2001, 173-197). By the end of the eighteenth century, the early stages of law enforcement had been *de facto* professionalised, a transformation signalling a ‘sea-change in thinking about policing issues’ (Beattie 2001, 157). The fictions to which we now turn register some of the early signs of that change, and may have unintentionally encouraged it.

### 3. *The Hue and Cry after Jemmy*

Hue and cry, perhaps the most ancient of ‘organic’ strategies for apprehending felons, called for good organisation and close collaboration with and between communities (Ascari 2016, 79). It was up to the victim to alert the officer, call on him to raise the alarm, describe the culprit and show which way he or she had gone, while local parishioners were to help in the pursuit as far as the next parish, where the task is handed on (Gardiner 1710, 23-24). This is what is meant to happen in Brickhill, Bedfordshire (Defoe 2011, 155-156), where Moll Flanders has come to meet and marry a prosperous City banker. Suddenly three horsemen turn up at the inn opposite, and Moll is ‘frighted to Death’ to see that one is her ‘*Lancashire* Husband’, Jemmy, and relieved to see them ride off in a westerly direction. Later that evening, however, she and her new spouse are

alarm’d with a great Uproar in the Street, and People riding as if they had been out of their Wits, and what was it but a Hue and Cry after three Highway Men, that had rob’d two Coaches and some other Travellers near *Dunstable* Hill, and notice had, it seems been given, that they had been seen at *Brickhill*. (156)

Now ‘heartily concern’d’ for Jemmy’s safety, Moll puts his pursuers off his trail by spreading word that

those were not the Persons, for I knew one of the Gentlemen to be a very honest Person, and of a good Estate in *Lancashire*.

THE Constable, who came with the Hue and Cry, was immediately inform’d of this, and came over to be satisfy’d from my own Mouth, and I assured him that I saw the three Gentlemen as I was at the Window, and that I saw them afterwards take Horse, and I could assure him that I know one of them to be such a Man, that he was a Gentleman of a very good Estate, and an undoubted Character in *Lancashire*, from whence I was just now upon my Journey.

THE assurance with which I deliver’d this, gave the Mob Gentry a Check, and gave the Constable such Satisfaction, that he immediately sounded a Retreat, told his People these were not the Men, but that he had an account that they were very honest Gentleman, and so they went all back again. (*ibid.*)

Striking here is the enthusiasm with which the ‘Mob Gentry’ pursue the robbers, only to obediently turn back at the constable’s countermand. Striking too is the alacrity with which



Moll's affirmation of Jemmy's status and honesty is referred to the officer, and how easily he is 'satisfy'd from my own Mouth'; as in the 'accused speaks' trial, direct oral testimony is preferred, and the character reference is decisive (Clegg 1998; Langbein 2005, 233-246). As would have been the case in court, Moll's testimonial is made all the more convincing by her assured delivery and by the circumstantial detail with which she bolsters it: she had seen the three Gentlemen 'as I was at the Window', and had – she claims – herself come 'just now' from Lancashire.

Constables' conduct books can help us understand the issues involved here. In calling off the pursuit, this officer has allowed three highwaymen to get away with a huge haul (£560 and some valuable lace), and exposed himself to a charge of permitting felons to escape, 'a Misdemeanour, for which he [a constable] may be indicted and fined' (Jacob 1720, 20).<sup>5</sup> On the other hand, had he persisted and arrested a man who turned out to be a respectable landowner, he could have found himself in trouble with a social superior and incurred a £20 fine (see below, section 5). Although in law the power of arresting felons belonged to constables *ex officio*, Welch was later to advise his fellow officers that if called on to arrest persons they did not know personally they should obtain warrants from justices (1754, 17-18). That, however, would have involved delay, and constables could also be fined for not responding promptly to an alarm. If formal hue and cry fell into disuse in the eighteenth century (Herrup 1989, 71; Shoemaker 2004, 29), it may well have been in part because of the difficulty of steering a course between demands for speed on the one hand, and caution on the other.

At least until the mid-century, however, the custom survived in vestigial form in that cries of 'stop thief' or 'murder' were generally responded to, even in the metropolis (Shoemaker 2004, ch. 2), and in the pages of *Moll Flanders* and *Colonel Jack* we meet several crowds of people running after thieves through the city's streets and alleys (Clegg 2008). But – with one interesting exception – the *Old Bailey Proceedings* for 1715-25 tell of no chases initiated or led by constables or headboroughs.<sup>6</sup> The exception is to be found in the report of a trial heard at the Old Bailey on 5 December 1722, when Edmund Neal and William Pincher were indicted for assaulting and robbing an elderly couple on the streets of Hoxton. The amount stolen was tiny ('3 Pence 3 Farthings in Copper Money') but the assault seems to have been brutal, especially in the case of the wife, whose cries were heard by one Richard Bays, variously described as 'Headboro' and 'Constable'. Bays deposed that he

ran out to be assisting to the distressed, having with him two Dogs: That coming to the Prosecutors, the Old Man was but just got up, and the Woman upon the Ground, very much abus'd, and in a bloody Condition; that inquiring which Way the Rogues were gone, the Old Man pointed, that he pursu'd with his Dogs, and that when he came up to the Prisoners, who had taken into the Fields, he found Pincher lying on the Ground, feigning himself to be drunk; that other Persons also being come to his Assistance, they bid Pincher rise, but he not doing so, they attempted to help him up, but he refus'd to rise, bidding them let him alone, telling them he was choaked, he was strangled, asking them if they came to rob him,

<sup>5</sup> He would also have lost himself and his 'Mob Gentry' a share in the government reward that would have come with the conviction of three highway robbers (£40 a head), and perhaps a private reward for the recovery of the booty.

<sup>6</sup> City of London constables and headboroughs were, according to Giles Jacob, 'to arrest Affrayers, Rioters and such as make Contest to the Breach of the Peace, and to lead them to the House of Correction, or Compter of one of the Sheriffs; and in Cases of Resistance, to make Outcry on them, and pursue them from Street to Street, and from Ward to Ward, 'till they are arrested', but in general they were expected to be 'easily found when wanted' rather than to go about looking for trouble (1720, 6-8). Night watchmen, on the other hand, were paid – minimal wages – to patrol the streets during the hours of darkness and often did become involved in pursuit and arrest; see *OBP* t17200907-33; 17201012-21; 17200427-33.

bidding them take what he had, but not abuse him. That in the mean Time Edward Neal came up, and they having got Pincher up, they tax'd him with the Robbery committed, upon which Neal told them he knew Pincher, that he was an honest Fellow, that he did not believe he would do any such Fact. That upon this Bays being a Constable, told them, he suspected him to be his Companion, and so secur'd him also. (*OBP*, t17221205-5)

As is usual before the 1730s, the *Proceedings* do not give the defendants' side of the story (Shoemaker 2008a), but Neal and Pincher were probably highway robbers of a very different type from the gentlemanly Jemmy, and Bays, with his two dogs, a tougher officer than Moll's country constable, certainly more leery of tales told by those found near crime scenes.<sup>7</sup> But what is most interesting for us, and for what follows, is the nature of the ploy that Pincher and Neal tried on Bays and his neighbours: the perpetrator playing victim, and his accomplice offering a character reference less circumstanced than but essentially similar to the one Moll uses to put his more credulous counterpart off the scent.

Yet what if it had *not* been a ploy? What sort of predicament could Richard Bays have found himself in if Pincher had, after all, been 'an honest Fellow' and the 'other Persons' who come to 'assist' in fact intent on robbing him? Bays does not seem to have hesitated to secure the two, and the jury agreed on their guilt; but other officers might have been less confident.

#### 4. *Rules for Searching*

Our second episode follows a smash-and-grab attempt on a warehouse, from whence Moll and her partner have had to flee a hotly pursuing crowd. The latter is taken with the goods on him, but Moll, who has been operating in male disguise, manages to get into her Governess's house,

whither some quick-eyed people follow'd me so warmly as to fix me there: they did not immediately knock at the Door, by which I got time to throw off my disguise and dress me in my own Cloths; besides, when they came there, my Governess, who had her Tale ready, kept her Door shut, and called out to them and said there was no Man came in there; the People affirm'd there did a Man come in there, and swore they would break open the Door. (Defoe 2011, 181)

The three mentions in this passage of 'the Door' – knocked on, kept shut, and liable to being broken open – call attention to the significance of this barrier between private and public. Had Moll's pursuers carried out their threat to break into her Governess's home they could have been accused of the misdemeanour of trespass, or even the felony of forcible entry into what Coke had defined as every man's 'Castle and Fortress as well for defence against injury and violence, as for his repose' (2003, I, 140). Constables, on the other hand, had *ex officio* powers to 'search in all suspected Houses and Places' in order to discover felons or stolen goods and, in case of resistance, to 'break open Houses which are shut' (Gardiner 1710, 23; P.S. Gent. 1721, 92).

The Governess clearly knows the rules, but also that Moll herself would not have been protected by them: 'the house of any one is not a Castle or privilege but for himself, and shall not extend to protect any person who flieth to his house, or the goods of any other which

<sup>7</sup>While awaiting execution, Neal gave the Ordinary a detailed life-history and offered an unusual motive for his and Pincher's violence: 'they ... talk'd of beating People whom they should find, because the World had always frown'd upon them, and every body was happier in Life than they'. In the light of the resemblance between their story and the gang episodes in *Colonel Jack* it is interesting that the novel is among the publications advertised at the end of this issue (*OBP*, OA17221231).

are brought and conveyed into his house' (Coke 2003, 141). She now uses her knowledge to concoct a ruse that will stall the pursuers while apparently showing readiness to admit them:

My Governess, not at all surpriz'd, spoke calmly to them, told them they should freely come and search her House, if they should bring a Constable, and let in none as such the Constable would admit, for it was unreasonable to let in a whole Crowd; this they could not refuse, tho' they were a Crowd. (Defoe 2011, 181)

The crowd indeed cannot refuse without putting themselves on the wrong side of the law, so an officer is fetched, 'freely admitted' then set to keep the door against the crowd, while 'the Men he appointed search'd the House, my Governess going with them from Room to Room' (*ibid.*). Not finding 'the man' they think they have chased but only a lady in desabille at her needle, the search party withdraws offering apologies. If the constable's presence has conferred official sanction on their incursion into a private house, the time spent in fetching him has been used to set up a scene of domestic innocence. In using the rules for searching to render the search itself futile, Moll's Governess has successfully 'poached in' the proper space of legality, and inveigled, the officer into presiding over a confidence trick.

Most of the house searches mentioned in *Old Bailey Proceedings* for these years are not for thieves but for stolen goods, which the constable was meant to take charge of and produce in court. When, for instance, John Meriton Esq. missed the linings of his curtains and other household goods, he dismissed his servant, Ann Cook, then 'took a Constable and search'd the Prisoners Lodgings, where he found the Goods mention'd in the Indictment, some under her Bed, others in a Chest of Drawers. His Coachman and the Constable confirmed the finding the Goods in her Room' (*OBP*, t17200303-14).

Meriton won his case, as did Baldwin Peyton, who in April 1721 accused his neighbour, John Phillips, of having bought 'divers goods' stolen from his house. Peyton deposed that he had 'got a Search Warrant, that the Prisoner at first refused, till they produced the Warrant, that they found several of his Goods in several parts of the Shop,' a statement confirmed by constable John Green and a certain William Browne, who had evidently been bought along as a second witness (*OBP*, t17210419-64). It was unwise of Phillips to refuse the search warrant, for this probably helped establish his guilt in the eyes of the jury. If Moll's Governess succeeds in saving her *protégée* from the law it is not by defying its representative, but by having one called in and making him serve as an ally against the law itself.

##### 5. 'a more legal way'

In turning legal procedure to her advantage, Moll's fence and protector employs defence tactics analogous to those de Certeau attributes to indigenous peoples in their efforts to divert Spanish colonisers from their purposes:

Even when they were subjected, indeed even when they accepted their subjection, the Indians often used the laws, practices, and representations imposed on them by force or by fascination to ends others than those of their conquerors; they made something else out of them, they subverted them from within – not by rejecting them or by transforming them (though that occurred as well) but by many different ways of using them in the service of rules, customs, or convictions foreign to the colonization which they could not escape. (1988, 32)

The episode in which Defoe shows a thief making most subversive use of the law and its representative (2011, 201-205) has been perceptively read by Lincoln Faller as illustrating

the presence of ‘other subjectivities’ (1993, 154-158). Among the eight different voices we hear in the Covent Garden mercer’s shop is that of the constable called in as ‘Jaylor’ to Moll, who has been mistaken for a similarly dressed shoplifter and dragged to the shop. There the mercer declares ‘that I was not the Woman ... and would have let me go immediately’, but is persuaded to await the journeyman who has sworn to her guilt. The constable, evidently assuming that he will be testifying for the prosecution, responds to Moll’s request for his name with the snide jest ‘that I might be sure to hear of his Name when I came to the *Old Bayley*’, while the mercer’s servants ‘likewise used me saucily, and had much ado to keep their hands off of me’ (Defoe 2011, 202).

Step by step Moll will undermine the constable’s confidence, turn the servants’ sauciness to her advantage and take over from the master the role of victim and prosecutor. ‘I hop’d he would not take it ill if I made my self amends upon him in a more legal way another time ... it was his time now, but I would be mine by and by’ (*ibid.*), she menaces. Her politely formulated threat is clearly meant also for the ear of the constable, who at her request now calls in a porter as second witness to a brilliantly staged piece of theatre:

I spoke aloud to the Master of the Shop, and said, Sir, you know in your Conscience that I am not the Person you look for ... therefore I demand that you detain me here no longer or tell me the reason of your stopping me; the Fellow grew surlier upon this than before, and said he would do neither till he thought fit; very well, said I to the Constable and to the Porter, you will be pleas’d to remember this, Gentlemen, another time; the Porter said, *yes, Madam*, and the Constable began not to like it and would have perswaded the Mercer to dismiss him, and let me go, since, as he said, he own’d I was not the Person. Good Sir, *says the mercer to him Tauntingly*, are you a Justice of Peace, or a Constable? I charg’d you with her, pray do you do your Duty: The Constable told him a little mov’d, but very handsomely, *I know my Duty, and what I am Sir, I doubt you hardly know what you are doing*; they had some hard words, and in the mean time the Journey-men, impudent and unmanly to the last degree, used me barbarously, and one of them, the same that first seized upon me, pretended he would search me, and began to lay Hands on me: I spit in his Face, and call’d out to the Constable, and had him take notice of my usage; and pray, Mr. Constable, said I, ask that Villain’s Name, pointing to the Man; The Constable reprov’d him decently, told him that he did not know what he did, for he knew that his Master acknowleg’d that I was not the Person that was in his Shop; and, says the Constable, I am afraid your Master is bringing himself and me too into Trouble, if this Gentlewoman comes to prove who she is, and where she was, and it appears that she is not the Woman you pretend to. (202-203)

That Moll is indeed ‘not the Woman’ is made plain to all when two other journeymen drag in ‘the true Widow,’ triumphantly exhibiting the stolen satin found on her; the constable is ‘charg’d with the right Thief’, the Master turns pale, while Moll sits silently smiling.

Well she may, for she has set up the Master and his man in a ‘sting’ in which the constable has unwittingly played a crucial part. Douglas Hay’s study of malicious (or vexatious) prosecution in eighteenth – and nineteenth-century England helps us understand what is going on under the surface. Hay finds that litigation was commonly used for three purposes – to forestall prosecution, in pursuit of gain, and for revenge – and that in London the large number of courts, their relative anonymity, the presence of ‘trading justices’ and of large numbers of attorneys ‘all increased both the temptation and the opportunity to use the law to further one’s interests and one’s quarrels in this way.’ He also shows that litigants included many poor men and women and criminals, people whose ‘hard-won knowledge’ had taught them ‘how to work the system’ (1989, 362). Hay’s findings are confirmed and applied to just the years and the area of London that interest us – Covent Garden in the 1720s – by Heather Shore’s study of the women who, during the Reformation of Manners campaigns against taverns and

brothels, defended themselves and their livelihoods by means of counter prosecution (2009; see also Hitchcock and Shoemaker 2015, 110-121). Early readers of *Moll Flanders* would not have found it so odd that a plebeian woman seized on these streets should threaten to make herself amends 'in a ... legal way' (Defoe 2011, 202), and succeed in reducing a wealthy tradesman and his journeyman to grovelling before her.

But what charges might Moll have brought against the mercer? She might have maintained that the mercer's intended prosecution was malicious, an offense that had around the turn of the seventeenth century been defined as including 'all cases where scandal, punishment or expense had resulted for the victim' and lacking 'probable cause' (Hay 1989, 349). In making the mercer repeatedly and publicly refuse to 'tell me the reason of your stopping me' Moll has called attention to the lack of 'probable cause' for her arrest. No wonder the constable begins 'not to like' his role in detaining her and fear that the mercer is 'bringing himself and me too into trouble'. A charge more routinely brought by the poor and criminal was that of assault, in law a misdemeanour only, but one which could consist of a mere touch of the arm: the mercer's men have gone well beyond that, seizing Moll, laying hands on her and attempting a body search. The charge which could have brought the constable himself directly 'into trouble,' however, would be that of false arrest, for which he could have been fined £20 or more. Again, the activities of the Societies for the Reformation of Manners would have made this topical. In 1709 John Dent, one of a group of reforming constables attempting to arrest a woman walking the streets of Mayfair, had been killed by three soldiers who had come to the woman's defence. At the soldiers' trial, Chief Justice Holt took their side, ruling that 'the arrest of the woman was injurious and oppressive' and complaining that 'constables nowadays make a common practice of taking up people only for walking the streets' (Shoemaker 2004, 179 and 181). In 1719 Charles Hitchen, corrupt City Marshall who specialised in raiding molly-houses, and who trained Jonathan Wild in techniques of thief-taking, took the opposite stance, complaining that the many lawsuits being brought against officers were discouraging them from arresting 'disorderly persons' (Hitchcock and Shoemaker 2015, 107). Some years later Saunders Welch claimed to have been 'very fortunate' in never in his eight years as High Constable 'had a complaint against me to the magistrates ... nor action of any sort brought against me in the courts of law' (1754, 6).

The 'action' implicitly threatened in our fictitious case comes not from Hitchen's type of 'disorderly person', but from a well-to-do tradesman who clearly considers himself the constable's superior and perhaps assumes that he is dealing with a poor deputy who can be easily bullied. On this the reader is emphatically set right when the mercer, having failed to put Moll off her determination to get 'reparation', tries to get out of his predicament by ordering the constable to discharge his prisoner, only to earn himself a lesson on 'what it is to be a Constable':

now, Sir, I find you do not understand what is my Duty, for you would make me a Justice indeed; but I must tell you it is not in my Power: I may keep a Prisoner when I am charg'd with him, but 'tis the Law and the Magistrate alone that can discharge that Prisoner; therefore 'tis a mistake, Sir, I must carry her before a Justice now, whether you think well of it or not: The Mercer was very high with the Constable at first; but the Constable happening to be not a hir'd Officer, but a good Substantial kind of Man, I think he was a Corn-chandler, and a Man of good Sense, stood to his Business, would not discharge me without going to a Justice of the Peace; and I insisted on it too. (Defoe 2011, 204)

The corn chandler does indeed know his duty. The rulebooks agree that, however convinced he may come to be of his prisoner's innocence, to let one go constituted 'an Escape' and hence



a 'felony in the Constable' (Jacob 1720, 21). Moll's description may imply denigration of the 'hir'd Officer[s]' who by now constituted a high percentage of London's constabulary, but also reflects badly on wealthy citizens who look down on the 'Parish Drudge[s]' and try to order them about without, presumably, having served their turn or studied the differences between the various civic offices.

Moll has, meanwhile, assumed the part of champion of legal procedure, scorning the mercer's apologies and attempts to buy her off: 'I told him I should not be my own Judge, the law should decide it for me', and as I was to be carried before a Magistrate, I should let him hear there what I had to say' (Defoe 2011, 204). He will indeed hear what she has to say, but not without himself being 'carried before a Magistrate' in a publicly humiliating manner. When the constable accuses him of having 'broken the Peace in bringing an honest Woman out of the Street, when she was about her lawful Occasion, confining her in your Shop, and ill using her here by your Servant' (204-205), and attempts to arrest the journeyman, the man looks 'like a condemned Thief', resists arrest and assaults the officer. At this, 'the Constable knock'd him down, and call'd out for help, and immediately the Shop was fill'd with People, and the Constable seiz'd the Master and Man, and all his Servants' (205).

The arrest proves a popular one, but hardly conducive to the common peace. As the officer and his charges set off for the justice they are followed by a dirt-throwing 'Mob of about 500 People'; the mercer has a coach called 'and so', as Moll somewhat comically puts it, 'we Rode the rest of the way, the Constable and I, and the Mercer and his Man' (Defoe 2011, 206). The pairing of the four protagonists in this sentence nicely highlights the unlikely alliance between shoplifter and officer of the law, temporarily united against two tradesmen who have sought to apprehend a felon but know less than she about how such things should be done.

#### 6. *'managing my own defence'*

In the last of our episodes (Defoe 2016, 127-130), we discover that even a justice's warrant did not necessarily protect a constable from getting into trouble. Some conduct books dedicated whole chapters to the penal responsibilities that could be incurred in executing a warrant issued by a justice 'for a Matter out of his Jurisdiction' and/or 'where he is no Judge of the Causes', one 'not specifying the Cause', or one in which 'a Mistake by the names agreeing may run him into taking the wrong Party' (P.S. Gent. 1721, 86-89). In London, with its huge and fluctuating population of migrants, and where a constable would often not be 'well acquainted' with [the Party or parties mentioned in the Warrant] this last must have been a problem not infrequently encountered (see Hurl-Eamon 2005, 468).

Defoe relates one such instance at length (2016, 124-130). On the 'Rainy, wet morning' after his disturbed night, Colonel Jack learns from his 'former Brother, Capt. *Jack*' that his comrade, Will, has been impeached by a member of their gang and is in Newgate. 'Extreamly alarmed', he prepares to leave London, but before he can do so is seized on the street by three men and a constable who read to him – for he cannot read himself<sup>8</sup> – a warrant ordering them to 'Apprehend a known Thief, that went by the Name of one of the three *Jacks of Rag-Fair*' for that he was charg'd upon Oath, with having been a Party in a notorious Robbery, Burglary, and Murther, committed so and so, in such a Place, and on such a Day' (127-128).

<sup>8</sup> Defoe seems to have changed his mind about when Jack learned to read, first suggesting that he had done so before the age of 10 (2016, 64), but having him present himself as illiterate at the time of his arrest.

Although the Colonel had not actually been ‘out’ with the gang on the fatal robbery, he is certain that he is now bound for the gallows. Luckily for him, however, the justice before whom he is brought (evidently not the one who had issued the vaguely worded warrant) is willing to hear both sides of the story and meticulous in applying guarantees of arrestee’s rights. His rigorous cross-questioning of suspect and constable is presented in the form of a long drawn-out ‘dialogue’ (Faller 1993, 150) which begins as follows:

the Justice ask’d me my Name; but, hold, says he, young Man, before I ask you your Names, let me do you Justice, you are not bound to answer till your Accusers come, so turning to the Constable, he ask’d for his Warrant.

WELL, says the Justice, you have brought this young Man here by Vertue of this Warrant; is this young Man the Person for whom the Warrant is granted?

*Con.* I believe so, and please your Worship.

*Just.* Believe so. Why are you not sure of it?

*Con.* An’t please your Worship. The People said so, where I took him.

*Just.* It is a very particular kind of Warrant, it is to apprehend a young Man, who goes by the Name of Jack, but no Sir name, only that it is said, he is call’d Capt. *Jack*, or some other such Name. Now young Man pray is your Name Capt. *Jack*? Or are you usually call’d so?

I presently found, that the Men that took me knew nothing of me, and that Constable had taken me up by Hearsay, so I took Heart and told the Justice, that I thought with submission, that it was not the present Question, what my Name was, but what these Men, or any one else had to lay to my Charge, whether I was the Person, who the Warrant empower’d to Apprehend.

HE smiled, ‘tis very true young Man, says he, ‘tis very true, and on my Word if they have taken you up, and do not know you and there is no Body to Charge you, they will be mistaken to their own Damage.

THEN I told his Worship, I hop’d I should not be oblig’d to tell my Name till my Accuser was brought to charge me, and then I should not conceal my Name.

IT is but Reason said his Worship. (Defoe 2016, 128-129)

In this series of exchanges the justice lays bare a number of ‘cracks in surveillance’ which could render the constable vulnerable to claims for ‘Damage’, and in so doing furnishes Jack with arguments he will turn to his own advantage. By stressing the ‘very particular’ nature of the warrant – the absence of any ‘Sir name’ – the justice draws attention to an anomaly in its wording, and in reading it aloud he reveals that it refers to ‘Capt Jack’ rather than to our ‘Colonel’. From this Jack ‘takes Heart’, realising that he has been mistaken for ‘another of the same Name’; ‘such taking’, Giles Jacob advised, was ‘wrongful’ (1720, 54). Wisely, however, Jack does not try to divert suspicion onto his brother, choosing instead to profit from the constable’s indirect admission that he had no personal knowledge of him and had relied on the word of ‘the People ... where I took him’. To this the justice himself has drawn attention by underlining the difference between being ‘sure’ and ‘believing’: hearsay evidence in general was coming into disrepute in this period (Clegg 1998), and eighteenth-century constables’ manuals agreed that it was a risky basis for an arrest. P.S. Gent., for instance, advised that, in serving warrants on anyone not personally known, a constable’s ‘safest Way is to charge the Party making the Plaint to assist him in the King’s Name, and shew him the Party ... mentioned in the Warrant’ (1721, 86). In this case however the ‘Party’ concerned is in jail, and Jack has to reiterate for over an hour that he ‘not be oblig’d to accuse myself’ before the magistrate insists on getting George brought from jail to accuse or exonerate. Luckily for Jack, George does not recognise him, and the constables’ three witnesses admit that they have no proof of his identity, so the justice gives his ruling:

The young man must be Discharg’d; and I must tell you, Mr. Constable, and you Gentlemen, that have brought him hither, he may give you Trouble if he thinks fit for your being so rash; but look you young

man, *says the Justice*, you have no great Damage done you, and the Constable, tho' he has been Mistaken, had no ill-design, but to be Faithfull to his Office; I think you may pass it by. (Defoe 2016, 130)

Unsurprisingly, Jack has no desire to 'give ... Trouble' by suing his apprehenders, but insists that they 'go back to the Place where they insulted me, and Declare publicly there that I was honourably acquitted, and that I was not the Man ... and so we came all away good Friends, and I was clear'd with triumph' (Defoe 2016, 130).

With this oddly jolly conclusion, there remains the fact that Jack 'is no innocent victim', a point Faller makes à *propos* of Moll (1993, 156). She may not have actually stolen from the Covent Garden mercer, but she *had* been wandering on the lookout for a chance to steal; Jack may not be guilty of the particular 'Robbery, Burglary, and Murther' for which he has been arrested, but he *had* been involved in a number of cowardly and brutal street robberies (Cervantes and Sill 2016, 34-45; Clegg 2016). He is extremely lucky not to have been known to George, and in that George is honest enough to say so rather than attempting to save his own neck at the price of Jack's. Positive eye-witness testimony against him would have caused all his clever, legalistic reasoning to collapse and sent him to join Will in Newgate – just as, in Moll's last adventure, the sworn testimony of the fiery servant girls who seize her in Anthony Johnson's warehouse forces the constable to march her off to a magistrate, and the magistrate to send her on to trial. It is important that in the end a constable does actually carry out his law-enforcing function, but it is also significant that this is the only occasion in the two novels on which he does so.

### 7. *The Uses of Literacy*

In a coda to the *Colonel Jack* episode, we are invited to reflect on the young man's 'well managing [his] ... own Defence' (Defoe 2016, 130). This compliment from the justice had been the subject of a boast made much earlier in the novel:

I remember very well, that when I was once carried before a Justice, for a Theft which indeed I was not guilty of, and defended my self by Argument, proving the mistakes of my Accusers, and how they contradicted themselves; the Justice told me it was pitty I had not been better employed, for I was certainly better taught; in which his Worship was mistaken, for I had never been taught any thing, but to be a Thief ... But I had a natural Talent of talking, and could say as much to the purpose as most people that had been taught more than I. (64)

Jack has certainly demonstrated his 'Talent of talking' and speaking 'to the purpose', but made to feel his deficiency in literacy. The justice's mistaken deduction that he has been 'better taught'

had this good effect upon me, that I resolv'd if it was possible I would learn to Read and Write, that I would not be such an incapable Creature, that I should not be able to read a Warrant and see whether I was the Person to be Apprehended or not. (130)

Later, under the influence of his slave tutor, Jack will read morally and culturally edifying books, but the first of the uses of literacy presented in *Colonel Jack* is strictly practical: the ability to make out an arrest warrant.

Defoe here has his narrator pinpoint an extreme manifestation of the basic, practical need for information and guidance which J.P. Hunter sees as having driven the young, urban, mobile and ambitious to learn to read, taking the proportion of adult literate males from 25% to 45%



between 1625 and 1675, and to 60-70% by 1800 (1990, ch. 3). In 1582 William Lambarde could assume that his parish officers could read his manual and copy out testimonials; by the end of the century many of those waiting to be hanged, among them a high proportion of artisans, apprentices, journeymen, often migrants and surely desirous of a better life, would have been among the 'new readers' for whom the print industry supplied news, ideologically orientated narratives – and guide books (Hunter 1990, Part III; Linebaugh 2006, ch. 3). Constables' manuals were not, of course, written to aid the accused or those vulnerable to arrest, yet as Roger Chartier has taught us (1988), texts are read by different readers and for diverse purposes, and de Certeau argues that reading too can be a form of 'poaching' 'invent[ing] in texts something different from what they "intended" ' (2011, 133). According to Robert Shoemaker (2008a), the *Old Bailey Proceedings and Ordinary's Accounts*, though intended mainly for a middling-sort public of the kind to which potential victims, prosecutors, officials belonged, also circulated in jails and were used by prisoners preparing for their day in court, perhaps with the aid of the much disparaged 'Newgate attorneys'. The rule books of Henry Carey, Robert Gardiner, P.S. Gent. and Giles Jacob could have offered valuable advice on how to avoid being committed in the first place. Guidance on organising a hue and cry, making a search or an arrest or serving a warrant could be read against the grain for hints on tactics for evading or diverting a pursuit, on stalling or passing unnoticed under the eyes of a search party, on finding the faults in and challenging a warrant. In the fictional episodes we have discussed Moll, Jack and the Governess do just those things and more: they manoeuvre officers of law into taking *their* sides against the would-be prosecutors who have called on them to help make or formalise an arrest. If the early novel took over many of the functions fulfilled by 'pre-texts', including guidebooks (Hunter 1990, 54-57), it may also have taught its readers more than their authors would have wished.

The difference between the two kinds of reader lies in the relative strength of their positions in society, and thus in the very nature of their needs. Constables may have looked for help in avoiding fines and counter prosecutions, or loss of time that could ruin his business; Moll, Jack and their kind are fighting – or speaking – for their lives. In this they resemble the actual plebeian Londoners of the eighteenth century, *à propos* of whom Tim Hitchcock and Robert Shoemaker suggest

that basic human need and fear, whether in the form of hunger, disease or the prospect of death on the scaffold, motivate the poor and the accused criminal to explore ... the structures of society as thoroughly as possible (more thoroughly than any other group). In Peter Mandler's words, "for the poor" rich social knowledge is "essential for survival". While a single person, often in alliance with more powerful actors such as overseers or lawyers, may take the imaginative leap that identifies the tensions within a system and discerns the best way to manipulate that system for short term gain, our claim is that this knowledge rapidly spreads, creating shared and copied tactics that exert collective pressure on the system. (2015, 22-23)

Instrumental in sharing and spreading that knowledge would have been networks of orally-transmitted know-how, but also the many forms of printed matter in circulation, including the fictions we have been discussing.

Defoe's criminal novels, I would like to suggest in conclusion, may have had other unintended effects. The constables we meet in *Moll Flanders* and *Colonel Jack* differ from the drunken, lascivious and corrupt, stereotypes of the rogue literature and satirical plays of early modern England. Defoe's parish officers may be rather credulous, but they are conscientious, honest and fair-minded, men of good sense, 'faithful to their office' and well-informed. If they fail in the exercise of their duties it is not because of personal failings but because their antagonists, driven by desperate motives, manage to identify weaknesses in the intricate and bureaucratic

system they – the constables – are forced to serve with ‘neither Profit nor Pleasure therein, but an inconceivable Fatigue’ (Defoe 1727, 17). In offering sympathetic portraits of civic officials who, for all their efforts, prove no match for criminals, *Moll Flanders* and *Colonel Jack* may have helped to undermine an already weakening trust in amateur law enforcement and reinforced the trend towards professionalisation that, by the end of the century, had caused the traditional English constable to disappear from the streets of London.

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*Cross-Dressing, Crime and Revenge*





# The Allure and Joy of Female Criminals in Early Modern English City Comedy

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## Abstract

The article examines the appeal of female criminal characters in early modern English city comedies. Stage representations of urban criminals on the early modern stage reflect a cultural taste for fictionalized and sensationalized stories of criminal behavior also prevalent in the popular rogue literature of the time. This trend suggests everyday city dwellers' collective desire to better understand and contain the growing and diversifying population of London in the early seventeenth century. Specifically, the article posits that the comedic tones and alluring nature of staged versions of female crooks mitigate the threat of criminality for readers and viewers. Focusing specifically on Ben Jonson's *Doll Common* from *The Alchemist* and offering readings of some examples of rogue literature, the article turns to a body of research on coney-catching literature and gender to make the claim that female criminals on the early modern stage are portrayed in an affectionate way that emphasizes their sexual and emotional appeal. Their popularity speaks to both the fear of a familiar sense of danger and the thrill of experiencing the exotic in the changing early modern urban landscape.

**Keywords:** *Ben Jonson, Coney-Catching Crime, Female Criminality, The Alchemist, The Roaring Girl*

## 1. Introduction

The female urban criminal was a figure of much interest in early modern England and its theater. She features prominently in popular literature and in drama from the period. In city comedies, in particular, female criminals generally are portrayed as endearing and mostly harmless. Underworld characters, particularly female ones, provide a uniquely complex, layered emotional experience in the theater because they are at once desirable and repulsive, familiar and exotic. In city comedies especially, wayward women are even joyous, often embodying the pleasure of spectatorship and sexual allure. This article looks at the portrayal and actuality of crime in early modern London

to establish a context for the and plays and pamphlets that portrayed them and audiences' relationships to them. Through a reading of Doll Common from Ben Jonson's *The Alchemist* (1610) and other characters in popular literature, such as Moll Cutpurse/Mary Frith, it argues that depictions of early modern women who commit crime, especially prostitutes, are appealing despite the social threats they represent. I argue that female criminal characters in city comedies subvert not only gender roles as many critics have asserted, but the everyday experience of early modern citizens of London. These figures provide a critical opportunity to examine early modern dramatic and gender performance as not only experiences that destabilize social norms, but as thrilling departures from the chaos of daily life in early modern London. They also help to illuminate the subversive experiences audience members and readers have as they imagine themselves in an othered subject position of the criminal, allowing spectators and readers to navigate freely between the bounded world of early modern England and the freer imaginary world of the theater. This article contributes to an already robust discussion of female criminality and its representations in the early modern period by focusing on Jonson's Doll, a less-studied character in the discussion of the intersections between early modern criminality and popular literature, specifically city comedy. By considering the historical actuality of crime, the notions of gender in circulation in early modern London, and research done on rogue literature and more prominent early modern female criminals, I attempt to uncover a pattern of gendered criminal representation and develop an understanding of what kinds of particular pleasure these characters provide at the theater.

Critical discussion of dramatic representations of early modern female criminality in comedies has been dominated by scholarship on Moll Cutpurse in Thomas Middleton and Thomas Dekker's *The Roaring Girl* (c. 1607-1610) and the historical figure Mary Frith who inspired the character. Much of this work has focused particularly on the character's gender, sexuality, and crossdressing, and rightly so.<sup>1</sup> These contributions have done much to bolster our understanding of gender on the early modern stage and in early modern England generally. Readings of Moll have often been paired with readings of coney-catching literature in an effort to not only establish how accurately she represents the real Mary Frith, but also explore the relationship between the actualities of the London underworld and the ways the stage represented it. The critical attention Moll has received, I think, speaks generally to the particular, popular appeal of female criminals' stories. It is my assertion that scholarship on Moll and the rogue literature of the period can shed light on not only how Doll Common and other characters like her function to attract or increase interest in city comedies, but also what this interest reveals about cultural attitudes toward subversive, and even threatening, femininity. The work that has been done on Moll and Mary is helpful in developing an understanding of what was pleasurable and alluring about representations of female criminality in the period.

Moll and Doll are different in important ways. In *The Alchemist*, Doll is part of a criminal gang of sorts, while Middleton and Dekker's heroine acts autonomously. In Middleton and Dekker's play, Moll crossdresses and in some ways acts as a man even though she moves through the world identifying as female. In contrast, Doll plays up her femininity and sexual appeal in order to lure customers. We witness Doll's criminality over the course of Jonson's play, but Moll's pickpocketing and fighting is mostly just mentioned in an endearing way rather than acted out during the course of the drama. In her study on the rehabilitation of Mary Frith and her self-actualization in relation to *The Roaring Girl* and other early modern publications that focus on her

<sup>1</sup> While this list is certainly not exhaustive or inclusive of all of the good scholarship done on Moll and her gender and sexuality, see especially, Rose 1984; Howard 1988; Garber 1991; Bromley 2015.



celebrity, Alicia Tomasian claims that ‘Middleton and Dekker have taken the woman Mary Frith as a source but painted her as benign and harmless, albeit scintillating in her difference’ (2008, 206).<sup>2</sup> The characterization of female criminality as ‘scintillating’ indicates the allure of the female criminal, especially Frith who clearly captured the collective imagination given the frequency with which she is mentioned in various sources of the time.<sup>3</sup> In *The Roaring Girl*, Moll’s cant, or street language, is a particular site of pleasure for the gallants in the play. As evidenced by the inclusion of cant lexicons in the popular ‘rogue’ pamphlets of the day, deciphering street language also interested early modern readers and audience members. In his study on cant in Middleton and Dekker’s play, Miles Taylor posits a theory about, ‘the pleasure produced by learning a subculture’s argot’ (2005, 108). He says: ‘not only [do] the play and pamphlets figure an education in cant as pleasurable, but also ... they associate such pleasure with a recovery of parts of the self excluded in identity formation’ (*ibid.*). Based on Taylor’s observation, we can surmise that education about other languages and subcultures is pleasurable in part *because* it helps the mainstream learner to develop a better understanding of unexplored parts of selfhood, perhaps the parts are tempted by the mysterious joys and freedom of the criminal underworld.

Experiencing that joy through Moll Cutpurse and other fictional representations of the female criminal allows the unexplored part of the self to remain safely within the dominant culture, a concept Zachary Lesser calls ‘safe danger’ (2004, 144).<sup>4</sup> Lesser holds that the gender play in *The Roaring Girl* allows characters like Sebastian to safely play with transgressive same-sex desire when his love interest Mary Fitzallard dresses as a page. The concept of ‘safe danger’ is also present in Middleton and Dekker’s play and in its bringing together of the criminal underworld and the merchant class. Moreover, city comedies also allow their audiences to experience ‘safe danger’. In effect, the theater and other fictional accounts allow an audience member to occupy two very different positions within the social strata. Jennifer Higgenbotham reads Moll as a liminal figure that occupies the space between several categories, a reading that both explains the character’s cultural threat and posits how that threat is mitigated. She claims the play ‘renders Moll unthreatening’ by portraying her as girlish rather than sexualized, but also presents, ‘paradoxes [that] effectively undo the fixity of gender binaries and blur the distinction between the criminal and the legal, the sexual and the chaste, the manly and the womanly’ (2013, 91-92). Mark Hutchings claims that Moll embodies a similar paradox. Although her behavior may subvert dominant gender and criminal paradigms, her ability to challenge these systems is limited. He argues that Moll, ‘manoeuvres through but for the most part remains outside the social world of the play, Middleton and Dekker capture the paradox of Frith’s “place” as both marginalised and celebrated’ (2007, 93). With characters like Moll, and I would argue other female criminals, the theater allows for an opportunity to play with convention before it must reestablish social order. As a genre, city comedy provides a lot of room for subversive play, perhaps because the setting and subject matter were so familiar to its audiences. Other forms of popular culture also provided urban dwellers with opportunities to test forms of social control.

<sup>2</sup> Moll has also been rehabilitated by other critics, including Jacobs 1991; Howard 1992; Baston 1997.

<sup>3</sup> Mary Frith gets mentioned in several sources from the period, including *The Life and Death of Mrs. Mary Frith* (1662), an anonymous alleged autobiography that is almost certainly a fictionalized biography; court records from 1611 (for playing a lute and singing on stage at the Fortune after a performance of Middleton and Dekker’s play) and 1612 (for dressing as a man in St. Paul’s); and a 1612 letter by John Chamberlain that describes her behavior at a service at St. Paul’s. See Ungerer 2000 for more detailed accounts of these documentations of Frith’s doings.

<sup>4</sup> Lesser develops different applications for his concept of ‘safe danger’ throughout ch. 4 of his 2004 book.

## 2. *Urban and Female Criminality in London and Its Literature*

The stage shaped early modern Londoners' understanding of their city and their places within it, but it also reflected larger cultural trends already in circulation. The female criminal as she was represented on stage does both; her dual functions are apparent by her pervasive presence in both historical accounts and sensationalized, fictitious cultural artifacts. In 1592, Robert Greene published a pamphlet in his coney-catching series, works in which he claims to reveal secrets of the London underworld dominated by thieves, prostitutes, and other criminals. It contains a dialogue, *A Disputation, Betweene a Hee Conny-catcher, and a Shee Conny-catcher*, that features thief and rogue Laurence arguing with Nan, a prostitute and thief in her own right. In it, they discuss whether male coney-catchers, a term ascribed to criminals who took advantage of law-abiding citizens for their personal profit, or female coney-catchers are more effective in the criminal arts.

With a dismissive, superior tone, Laurence greets Nan by commenting on her fine appearance and surmising that she has been able to afford to live richly because her coney-catching husband has been particularly successful lately. Nan scoffs, chiding him 'though they [women] be not so strong in the fists, they bee more ripe in their wittes, and tis by wit that I liue and will liue, in dispight of that peeuish scholler, that thought with his conny-catching bookes to haue crosbyt our trade' (Greene 1592, A4r). Here, she most likely refers to Greene, the 'peeuish scholler' and his previous publications as unsuccessful attempts to curb women's criminal behavior. Having none of Laurence's – or Greene's – insults, sharp-tongued Nan easily makes a more comprehensive and convincing argument that female criminals were indeed more effective:

you men are but fooles, your gettings is vncertaine, and yet you still fish for the gallowes ... we mad wenches haue our tennants (for so I call euerie simple letcher and amorous Fox) as wel out of Tearme as in Tearm to bring vs our rentes, alas, were not my wits and my wanton pranks more profitable then my husbands foysting, we might often go to bed supperlesse for want of surfetting. (A4v)

She goes on to challenge Laurence, saying:

and sith I haue leisure and you no great busines, as being now when Powles is shut vp, and all purchasies and Connies in their burrowes, let vs to the Tauerne and take a roome to our selues, and there for the price of our suppers, I will proue that women, I meane of our facultie, a trafficque, or as base knaues tearme vs strumpets, are more subtile, more dangerous, in the common-wealth, and more full of a uyles to get crownes, then the cunningest Foyst, Nip, Lift, Praggis, or whatsoever that liues at this day. (*ibid.*)

As the dialogue continues, Nan grows confident and bold enough to claim that women are in fact not just more successful and ambitious criminals, but more dangerous to the commonwealth. Clearly, with Nan's bold statements, Greene means to emphasize female criminal's hubris. However, when considered practically, Nan's claims make a lot of sense given the female criminal's place in the social strata of early modern London and her double threat as a thief (or even murderer) and prostitute.

Nan's argument assumes several differences between men and women coney-catchers. First, she asserts that women have superior wit, implying not only that they are smarter, but more adept at endearing others to them because of their humor and charm. Second, Nan points out that women have more financial opportunity. She argues that men's crimes necessarily cease when their potential victims hole up for the night in their homes while women can continue to serve 'tenannts' by seducing (and stealing from) them indoors because one of their trades

is sex. Thirdly, Nan implies that male criminals, like Laurence and her husband, are actually dependent on female criminals not only because the women have more earning potential, but also because they need them to bait and lure victims. These arguments call upon real anxieties about female criminals that in many ways stood in for cultural anxieties about women in general: 1) they spread disease; 2) they are deceptively innocent; 3) they threaten men's earning potential in a capitalistic economy; and 4) they can become wayward, threatening the family structure. Although Nan and other female criminals in pamphlets like Greene's certainly represent street criminals generally, the emphasis is mostly on their acts of prostitution. Her quick association with the bedroom – and the tenants that occupy them – suggests that she threatens both the public space of the street and the indoor domestic space of the household in a way her male counterpart does not. Despite these dangers, she is clearly the more compelling character, speaking with more humor, intelligence, and knowledge than Laurence. The threats she poses, which are simultaneously a result of and seeming contradiction to her gender, make her interesting. There is a certain allure about her not just as a sexualized subject who might offer services noncriminal women would not, but also as a source of particular curiosity about the criminal world in general.

Nan and Moll Cutpurse are just two examples of female criminality. Looking at other female criminals in fictitious early modern accounts, like Doll Common in *The Alchemist*, provides insight as to why these women were a particular subject of interest for early modern literary and theatrical audiences. Greene's *Disputation* is one of the better-known examples of a subgenre of popular literature that appeared in England in the 1590s that has been categorized as 'rogue literature.' The popularity of this subgenre reflects a taste – especially an urban taste – for sensationalized stories about street crime. Though he was prolific in the genre,<sup>5</sup> Greene certainly was not the only writer capitalizing on public taste for stories about London's underground world of criminals. Thomas Harman was writing similar stuff as far back as 1566 with the publication of his *A Caueat or Warening for Common Cursitors*. Greene's contemporary Thomas Dekker wrote several pamphlets that were similar to his work as well, including 1608's *The Belman of London*. The public desire for rogue literature translated to the theater in the early sixteenth century as well. This taste is evidenced by the number of city comedies that feature rogues and other criminal characters; *The Roaring Girl* is merely one. Jonson, Middleton, Dekker, Marston, Heywood, Chapman, and other playwrights all wrote works between 1589 and 1616 that are set in London, feature citizen characters, and provide satiric commentary on urban life, and have therefore, been classified as city comedies.<sup>6</sup> Characters from these comedies like Doll Common resemble characters like Nan: Doll is also a prostitute who is clearly familiar with other crooks and the ways of the criminal world.

However, the presentation of the criminal or rogue figure is somewhat different in the drama than it is in the printed literature. The coney-catching pamphlets often emphasize the threats that criminals pose to safety and the mannered citizen lifestyle in order to offer tips about protecting oneself from them. Contrastingly, city comedy reveals London-based criminal

<sup>5</sup> Greene's other coney-catching works include, *A Notable Discovery of Coosnage* (1591), *The Second Part of Cony-catching* (1591), *The Third and Last Part of Cony-catching* (1592), *The Black Book's Messenger* (1592), and *The Defence of Conny-catching* (1592).

<sup>6</sup> 1598-1616 is the generally accepted time period when city comedies were produced. The time period is generally suggested in Brian Gibbons' influential *Jacobean City Comedy* (1980); see especially ch. 1, 'City Comedy as Genre'. Other influential works that helped to define the time period and characteristics of city comedy include Leggatt 1973 and Leinwand 1986.

characters to be ultimately unthreatening, funny, and even likable, a characterization due at least in part to the behind-the-scenes look into the planning and execution of their cons that the plays offer. Johnathan Haynes describes the figure's translation to the stage:

the rogue found himself quite welcome in the theater. There the audience could indulge, in safety from his vermin and pilfering, the curiosity and fascinated ambiguity always accompanying the figure of the rogue, and could indulge also the temptation to think through, via the status crime of vagabondage, the themes of social identity and political organization which had become unavoidable in England's post-feudal society, and which now preoccupied the drama. (1989, 21)

Haynes' point presupposes the rogue's popularity, but in contrast to his representation in literature, which can be 'ambiguous,' criminal characters on stage were more legible, though still removed enough to allow for a sense of safety. Interestingly, he reads the representation of 'crime and vagabondage' as an interpretive tool that allowed an audience to more easily understand their own identity in a shifting culture that better reflected its capitalistic future rather than its feudal past. This new culture ushered in new social problems, such as increased crime and patterns of urban coexistence, like mingling with unfamiliar kinds of people.

During the period when city comedy flourished, the drama is indeed 'preoccupied' with issues of identity and community politics as Haynes claims, with special attention of how urban realities shape both. In the Prologue to *The Alchemist*, Jonson emphasizes his urban setting and some of the social problems the city was facing in the form of particular criminals in these famous lines:

Our Scene is London, 'cause we would make known  
No country's mirth is better than our own.  
No clime breeds better matter, for your whore,  
Bawd, squire, impostor, many persons more,  
Whose manners, now call'd humours, feed the stage. (1967, Prologue, ll. 5-9)

In a direct address to his Blackfriars audience, Jonson emphasizes just how close the actions they will see on stage are to their everyday lived experience, but he also claims that these actions could not really transpire anywhere but this crime-infested city. The city 'breeds' prostitutes, pimps, and fraudsters. As he has already mentioned in the acrostic Argument, where he calls them 'a cheater and his punk' and 'cozeners' (Argument, ll. 4 and 6), these are the very characters that will feature in the play the audience is about to see. Should they feel threatened? Jonson believes so as he calls upon plague imagery of disease, mentioning the elusiveness of the 'cure' (Prologue, l. 14) for the 'diseas'd' (l. 17) spirit later in the Prologue. However, he also warns that the social disease of crime could be within the very audience members who have come to watch, 'even doers may see, and yet not own' (l. 24). From the outset, Jonson conflates the criminal behavior of the undesirables with his bourgeois audience's own questionable behavior. Crime is closer than their rich suburban neighborhood may suggest.

Haynes (1989) makes a clear link between what was presented in playhouses with 'true' narratives that circulated widely outside of it. Yet, a question remains about how accurately coney-catching literature like Greene's and city comedies like *The Alchemist* portray the real criminal threats in the city and whether the accuracy of those portrayals even matters in deciphering the figure of the female criminal. There are sources, of course, that provide data about crime rates and court books that reveal some specifics about some crime narratives.

However, critics have long been cautious about drawing parallels between the early modern underworld as it was represented in literature and the actualities of crime in the period.<sup>7</sup>

Emphasis on crime as a social problem rather than a religious one was a bit of a new phenomenon in the sixteenth and seventeenth centuries. Malcolm Gaskill argues that early modern people thought about crime and criminal behavior differently than both modern cultures and their predecessors. As J.A. Sharpe had done before, he explains that, 'until the nineteenth century (when law-breaking was firmly connected to an urban underclass, fixed penalties and published statistics) contemporaries tended to think less in terms of crime, than individual sins carrying their own particular social meanings' (2000, 28). However, according to historian Paul Griffiths in his study of the stability of early modern London, by 1600 the perception of crime became tied to London's rapid, unwieldy growth, 'crimes ... were understood to be both cause and consequences of the city's sprawl and squalour ... Criminal and environmental horrors were twinned in explanatory theories' (2008, 199). He goes on to claim that coney-catching pamphlets, many of which include canting dictionaries, were one way early modern Londoners attempted to pin down the chaotic growth: 'Like maps or texts that tried to keep on top of changes by making them seem part of the urban fabric, this growing crime lexicon was an attempt to make better sense of London's metamorphoses' (192). Craig Dionne discusses how this 'environmental perception' of crime, as Griffiths terms it, and its connections to vagrancy shows up in literary representations. He claims that one project of rogue literature is to 'reshape the image of the hapless vagabond into the covert member of a vast criminal underground ... Much of this literature ... manufactured an imaginary subculture for London's growing metropolis, displacing dominant notions of social hierarchy and order onto the growing populations of homeless' (Dionne 2004, 33). Crime stories perpetuated in the popular literature and on stage increased fear of criminals as a collective, but they also organized criminal activity into a knowable entity with particular characteristics. The vagabond was no longer a loner, but part of a collective that, if exposed, could be identified and therefore potentially contained.

Under Elizabeth, vagrancy laws became stricter as 'masterless men' were seen not just as a public nuisance, but as a threat to public safety. The Vagabonds Act of 1597 revised an Act from 1572 to increase efforts to ferret out the unemployed and homeless and send them back to their place of origin. In an important study on crime in early modern England, J.A. Sharpe discusses the figure of the vagrant and how he was perceived

The vagrant emerged as *the* criminal stereotype in the late sixteenth century. His importance in the eyes of those bent on keeping English society orderly was demonstrated by a mass of legislation and a substantial body of popular literature, the former aimed at curbing his escapades, the second at horrifying the public with sensational accounts of them. (1999, 100)

However, the historical evidence available in court records tell a different story. Vagrants 'were almost always far less threatening than their counterparts in the popular literature of the period' (101). Vagrancy concerns run underneath *The Alchemist*, especially as they apply to two of the three members of the 'venture tripartite', the small and bumbling crime organization that concocts schemes that drive the plot of the play.

<sup>7</sup> See especially Sullivan and Woodbridge 2000; Beier 2003.

### 3. *Liminality and Criminality in The Alchemist*

In Jonson's play, the gang of three need each other as well as a fixed location to be successful crooks and run their brothel and scam alchemy businesses. However, their geographical fixity prior to their scheme varies, a difference that becomes important in the play's portrayal of urban criminality. Subtle and Doll are cast as the 'real' criminals, the figures who best fit the stereotypes perpetuated by the popular literature, even before the play begins. The Argument describes them as 'A cheater and his punk, who, now brought low, / Leaving their narrow practice, were become / Coz'ners at large' (Jonson 1967, Argument, ll. 4-6). Having come upon hard times, Subtle, the 'cheater' and presumed pimp, and Doll, a prostitute, have been practicing their criminal trades 'at large,' or in no particular spot. To dig themselves out of this hole, they need somewhere they can operate their fraudulent businesses, somewhere to lure customers so that their dealings seem legitimate. This is where Jeremy/Face comes in; he can provide them a house since his master is away. We find out that Face found a hungry, dirty, and vagrant Subtle wandering aimlessly in Pie Corner; considering that Doll is described as '*his* punk,' it seems safe to assume that she was found in a similar predicament and location. In other words, Doll and Subtle were vagabonds, products of the growing city who occupied all of it and none of it at the same time. They represent the frightening notion that criminals moved about the city, potentially blending in with the population at large. Haynes points out that the play perpetuates ideas about this circulation and criminals' proliferation described in the play and in rogue literature, '*The Alchemist* suggests that this social volatility will circulate through the fashionable demi-monde of profligate gallants, ordinaries ... brothels, and Paul's Walk, ... where social identity was mobile, uncertain, and frequently fraudulent' (1989, 36). The fear of encountering and interacting with criminals was not entirely about becoming a victim, though that fear is also clear in some of the rogue literature. The threat is also posed by criminal's shifting identities and the ease with which they cross geographical, and therefore, social boundaries.

Conversely, Jeremy, who adopts the alias Face in order to covertly pose as Subtle's alchemical assistant, works in Lovewit's service. His house is in Blackfriars, a relatively wealthy liberty that had not been under sovereign authority until 1608, just two years before *The Alchemist* was first staged in the new Blackfriars Theater. Although it is difficult to recreate what Mary Bly calls, 'the mental cartography of early modern London' (2007, 61), it seems useful here to provide some insight into this particular neighborhood and its cultural resonances. When Jonson's play premiered in the private theatre that bore its neighborhood's name to a wealthy audience, Blackfriars was a liberty that lay outside of both the City's ancient walls and its general jurisdiction. The confluence of the liberty's freedom and aristocratic audience reflects a shift in the city's landscapes and their meanings at a particular moment. In his important work, Steven Mullaney describes the specific moment,

Popular drama owed its birth ... to an interim period in a larger historical transition, a period marked by the failure of the dominant culture to rearticulate itself in a fashion that would close off the gaps and seams opening on the margins of its domain. Such a historical interlude could not last, long, however, and it was beginning to draw to a close in the first decade of the Jacobean period. (1995, 136)

The spirit of the liberties that allowed for a subversive, edgy theatrical culture flourish amongst the rogues and questionable citizens who occupied them was waning by the time *The Alchemist* was first performed. At the time, Blackfriars brought together an emerging wealthy class and a roguish spirit. The play reflects this paradoxical coming together by staging the criminal lifestyle alongside and even within the dominant, legitimate aristocratic lifestyle.



Like the liberty itself Jeremy/Face occupies a liminal space between legitimate citizen who has a home and a masterless man in the absence of the owner of that home. In partnering with the vagabonds Subtle and Doll, Jeremy/Face brings difficult-to-contain street crime over the threshold inside a domestic, regulated, and law-abiding space. J.D. Mardock acknowledges this paradox as dangerous: '[Subtle and Doll] move ... from an unbounded spatial practice in the suburban liberties to a place within the walls both of the city and of a specific house ... the plot of *The Alchemist* ... is nevertheless dependent on the permeability of the household walls and on the interaction between private and public' (2008, 84). Jonson's repeated references to the plague raging through London at the time of the play, the reason Lovewit has fled his home for the country, work to emphasize the potential threat of inviting the outside in. The action of the play itself exclusively takes place in one of two locations: on the street directly in front of Lovewit's house or just inside his door. Adding a layer to this indoor/outdoor dichotomy, *The Alchemist* was performed in the same neighborhood where the house is located at the indoor Blackfriars Theater, which had just recently been granted permission to stage plays using adult playing companies, effectively bringing an era of outdoor early modern theater inside.<sup>8</sup>

The coming together of indoor and outdoor worlds and of the domestic servant and the vagabond mirror the intersection of two other seemingly disparate forces also at odds in early modern London: the citizen and the criminal. The picture painted by the coney-catching pamphlets makes it seem that great pains had to be taken in order to avoid crossing paths with wily and dangerous criminals. They also depicted the underworld as a collective or a gang. In *The Alchemist*, the formation of the 'venture tripartite', the name adopted by the three coney-catchers, speaks to the image of the individual criminal as part of a gang or subculture. Such neat organization allowed criminals to be seen as safely outside of mainstream society, occupying their own space that was separate from the space occupied by those viewing the play. Bryan Reynolds speaks to the desire to cast the early modern criminal underworld as fundamentally a culture of others:

Beginning in sixteenth-century England, a distinct criminal culture of rogues, vagabonds, gypsies, beggars, coney-catchers, cutpurses, and prostitutes emerged and flourished. This community was ... defined by and against the dominant preconceptions of English cultural normality ... In effect, this criminal culture constituted a subnation that illegitimately occupied material and conceptual space within the English nation. (2002, 1)

Early modern Londoners willed clean divisions between criminals and regular citizens into being partly through literature like Greene's and drama like Jonson's. Up until the mid-sixteenth century, English society had been organized into more recognizable groups, like guilds. In early modern London, however, those categories were becoming more nebulous. The drama and the popular literature of the period contribute to a cultural effort to maintain a social hierarchy amidst the crumbling economic distinctions between groups.

However, the lives of criminals and vagrants that are portrayed as strange or exceptional were probably closer to citizens' experiences than they cared to acknowledge. After all, Doll and Subtle may be mangy wanderers, but Jeremy/Face could easily be a servant in any one of the wealthy audience members' houses. Griffiths is again very useful, arguing:

<sup>8</sup> Christopher Foley makes an interesting spatial argument about the play that considers Jonson's use of space with reference to the plague, the dimensions of the Blackfriars Theater, and the implied blocking of the action (2018, 505-523).

No matter how often others saw thieves as something apart ... overlaps between citizens and criminals were plain to see. This was troubling for people who drew dividing borders. Little was comfortably clear cut ... There were too many pimping craftsmen, light-fingered traders, or other citizen-criminals for that, and too many officers who broke the law. (2008, 171)

Rogue literature and other crime stories, such as those contained in city comedies, functioned not only as a way for normal citizens to experience the criminal world, but also a way to contain the threat they posed. As Griffiths succinctly puts it, 'Putting criminals between book-covers controlled their narratives' (139). Out in the streets, criminals did as they pleased. In printed and acted works, the dominant culture, not the criminal subculture, controlled how criminals were presented and what was revealed about them. This control also helped to bring a sense of knowing to an increasingly chaotic London and helped to 'split London's massive mess into tidy polarities like citizen/criminal or seedy/sound. Societies are imagined along boundaries like these that signify difference and unease' (140). The discomfort with new populations moving into the city created a sense of urgency and a need for categorization and boundaries. Witnessing how rogues and vagabonds behaved on stage may have eased these fears by presenting them recognizable and controlling the spaces they occupy.

Understanding how law-abiding citizens thought about and interacted with criminals aids in understanding the pleasure early modern readers and playgoers would have found in portrayals of criminal figures. Polite society used these representations to raise itself above the other and maintain its carefully constructed identities. Jonson's play participates in this project through its concern with geographical fixity, as Mardock points out: 'London uses Subtle's [and Doll's] dangerous marginality to define itself as civilized' (2008, 86). Regular Londoners could view themselves as superior to others by witnessing criminals' amoral and inferior behavior, even if those criminals were imagined. The desire to witness the innerworkings of a criminal gang like the venture tripartite stems partly from a desire to see its wayward, wandering members punished and contained so that a familiar, though increasingly difficult to recognize, London could be identified against it. Part of the pleasure of observing the underworld of crime is self-righteously acknowledging oneself as in some ways superior to the characters presented on stage. To them, the posh Blackfriars that the audience occupies is clearly not the same London taken over by Jonson's criminal schemers.

The allure and excitement of the transgressive lifestyle represented also comes into play. Reynolds' idea of transversality becomes useful in understanding this source of pleasure. He defines 'transversal territory' as, 'where someone goes conceptually and emotionally when they venture, through what I call "transversal movements," beyond the boundaries of their own subjective territory and experience alternative sensations, thoughts, and feelings' (2002, 18). The idea of 'transversal territory' provides one explanation for the attractiveness of the theatergoing experience: watching criminal characters allows playgoers to experience a subversive act without actually having to enact it themselves. Witnessing crimes, they fear allows audience members to vicariously commit the crimes themselves through the mimetic power of theater. In this way, the theater takes on a sort of Bakhtinian carnivalesque quality: the dominant culture gets to experience the freedom of the subordinate one.<sup>9</sup> In the plays that represented London like *The Alchemist* and other city comedies, the comedic tone and their forgiving, jovial treatment of criminals – especially female criminals – makes this experience even more attractive because it forgives the audience as it also forgives the character. Reynolds asserts that, 'transversality

<sup>9</sup> For Bakhtin's theory of the carnivalesque, see Bakhtin 1984.



produces and expresses desire in the dynamic form of what Deleuze and Guattari term “becoming” ... a desiring process by which all things ... change into something different from what they are’ (20). Readers and audience members who consumed representations of street crime, then, could be seen as seeking this experience of ‘becoming’ by identifying with criminals from a safe distance. Jonson’s play and others like it, especially *The Roaring Girl*, provide an additional transversal opportunity via their female criminal characters.

Transversality might offer the opportunity for audience to experience a vicarious thrill of the London underground, but it ultimately does not contain the threat that world poses; that needs to be accomplished through punishment of transgressive and subversive criminality and a lifting up of the dominant culture. Therefore, reestablishing the status quo, which has long been recognized as a necessity in the comic genre, provides another kind of delight to audience members. The writers of city comedy deliver this kind of pleasure by showing their unruly characters fail, sometimes in spectacular fashion. In *The Alchemist*, the rogues themselves attempt to exert control over their space, suggesting that the machinations behind their scheme in some way mirrors what was happening in the early modern city it staged and was staged in. They create tight boundaries within a narrow playing space and legible scenarios. In many ways they are successful and can run several potentially lucrative cons simultaneously with careful orchestration. However, their plans unravel in the scenes leading up to Lovewit’s return. For example, at the end of Act 3, Mammon’s entrance threatens to undo the scheme that has Dapper handing over money to please the Queen of the Fairies, the disguised Doll. However, they quickly improvise to keep Dapper in the dark by installing him in, ‘Fortune’s privy lodgings’ (Jonson 1967, 3.5.78), moving him out of the playing space of Lovewit’s entrance room, which is about to become very crowded. Act 4 passes in a flurry of activity as customers pass in and out of the space, beginning with Mammon who is seduced by Doll posing as an exceptionally smart but poor baron’s daughter. She takes Mammon to the bedroom after he pays Face for the pleasure of her company. At this point, the business of the brothel begins to interfere with the business of the alchemy laboratory, potentially disrupting the whole scheme.

Doll Common’s profession and sexual allure, from which she extracts her power, is explicitly tied to her criminal acumen. Her trade is her criminal contribution. Lovewit’s house is transformed not just into a front for an alchemical scam business, but for an underground brothel business as well, tainting and effeminizing all transactions that occur in the play, not just the sexual ones. And ultimately, the profits from those transactions are stripped from the two outsiders, Subtle and Doll, who are forced to flee Lovewit’s house empty handed. In the end, the play makes Lovewit the pimp who profits off of degrading labor performed by others. However, as a prostitute – and even solely as a woman – Doll represents a particular criminal threat separate from her male counterparts.

As the chaos of the plot increases, the three fraudsters begin to lose control of the space. The outside world – Doll and Subtle’s ‘natural habitat’ as street criminals – increasingly leaks into Lovewit’s comfortable, controllable space that at first allowed their operation to thrive, and it takes the form of prostitution. There is a clear link here between Doll’s profession and the downfall of the schemes the venture tripartite try to manage. Successful, profitable prostitution relies on the control of bodies by both pimp (Subtle) and punk (Doll), but the play devolves into ‘the unanticipated entry of other bodies’ (Foley 2018, 515), and Doll soon loses what control she had over her own. Aside from Jonson’s identification of her as a ‘punk’ in the play’s Argument, the first indication that she may not have control of the valuable commodity of body occurs when she is accidentally seen by Dapper early in the play. However, her lack of agency is most noticeable once Lovewit returns and she agrees – even excitedly so – to go with Subtle,

her pimp, to count and spend their earnings. He extracts a kiss from her after promising to take her away from the house that provides her stability and lucrative means necessary to thrive in her business. They never get those earnings and are forced to flee emptyhanded. The kiss she and Subtle share is the first sexual contact she has that the audience witnesses in play, and it is at the mercy of her pimp. The fantasy of prostitution as a means to control and even contain female sexuality falls apart with that kiss; it is her man that calls the shots. One of the ways the play punishes Doll is by denying her the autonomy that prostitution may have afforded her.

Of course, Face, Subtle, and Doll fear being caught in the criminal act because they might be subjected to harsh penalty by law or, in Jeremy/Face's case, by their master. Face stands to lose his job, Subtle risks being put back out on the streets to face hunger and disease. They risk these penalties and transgress legal boundaries for their own financial gain, posing a threat not just to themselves, but to their victims' sense of safety and the stability of social norms that guide behavior and make people discernable to others. Doll, of course, poses these threats as well. However, as a woman, she has even more at stake: without her alliance with the other crooks or access to resources that would allow her to continue her prostitutional trade, she has no other means for survival. Also, because she is a female criminal, she threatens not just legal or moral codes, but gender codes as well. In fact, the breaking of gender norms is a main focus of rogue literature's depictions of crimes committed by women. In a study of women in crime narratives, Sandra Clark concludes, 'It was not difficult for a woman to transgress the boundaries [of traditional gender]; and such transgressions, if violating the norms for sexual behaviour or domestic roles, were particularly threatening. It is these ... that make up the substance of pamphlets, ballads, and plays on women's crime' (2003, 53). In the minds of the male authors that produced these accounts, female coney-catchers do more than break the law. They threaten deeply held ideas about the roles of men and women in early modern society, standards that were established with the very goal of limiting women's power.

Given the regularity with which depictions like the ones Clark describes appear in popular literature and on stage, the potential for women to subvert male authority by breaking the law was a real concern. Griffiths points out that the early modern period, 'was a time of telling shifts in ideas of gendering crime. Either more women were breaking the law or magistrates felt that this was so (or both). Women were now closely linked to crime spawned by urban growth' (2008, 204). Urban crowding and criminality grew simultaneously in what was a sort of symbiotic relationship, and Griffiths makes a claim that genders that relationship. The growth of female criminality perhaps is linked to women because the city itself, like women in humoral theory, was seen as porous or leaky, and saturated.<sup>10</sup> Her boundaries were easily permeated like London's in its period of growth. However, female criminals most likely were not as ubiquitous as early modern writers would have us believe. Clark points out that popular literature and plays paint an inaccurate picture of early modern female criminality, 'Of these literary accounts, the number which featured women's crimes is disproportionately high in relation to all the statistical evidence about the balance between the criminal activity and the sexes' (2003, 35). Clark is careful to note, however, that these accounts much more often focus on the most grievous crimes such as murder and witchcraft, rather than the lower order property and sexual crimes performed by female criminals in city comedy. Reports of actual and representations of fictional prostitution may have been a different story.

<sup>10</sup> Gail Kern Paster's work (1987 and 2004) on humoral theory and gender is invaluable to understanding how gender was read through humoral theory and the concept of women as leaky vessels.

#### 4. *The Gendered Geography of Crime on and off the Early Modern Stage*

The legality of prostitution in early modern England fluctuated depending on geographical location, local jurisdiction, and royal edict. According to Wallace Shugg in a seminal paper on the topic, the closing of brothels in 1506 ‘had the effect of scattering the prostitutes about London’ (1977, 293). Other historians have pointed to the closing of Bankside brothels in 1546 that also seems to have driven the practice into the city and other suburbs.<sup>11</sup> Much like London’s vagrancy problem in the late sixteenth century, the problem of prostitution was uncontained and loosely regulated. Jonson’s prostitute in *The Alchemist* reflects the entirety of her profession in this way since she also spread herself across the city. As mentioned above, the play seems to assume that Doll was picked up with Subtle near Pie Corner, but it is also safe to assume that they both wandered the city having no fixed abode. In other words, she, like her trade, was difficult to regulate. As a result, at the time of city comedy’s popularity, prostitution was increasingly seen as noncriminal, a perception that could have affected audiences’ opinion of staged prostitutes like Doll. According to Griffiths, court records indicate a sharp decline in the prosecution of sex crimes after 1600, and especially after the 1620s. It was, ‘a swift fall. Not quite overnight but quick enough to make us think that something important affected perception and policies’ (2008, 201). Based on an analysis of the number of reported sexual crimes, Griffiths concludes that the period with the lowest rate of these crimes was between 1648-1652 showing that ‘prostitution prosecutions were rare occurrences’ by then (202). As Shugg asserts, ‘toleration of prostitution in certain officially designated areas seems to have worked better than attempts to suppress it entirely’ (1977, 305). The portrayal of Doll as witty, talented, and entertaining despite her profession could be indicative of this tolerance; the play’s depiction of Doll’s customers is less tolerant.

Crimes committed by women, including prostitution, and female criminals generally were viewed differently than those committed by men in the early modern period. Male criminals were often demonized and cast off as alien, while female criminals were seen as entertaining, even funny. One reason for this difference is that the majority of the victims of women’s crimes were men who sought to explain away female violence against them to avoid humiliation. Garthine Walker argues that many depictions of women’s crimes, with the exceptions of murder (particularly infanticide) and witchcraft, are presented comically, much like Greene’s portrayal of Nan, Middleton and Dekker’s of Moll Cutpurse, or Jonson’s of Doll. She claims that these depictions make up, ‘The genre of comic violence [that] provided alternative voices in which to articulate and deny the seriousness of feminine force’ (2003, 82). Though Doll is not a violent criminal per se: Walker’s point is important for interpreting her place and behavior in the world of the play, an inherently comedic environment given the genre and Jonson’s satirical project. Her crimes – having sex for money and committing fraud by pretending to be various women she is not – impacts her victims financially, but they also work to make them look foolish. In this way, her criminality contributes to the play’s comedic tone and produces pleasure.

While the play does not demonize them, it does render Doll’s customers, like Mammon, ridiculous. By exposing the foolishness of the coney, she helps the audience to feel superior to them just as they feel superior to the criminals for other reasons. At the same time, the wit and charm with which she executes her crimes paradoxically subverts this sense of dominance, forcing the audience to see themselves in the London citizens she dupes. Pamela Allen Brown

<sup>11</sup> Karen Newman (2007) makes this claim. Paul Griffiths (1993) is an important study that traces patterns of prostitution and its prosecution.

sees rogue literature as critical and subversive, and I believe her assessment could be applied to the depiction of coney in city comedy as well. She claims that ‘The pamphlets produce a print skimmington against the coneyes ... [and pay] backhanded compliment to ... women’s skepticism and common sense’ (2003, 17). The cozened coneyes in *The Alchemist* are subjected to this kind of humiliation while Doll is admired for her common sense, or criminal acumen. For example, Dapper is humiliated by her (and her compatriots) in his blind belief of her performance as the Queen of Fairies. Mammon, however, is made a fool through her sexual allure as he endures her fabricated mad fits in an effort to complete their sexual exchange. The embarrassment of being conned by a prostitute gets drawn as a particularly potent kind of humiliation.

A popular ballad roughly from the period reflects this particular embarrassment. Although it postdates *The Alchemist* by 35 or more years, ‘The Great Boobee’ is relevant to Doll and the play, given its specific geographic reference to Smithfield, an area close to Pie Corner where Face claims to have rescued Subtle and Doll, and its depiction of a coney-catching prostitute. A young man who has recently come to London recounts his encounters with various sights and people. In particular, he encounters a ‘whore’:

As I through *Smithfield* lately walkt  
 a gallant Lass I met  
 Familiarly with me she talkt  
 which I cannot forget  
 She proffered me a pint of wine  
 me thought she was wondrous free,  
 To the Tavern then I went with her  
*like a great Boobee.*

She told me we were near of kin,  
 and calld for wine good store,  
 Before the reckoning was brought in  
 my Cousins provd a Whore  
 My purse she pickt, and went a way  
 my Cousin cozened me  
 The Vinter kickt me out of door  
*like a great Boobee.* (c. 1646-1653)

Like *The Alchemist* and other city comedies, the ballad shows prostitution to be a part of the larger trend of urban crime; the Great Boobee also has his pocket picked in the ballad. But it is more a lesson in potential humiliation: the man in the ballad is a country gentleman come to London to ‘see the fashions,’ but everything he does there makes him seem an ass to the Londoners he encounters; among other things, he gets mocked for being friendly and chastised for his bad manners. The Smithfield Lass is less a criminal threat and more a reputational one. The threat here again is gendered: being duped by a prostitute, no matter how witty and pleasant she is, means the victim is somehow weaker than the female criminal that does the duping. Being cozened, especially with sex, I would claim, comes to mean being emasculated. Applied back to the play, this kind of humiliation reflects what Ian McAdams and Julie Sanders call Jonson’s, ‘conscious contempt for such weakening of “masculine” dominion’ (2013, 134). Quite simply, prostitutes who take advantage of their clients threaten male domination in the realm of sex.

Doll’s brand of prostitution in *The Alchemist* is not the same as the prostitute’s in this ballad or Nan’s in Greene’s *Disputation* because they play brings her bawdy trade indoors and

the customers are brought to her rather than solicited on the street. Yet the depictions resonate because of the similar tactics each woman uses and the social risk they represent. All of the women dupe their victims with a performance rather than offering their services upfront, which makes them dangerously difficult to identify among the throng of other women in the city. Part of the allure of such stories is that the reader or viewer finds pleasure in others' misfortune by viewing them as other; they take solace in *not* being a fool like Mammon or a boob like the ballad's main character. However, Jonson, Greene, and the balladeer take pains to subvert this sense of relief through familiarity. References to specific settings make the stories that take place in them more impactful because they ask the audience to imagine a real potential scenario that puts them in those places. Because the threat of humiliation seen in the ballad and onstage exists in real places (Smithfield and Blackfriars), readers and viewers are reminded of its relevance to their own urban existence because they know these areas. Therefore, their project also becomes cautioning men against becoming the Great Boobee or Mammon who are so easily cozened by prostitutes.

Another effect of urban geographical references in popular and dramatic literature is to create a shared and knowing a wink with early modern Londoners in the audience. The specificity of place comes together with a joint (though exclusive) knowledge of the city. As Adam Zucker argues when discussing *The Alchemist*, 'Jonson underscores the ways in which multiplicity and particularity collaborate to produce the spectacular social and economic exchanges of London life' (2010, 103). I argue that they also collaborate to advocate for a fear-driven approach to caution and therefore control criminal and noncriminal exchanges. As they make plans for their escape to avoid potential punishment from the now returned Lovewit and steal the profit from the venture tripartite's scheme, Subtle tells Doll that, to be safe, they will be leaving the area altogether. Subtle's promise to take her first to Ratcliff<sup>12</sup> and then to Brentford where they will count their fortunes acts as an example of the interplay between the particularity and multiplicity Zucker mentions. Subtle references the specific site of the Three Pigeons (Jonson 1967, 5.4.89), a tavern that was located in the marketplace of Brentford, implying that the pair will continue scheming unsuspecting Londoners for economic gain. Subtle chooses a specific (or particular) place that provides them easy access to a bevy (or multiplicity) of potential coneyes amongst the drunkards and shoppers in a crowded tavern or marketplace.<sup>13</sup> Basically, he plans to set them up in a place where they can continue to capitalize on his roguery and her body. This plan serves as the play's final reminder that because figures like Doll and Subtle are mobile and able to gain access to a London crowd, they continue to be threatening. Considering the play's several knowing references to London's landscape, the playgoers' collective experience and knowledge of familiar places create a certain vulnerability by hinting that they may very well be the next victims should they find themselves in Brentford, just as they would have been if Subtle and Doll remained in Pie Corner.

Yet, despite these threats of urban criminality that Doll and her compatriots bring to the surface, the play fails to entirely demonize them. In a way, it even exonerates her. While Doll Common no doubt participates in the gang's criminal dealings, she also is humanized by acting

<sup>12</sup>Daryll Grantley points to this reference to Ratcliff, an area of docks near Stepney, as an example of characters in Jacobean drama using the river to escape the city, prosecution, or social rules governing marriage. Based on this observation, in a longer study of the play a compelling argument might be made about Subtle and Doll seeking to become respectable (2008, 109).

<sup>13</sup>In their respective editions of the play, both Mares (Jonson 1967) and Wilkes (1982) mention the Three Pigeons Tavern's proximity to Brentford marketplace.



as a peacekeeper and demonstrating other positive characteristics. Right at the beginning of the play, Doll comes across as the voice of reason. In the opening, Subtle and Face saunter onto stage mid-argument, a sign of the fragility of their partnership. Pleading with Subtle and Face to discontinue their row, she appeals them as ‘Sovereign’ and ‘General,’ not only showing herself to be deferential to their leadership positions in the crime plot, but also elevating the level of conversation significantly from the vulgarity of Subtle’s first line, ‘I fart at thee’ (Jonson 1967, 1.1.1). Doll also demonstrates a practical savviness, warning them that their raucous behavior is unwise with lines like, ‘Will you have / the neighbors hear you? Will you betray all?’ (1.1.7-8). She also attempts to calm them down and bring them together, ‘Will you undo yourselves, with civil war?’ (1.1.82). These attempts come to a head when her warnings fall on the quarrelling men’s deaf ears. She first appeals to their egos and then to their sense of solidarity before getting cut off, ‘O me! / We are ruin’d Lost! have you no more regard / To your reputations? Where’s your judgment? ‘slight, / have yet some care of me, of your republic—’ (1.1.107-110). Here, she identifies and acknowledges the importance of teamwork in executing their scheme. Failing to shut them down, she adapts and takes up the manners of her criminal community. After forcibly taking Face’s sword and breaking some of Subtle’s alchemical ‘glass,’ she forcefully insists, ‘Sdeath, you abominable pair of stinkards, / Leave off your barking, and grow one again, / Or, by the light that shines, I’ll cut your throats’ (1.1.117-119). After a long tirade that follows this threat, Face and Subtle agree to stop fighting and work together. So, immediately, right as the play opens, Doll successfully endears herself, presenting herself first as mannered, empathetic, and team-oriented, and then as knowledgeable and threatening.

In this moment, Doll becomes at once criminal mastermind and peacekeeper. It is difficult not to admire the ambition, intelligence, and commitment she demonstrates up front, especially given Jonson’s propensity to satirize his audience as much as his criminal characters. Doll inhabits both the sensationalized criminal underground depicted in rogue literature, which is appealing for its exoticism, and the polite world inhabited by the play’s audience, pleasing in its familiarity. It is most potently through her that Jonson plays with the line that distinguishes and separates these realities. Her allure forces the audience not only to consider their own identities against the criminal underworld, othering and therefore distancing it, but also beside the criminal world, creating the threat of criminal danger that might just be lurking behind the façade of a Queen of Fairies or an attractive poor baron’s daughter. Foley suggests that the play, ‘arguably works to foster an embodied sense of sympathetic identification between the rogues and the play’s audience’ (2018, 515). On the other hand, in writing about the experience of another Jonsonian city comedy, *Epicoene*, Erin Julian and Helen Ostovich speak to, ‘the malicious pleasure of observing the downfall of another, the pleasure of being the audience to a ludicrous situation, and not the victim. Perhaps it is the laughter of the lucky escape – like Face’s smirk at the end of *The Alchemist*’ (2013, 2). The ending of Jonson’s *Alchemist* is famously unsatisfying. Doll and Subtle flee broke but mostly unpunished, Jeremy/Face keeps his stable job even after coming clean, and, perhaps worst of all, Lovewit his master becomes a willing benefactor of the con. Although they are forced to cease their criminal operation, they are left mostly unscathed and unpunished. The ballad of ‘The Great Boobee’, Greene’s fictional accounts of the prostitute Nan in *A Disputation*, and the pickpocket Moll Cutpurse similarly lack a satisfying punishment for their criminal protagonists.

Doll is no angel in Jonson’s play, but she is somewhat redeemed because she is interesting, charming, and skillful. Like Doll, other fictionalized criminal women are not excused for their behavior. However, their charisma, wit, and cleverness help readers to empathize and recognize that the victims of these schemes are themselves implicated in sin. The play, more specifically

Doll, brings together the familiar and the new by reflecting authentic experiences back to the viewer's, creating a pleasure in knowing and allowing audience members to experience things they otherwise would not in their noncriminal, everyday lives. In their depictions of female criminality, early modern rogue literature that circulated in the street and city comedies that proliferated the stage create pleasure in novelty. Simultaneously, the familiar urban settings in which these women's crimes are committed emphasize the real threat they may pose. Doll Common in *The Alchemist* and her counterparts in other literature of the period demonstrate the gendered nature and subversive power of early modern female criminality.

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# Mary Frith, Moll Cutpurse and the Development of an Early Modern Criminal Celebrity

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## Abstract

Mary Frith (1584?-1659) is one of the most intriguing and well-documented female criminals of early modern London, both in court records and in literature. Popular perceptions of her criminality were shaped not by her crimes themselves, but by Frith's cultivation of her own version of female celebrity, which drew upon and reframed her criminal actions. Frith constructed the *persona* of Moll Cutpurse as part of her development as a musical performer in London's Bankside theatre district. She built upon her own criminal history to create a female character whose transgressiveness – both as a petty thief and as a cross-dressing performer – made her an intriguing and distinctive figure who quickly proved a fascinating topic for a variety of popular literature. Ballads, plays, and tales reshaped her criminal activities as heroic by exploiting her criminal celebrity *persona*. The popularity of Moll's subsequent depictions in fiction has overshadowed Frith's own achievements as a savvy performer and businesswoman, albeit one operating at the edges of the law. Only by examining Frith's historical record alongside but distinct from the fictional portrayals of Moll can we determine the ways in which Frith's female criminal celebrity shaped and was in turn shaped by her literary legacy.

Keywords: *Celebrity, Crime, Fiction, Mary Frith, Moll Cutpurse*

## 1. Introduction

In a letter dated 12 February 1612, John Chamberlain described the latest news from London to his long-term correspondent Dudley Carleton, with whom he exchanged hundreds of letters during the first decades of the seventeenth century. These letters 'were designed to be useful to an ambitious diplomat eager to keep up with the latest English news', and their content often relayed matters of both local and international political import (Finkelpearl 2004). In this particular letter, Chamberlain recounts two new proclamations from King James, movements

of the Spanish navy, the Queen's impending travels to Bath, colonization efforts in Virginia and Bermuda, the beginnings of Thomas Bodley's library, and tales of recent penitents at Paul's Cross. In this last category, he details the penance of Mary Frith, alias Moll Cutpurse, a notable local woman who had been arrested for public lewdness:

this last Sunday Mall Cut-purse a notorious bagage (that used to go in mans apparell and challenged the feild of divers gallants) was brought to the same place [Paul's Cross], where she wept bitterly and seemed very penitent, but yt is since doubted that she was maudelin druncke, beeing discovered to have tipled of three quarts of sacke before she came to her penaunce: she had the daintiest preacher or ghostly father that ever I saw in pulpit, one Ratcliffe of Brazen Nose in Oxford, a likelier man to have led the revells in some ynne of court then to be where he was, but the best is he did extreem badly, and so wearied the audience that the best part went away, and the rest tarried rather to heare Mall Cutpurse then him. (Chamberlain 1939, 334)

This incident reveals a great deal about Frith's life and her place within London society. While she was, in fact, a criminal, her crimes and punishments alike were seen more as spectacle than as condemned violations of societal rules. Frith was apparently well known enough, even if only by reputation, that Chamberlain did not have to offer substantial context for her penance, even to a correspondent quite removed from London. Finally, this incident highlights Frith's own skill at shaping her public *persona* as a performer and one of London's first female criminal celebrities.

Mary Frith (1584?-1659) is one of the most intriguing and well-documented female criminals of early modern London. Her story can be traced through both court records and popular literature, both under her own name and under her increasingly fictionalized *persona* as Moll Cutpurse. When considered as a whole, the documents and tales about Frith delineate an evolution from petty criminal to local celebrity to mythical antihero. However, the fictional accounts of Frith's life, which generally adopt the Moll Cutpurse *persona*, often overshadow the actual events of her life. Frith *is* Moll, in the sense that she is Moll's model and her creator, but Moll quickly evolved into an archetypal figure who could stand for and speak to myriad audiences in a rapidly urbanizing London. However, separating the historical Frith from her fictionalized identity as Moll Cutpurse is difficult, largely because her fictional portrayals are more accessible, and perhaps more tantalizing, than the sparse records that exist concerning the real woman and her actual life. When we attempt to read Frith and Moll as a single entity, whether we imagine that entity as historical or fictional, we undermine the significance of both the historical Frith's life as a petty criminal, performer, and businesswoman as well as the skill with which Moll's mythographers adapted her character to address evolving concerns about life in London.

This article disentwines the two figures to argue that, while Frith created Moll, the two should ultimately be treated as separate entities. Drawing from celebrity theory and historical accounts of early modern female criminals, I reevaluate the known facts of Frith's early life as a criminal and a cross-dressing performer; then, I examine how Frith's shaping of her own celebrity *persona* – Moll Cutpurse – led to her story being appropriated in popular literature. I read *The Roaring Girl*<sup>1</sup> as a moment of both fracture and unity between the historical Frith and the fictional Moll, after which the stories of the two figures largely evolve separately. After the events surrounding *The Roaring Girl*, Frith takes steps towards legitimizing herself as a socially mobile businesswoman, while Moll becomes a criminal ringleader synonymous with

<sup>1</sup> All references to *The Roaring Girl* are from Dekker and Middleton 2003.

monstrous womanhood. After Frith's death, fictional representations seek to consolidate these two figures again in the anonymous fictional biography *The Life and Death of Mrs. Mary Frith*,<sup>2</sup> and Frith's and Moll's legacy from the eighteenth century into the present, in both fictional and academic portrayals, tends to conflate the two figures or pass over the historical Frith for the more tantalizing Moll, reimagining her transgression as monstrous or heroic, politically conservative or socially rebellious.

## 2. *Mary Frith the Criminal*

Mary Frith first entered the public record as a criminal.<sup>3</sup> She was first arrested in 1600 along with two other women for stealing a purse. A second arrest, this time with Frith as the sole defendant, occurred in 1602. In both cases, it is unclear whether Frith was found guilty or what punishment was served, if any. Her origins, however, serve as the basis for her later sobriquet, Moll Cutpurse, though this name does not appear in any of her early records. In many ways, Frith's early crimes seem to fit the general mold of women's criminality in seventeenth-century England. As Garthine Walker has demonstrated, women generally worked in groups, most often with other women (1994, 85). They were more likely to be 'burglars, house breakers, and cutpurses' than to commit other categories of crime, and 'unlike other categories of felon, in popular imagination cutpurses and pickpockets were more frequently female' (Walker 2003, 160 and 186). At least in her earliest crimes, Frith fits this profile, though her thefts primarily involved money rather than the household goods targeted by most women. Frith's crimes matched many of the archetypes established in other criminal literature, particularly cony-catching pamphlets and Robin Hood tales, which later facilitated the construction of the Moll Cutpurse figure from the details of her life.

In 1608, another legal document<sup>4</sup> names Frith as 'Maria Foith de Southworke', demonstrating that by this time she had taken up residence in the entertainment district of Bankside in Southwark, where she would remain throughout her life. Here, Frith built a reputation for herself as both criminal and local celebrity, forming the basis for her later legacy as Moll Cutpurse. This record also begins a new trend in Frith's criminal association; rather than appearing as a defendant, Frith here appeared in court to 'prosecute and give evidence against Edward Welles and Gilbert Dadson on suspicion of felony' (Ungerer 2000, 64). Throughout her life, Frith would often find herself on both sides of legal action, and in her fictional representations, this often translated to Moll Cutpurse being imagined as a negotiator between criminals and non-criminals, equally at home in both worlds. Indeed, it appears that Frith's experiences with London's legal system allowed her to develop significant legal savvy. Her next arrest in 1609, this time for house burglary, ended in Frith being found not guilty, though, as Ungerer suggests, it is likely that she made an arrangement with her victim 'to return part of the stolen goods', a 'popular' solution since 'stolen goods, in the event of a conviction, would be confiscated by the crown' (*ibid.*). This same strategy would prove immensely lucrative for Frith throughout her life, and she eventually operated a licensed brokerage business acting as a go-between for thieves and their victims to arrange precisely these kinds of deals.

<sup>2</sup> All quotes are taken from Spearing and Todd 1994.

<sup>3</sup> For a full accounting of all the legal documents concerning Mary Frith's life, see Ungerer 2000, 52-62.

<sup>4</sup> This document is quoted and briefly summarized in Ungerer 2000, 200. See the same for a full accounting of all the legal documents concerning Mary Frith's life.

While Frith does not appear to have ever served sustained prison time or to have been subjected to any other punishments more severe than public penance, the records of her life<sup>5</sup> clearly demonstrate that she operated on the fringes of legality, even after she had taken steps toward legitimizing herself as a London businesswoman. However, in order to thrive in a rapidly urbanizing London, Frith had to set herself apart. To do so, she transformed herself into a celebrity and performer whose criminal past and knowledge made her more enticing and recognizable among the entertainers of Southwark.

### 3. *Mary Frith the Celebrity*

The connection between certain kinds of criminality and celebrity is a relatively new field of study, and the theorizing of early modern celebrity is likewise still in development. Even so, there is an undeniable connection between early modern and modern fascinations with criminal activities and psychology, and the ways in which celebrity has developed throughout time. Ruth Penfold-Mounce's study of modern criminals and celebrity culture argues that 'the joy of transgressing boundaries through crime and deviance necessitates consideration of why and how pleasure occurs through illicit activities' (2009, 4). The same, of course, can be said of the audience's pleasure in observing these acts of transgression, whether in viewing public penance, seeing the acts reproduced on stage, hearing them sung in a ballad, or reading about them in a printed account. Joseph Roach has argued that the seventeenth century was the point 'when popular celebrities began to circulate their images in the place of religious and royal icons' (2007, 1-2), and this is certainly the case with Mary Frith. For a woman from the lower classes, she was incredibly well-known and present throughout the literary and popular imagination of her time, as both the historical record and her literary legacy attest.

After relocating to Southwark, and likely as part of her performance act, Frith developed the *persona* of Moll Cutpurse, a cross-dressing (or, at least, masculine-dressing), swearing, drinking, smoking woman whose connections to criminality gave her an added allure alongside her already transgressive behaviour. Frith's sobriquet 'Moll Cutpurse' appears to be a nod to her prior arrests and knowledge of criminality. The first known usage of it is in John Day's lost text 'The Madde Pranckes of Mery Mall of the Bankside' (c. 1610), though it is likely that she was already well-established, and thus recognizable, under this name by the time of Day's writing, albeit uncertainty over the genre of this document makes Day's intended audience unclear. All evidence suggests that the name was an adopted part of her stage *persona*. While early court records only name her as Mary (or Maria) Frith, after the publication of *The Roaring Girl* (1611) she is presented as both Mary Frith and Moll Cutpurse. A 1612 document notes that 'she confesseth y<sup>e</sup> she is commonly termed Ma<ll> cutpurse of her cutting purses' (Mulholland 1977, 31). Though this section is struck out in the original document, the fact that Frith's alias has to be confirmed and explained suggests that it was not, at that time, common knowledge. Likewise, a 1621 Star Chamber case describes her as 'Mary Markham [her married name], *alias* Frith, *alias* Thrift, *alias* "Malcutpurse"' (Dowling 1934, 67). Notably, records from Frith's initial arrests do not make use of any of these aliases, suggesting that the name was adopted only after her move to Southwark, likely as a deliberate step in establishing Frith's stage presence.

<sup>5</sup> Frith's early court appearances are briefly summarized in Eccles 1985. Ungerer (2000) discusses them at somewhat greater length.

Frith's presentation of herself as Moll Cutpurse seems to suggest a desire for upward mobility, from thief to legitimate performer, and later from performer and folk hero to businesswoman, albeit one operating at the edges of legality. Some scholars have asserted that Frith's performances were meant to assist her 'criminally minded pack of thieves' rob spectators 'befuddled by drink and dazzled by Moll playing on her lute and singing a bawdy song and most likely performing a jig, or guests in a tobacco shop mesmerized by Moll smoking a pipe' (Ungerer 2000, 56). However, this seems counterintuitive to the later facts of Frith's life. While Frith did maintain at least loose criminal connections throughout her life, her move towards increasingly legitimate forms of business suggest that she was seeking relatively conventional social mobility rather than attempting to strengthen her position in a kind of criminal world. Frith's stage *persona* as Moll Cutpurse was meant to suggest and provoke, not to connect her to her past crimes. As a performer seeking to build a recognizable *persona* and brand, it is unlikely that Frith merely used her growing celebrity as a means of furthering illegal enterprises.

Frith's move from pickpocket to entertainer seems to have been part of a lifelong attempt to legitimize herself. After all, creating a visibly distinct *persona* does not serve the interests of a thief who needs to blend into a crowd, but does allow for the kind of instant recognizability needed in the entertainment industry. Indeed, Nancy Mohrlock Bunker has drawn upon visual representations and sartorial descriptions of Frith throughout her life to suggest that Frith was keenly interested in upward social mobility and that, far from attempting to pass herself off as a man, she was 'both feminine and fashionable' (2005, 212). While accounts of Frith suggest that her masculine attire and behaviour were a crucial part of her performance *persona*, they also make it clear that Frith claimed the right to these things as a woman. This fact is suggested also in the fictional representation of *The Roaring Girl*, where her clothing is often a mixture of masculine doublet and feminine safeguard; only occasionally does she dress fully as a man, and even then she ridicules characters like Laxton for mistaking her as such. Rather famously, she used her moment on the stage following a performance of *The Roaring Girl* to tell her audience that 'she thought many of them were of opinion that she was a man, but if any of them would come to her lodging they should finde that she is a woman' (Mulholland 1977, 31). Unlike many other crossdressing women of the period, who often attempted to pass as men in order to enlist as soldiers or sailors, find greater opportunities for employment, or travel in greater safety,<sup>6</sup> Frith does not appear to have ever sought to claim a male identity. Instead, she, like many women of her day, embraced increasingly masculine fashion and behaviours. Like most celebrities throughout time, Frith was at the cutting edge of fashion and taste – even if she sometimes pushed the boundaries further than her audience found comfortable.

#### 4. *Making Moll Cutpurse*

The earliest known fictional portrayal of Moll is the now lost text by playwright John Day mentioned above, titled 'A Booke called The Madde Pranke of Mery Mall of the Bankside, with her Walks in Man's Apparel and to what Purpose'<sup>7</sup> (c. 1610). Day's text has been imagined variously as a ballad, a play, or a short pamphlet, yet even without an extant text, Day's publication is interesting because of its apparent participation in broader ballad and jestbook

<sup>6</sup>For a historical survey of crossdressing women who *did* attempt to pass as male, see Dekker and Van de Pol 1989.

<sup>7</sup>While the text is no longer extant, it is recorded in the Stationer's Register for 7 August 1610, and can be found in the *Stationer's Register Online* as Entry SRO5772 at <<https://stationersregister.online/entry/SRO5772>>, accessed 1 February 2021.



traditions and for its intersections with the theatre world. The title mimics those used for other jestbooks, jest biographies, and jest ballads: the seventeenth-century ballad ‘The Mad-Merry Pranks of Robbin Good-fellow’<sup>8</sup> is clearly working from a similar formula. This ballad describes Robin Goodfellow’s night-time exploits, playing tricks on ghosts and goblins and men and women alike. He is benevolent and malicious by turns, completing household tasks in one stanza, then pinching maids and playing tricks in the next. Like many jest figures, he upholds conventional social ideas – here of cleanliness, chastity, and honesty – even as he upsets the status quo by stealing newborns and livestock.

Jest ballads like that of Robin Goodfellow and jest biographies were quite popular during the seventeenth century and often served transgressive functions, placing characters with disparate power relations in conversation with one another. Chris Holcomb reads these conversations as

a powerful strategy for communicating across social difference, but [the upper class] also fear that, precisely because of its power, jesting may go out of control and release energies not only damaging to a speaker’s immediate persuasive aims, but also disruptive of the boundaries and distinctions that ought to be preserved when different kinds of people occupy the same social space. (2001, 2)

Though Holcomb ultimately sees jesting as supporting a conservative ideology which seeks to preserve the status quo, it can be argued that jesting often does so through subverting expectations and conventional roles. Like the later *Roaring Girl*, Day’s text appears to attempt to capitalize on Frith’s most notable characteristic as a performer – her masculine attire – while simultaneously seeking to justify and perhaps rehabilitate her behaviour for her potential audiences, clients, and customers.

Beyond inaugurating Moll into the jesting tradition, ‘The Madde Prances of Mery Mall’ also served as her entrance into the broader theatrical world. Day was a playwright in the employ of Philip Henslowe. Perhaps more important for Frith’s/Moll’s later career, however, was Day’s relationship with other playwrights. John Day, Thomas Dekker, and Thomas Middleton were all part of the same theatrical circle.<sup>9</sup> All three had produced work for Philip Henslowe in the 1590s and 1600s, and Dekker collaborated with both Day and Middleton.<sup>10</sup> These theatrical associations served to solidify Frith’s transformation into and division from the fictional Moll.

*The Roaring Girl* is where the figures of Frith and Moll converge. While the Moll of the play is largely a fictional construction, meant to cater to particular social questions of the day and generate paying audiences, the ‘Moll’ who appears in the paratextual letter to the reader, the play’s Prologue, and whose later performance is advertised at the end of the printed play is a

<sup>8</sup> This ballad appears to have been published infrequently throughout the seventeenth century, both before and after the Restoration. Although its authorship has been attributed to Ben Jonson, such claim is of uncertain provenance. The *English Broadside Ballad Archive* currently includes five editions of the ballad, with publication dates ranging from the early seventeenth century to the early eighteenth century. Here reference is to the earliest of these ballads, EBBA 30163 from the British Library’s Roxburghe Collection, dated between 1601-1640, which can be found at <<https://ebba.english.ucsb.edu/ballad/30163/image>>, accessed 1 February 2021.

<sup>9</sup> Henslowe’s Diary records numerous transactions with John Day, usually alongside one or more collaborators, particularly Thomas Dekker or William Haughton. Neil Carson notes that ‘when the Company moved to the Fortune, Day was one of the few dramatists to remain actively associated with it’ (1988, 61), suggesting that throughout the period in question, Day worked closely not only with the Admiral’s Men but also with the theatre where *The Roaring Girl* would later premier.

<sup>10</sup> Though the authorship of *Lust’s Dominion* is disputed, Charles Cathcart analyses and supports Cyrus Hoy’s attribution of the play to Dekker, Day, and Haughton, which argues that *Lust’s Dominion* is an alternate title for the lost *The Spanish Moor’s Tragedy*.

much more ambiguous figure, blurring the distinctions between fiction and reality. *The Roaring Girl* opens with an address to the reader which positions the play as a kind of rehabilitation for Frith/Moll. The decorousness of the play is emphasized: it fits the current fashions in playmaking even as Moll's crossdressing provides 'a brave disguise and a safe one', and it is decorous enough to be 'fit for many of your companies, as well as the person itself, and may be allowed both gallery room at the playhouse, and chamber room at your lodging' (2-3). In this way, both the text and its subject are described as presentable, even if the connotations of the playhouse and the chamber room are vaguely sexual. The play is posed as a flirtation, even as it promises to redeem its subject: 'Worse things I must needs confess the world has taxed her for, than has been written of her; but 'tis the excellency of a writer to leave things better than he finds 'em' (3). Doing so, however, seems to demand engaging with a rather flexible idea of the truth. Without Day's ballad, it is impossible to know precisely what Frith's/Moll's reputation was at the time of *The Roaring Girl's* composition, but it seems to have been in need of repair, possibly because of Day's publication, but equally as likely because of Frith's own notoriety as a performer and (former) pickpocket. Middleton asserts that his and Dekker's goal is to rehabilitate the narrative surrounding Frith/Moll, even if it means ignoring some of the worst things that have been said about her: 'though some obscene fellow ... would have ripped up the most nasty vice that ever hell belched forth, and presented it to a modest assembly, yet we rather wish in such discoveries, where reputation lies bleeding, a slackness of truth, than a fullness of slander' (*ibid.*). The version of Moll presented in the body of the play, then, is a fictionalized, idealized version of Frith which cannot be read as a truthful representation.

*The Roaring Girl's* Moll is a nearly unquestionably heroic figure. Throughout the play, characters are far more concerned with her cross-dressing and her disregard for gender conventions than they are with any possible criminal behaviour. She enters the play as Sebastian's supposed fiancée, though their betrothal is merely a ruse to convince Sebastian's father, Sir Alexander, to accept his true choice, Mary Fitz-Allard. Sir Alexander's initial objections to Moll are gendered, not criminal: he calls Moll

a creature ... nature hath brought forth  
 To mock the sex of woman. It is a thing  
 One knows not how to name: her birth began  
 Ere she was all made: 'tis woman more than man,  
 Man more than woman, and (which to none can hap)  
 The sun gives her two shadows to one shape. (1.2.127-132)

The shopkeepers who make up the play's subplot, too, initially focus on Moll's subversion of gendered dress and behaviour, though they also begin introducing other elements of her character, such as smoking tobacco, sword fighting, and acting as a mediator between the criminal world and the gentry. However, throughout the play, the emphasis remains on Moll's ability to perform as something in between – neither male nor female, neither criminal nor citizen – and while her own statements about her gender are ambivalent at best, her insistence on her virtue and morality never wavers. Her criminal history is invoked only to be denied as a false reputation, with Moll questioning 'must you have / A black ill name, because ill things you know?' (5.1.325-326) after other characters question her knowledge of thieves' cant. Instead, she explains that her knowledge of criminality comes not from her own transgressions, but from having 'sat amongst such adders; seen their stings, / As any here might, and in full playhouses / Watched their quick-diving hands, to bring to shame / Such rogues, and in that stream met an ill name' (5.1.302-305). Moreover, when Sir Alexander attempts to trap Moll as a thief by

hanging his valuables in plain sight, Moll observes how easy the items would be to steal, but she makes no effort to do so (4.1.1-144). Thus, the play transforms Moll into an unconventional hero whose only association with crime is from observation, not from practice.

Despite the reformatory nature of the play, Frith's reputation seems to have lent *The Roaring Girl* some notoriety even before its initial performance, since the printed Prologue notes that it is 'a play expected long' that now must grapple with all of the ideas that the audience may have constructed about 'a roaring girl' in anticipation (Prologue, 1-5). The Prologue then goes on to provide a catalogue of various kinds of roaring girls, from 'she / That roars at midnight in deep tavern bowls, / That beats the watch, and constables controls' to she that 'roars i'th'daytime, swears, stabs, gives braves, / Yet sells her soul to the lust of fools and slaves' to the 'civil city-roaring girl, whose pride, / Feasting, and riding, shakes her husband's state, / And leaves him roaring through an iron gate' (Prologue, 17-24).

Moll is explicitly identified as not belonging to any of these groups, but 'fl[y]ing' / with wings more lofty' (Prologue, 25-26). The Prologue ends by announcing the play's subject, 'Mad Moll', whose title here seems to call back to the ballad, suggesting that it was, in fact, the source of much of Frith's/Moll's notoriety. The lead-up to this announcement, however, seems to prompt the audience through its negation; by describing what Frith/Moll is *not*, it both sets up the audience to anticipate the reveal even as it creates an implicit association between Frith/Moll and these other kinds of roaring girls – associations which linger in later mythical constructions.

It is difficult to find Frith within *The Roaring Girl*. Though she is certainly the model for Moll, Moll's story is, as the Prologue suggests, heavily revised to the point of becoming an idealized archetype of the heroic female prankster-criminal, whose crossdressing and criminal knowledge allow her to transcend the confines of both gender and class. Moll is, explicitly, not a criminal. However, as in the Prologue, Dekker and Middleton's Moll is defined primarily through negation. Mary Beth Rose comments that 'While the dramatists assure us confidently that their Moll is neither criminal, brawler, whore, nor city wife, the question of her actual social status is left unanswered' (1988, 79). Though the audience is presented with many possible readings of Moll, none of them is stable enough to assert itself as definitive. Nevertheless, Moll's ability to navigate between a variety of social constructions, both in terms of interpersonal and economic interaction, allows her to be the audience's guide to the complexities of London city life as presented in Jacobean city comedy. Moll is a necessary, if protean, figure in this newly urbanized London, since her nature makes her uniquely capable of navigating and making use of all the city has to offer. Though there are certainly elements of Frith in Moll – particularly in Moll's viol playing, which was likely mimicked by Frith's own post-show performance on the lute – by and large, *The Roaring Girl* is a point of fracture between the real and the mythic.

##### 5. *Mary Frith after The Roaring Girl*

While Moll Cutpurse might have made use of Mary Frith's image and celebrity, Frith's own life followed quite a different trajectory from the heroic figure represented in *The Roaring Girl*. After Dekker and Middleton's play and Frith's participation therein, the next record of Frith's life is again in the court records of London, specifically the *Consistory of London Correction Book* for November 1611 to October 1613. Though this is the first surviving record, it is clear from reading the case, transcribed in P.A. Mulholland's 'The Date of *The Roaring Girl*', that this was not Frith's first run-in with the law after *The Roaring Girl*. The record discusses some form of prior punishment in Bridewell for a lengthy list of misbehaviour, though it is somewhat unclear precisely what Frith was punished for. Possible charges include general

lewdness, blasphemy, keeping ‘Ruffinly swaggering and lewd company’, and being drunk and ‘distempered’ (Mulholland 1977, 31). What she *wasn’t* arrested for was the gendered component of her signature manner of dress. While crossdressing invoked ‘a good deal of violent rhetoric’, it was not prohibited by sumptuary laws (Orgel 1996, 107).<sup>11</sup> However, the charges Frith faced at this particular trial were somewhat more specific: she was ‘upon Christmas day at night taken in [Paul’s] Church with her petticoate tucked up about her in the fashion of a man with a mans cloake on her to the great scandal of divers persons who understood the same and to the disgrace of all womanhood’ (Mulholland 1977, 31). What is interesting about this case is the way in which Frith’s infamous crossdressing is presented. Rather than describing her as appearing in a cross between men’s and women’s clothing (as the frontispiece for *The Roaring Girl* suggests), the court case describes her problematic garment as an item of specifically female clothing, a petticoat, which she has, perhaps in an impromptu performance, fashioned into an ad hoc pair of breeches necessary for completing the character costume for Moll. The offense seems less about sartorial choice and more about the impropriety of showcasing her undergarments in the churchyard on a holy day. For this, Frith was sent back to Bridewell ‘until [the Lord Bishop of London] might further examine the truth of the misdemeanors inforced against her without laying as yet any further censure upon her’,<sup>12</sup> but no further punishment was recorded, and the records for Bridewell during this era have been lost. Only John Chamberlain’s letter, quoted in the Introduction of this essay, gives us any evidence of what Frith’s penance may have been like.

While her performance seems designed to draw spectators and increase her growing fame, after this event Frith disappears from the historical record for a time, suggesting that her life proceeded fairly uneventfully, at least from a legal standpoint. Following her penance, Frith married Lewknor Markham, about whom very little is known. While Gustav Ungerer suggests that he was a son or relative of playwright Gervase Markham, and thus linked to Frith through her theatrical endeavours, no conclusive evidence has ever been found, and Lewknor is not mentioned in Gervase’s will.<sup>13</sup> Outside of his marriage contract to Frith, Lewknor Markham is an unknown entity. Though Frith used the fact that she was married in order to subvert legal proceedings against her, Markham himself is never charged in any of these suits, and legal documents suggest that the two were separated (if they had ever lived together at all), and Frith seems to have outlived him, since she names herself a widow in her will.<sup>14</sup> Their marriage, it seems, was one of legal and financial convenience, at least on Frith’s part, rather than romance.

As a married woman, Frith was involved in two more court cases, both of which suggest that she was operating as a businesswoman at the edges of legal trade.<sup>15</sup> In the first, she was sued for an unpaid bill for beaver hats, then a status symbol for relatively wealthy middleclass women, which again suggests Frith’s desire for status and upward mobility. Later, she was questioned in a case in which she appears to have acted as a fence or a broker, mediating between sellers (in Frith’s case, generally believed to be thieves) and buyers (here, often the initial victims of the thefts). While brokers in early modern England were generally more akin to modern

<sup>11</sup> Frith’s costume may have crossed class lines as well as gendered lines, and class privileges *were* protected under sumptuary laws.

<sup>12</sup> From the *Consistory of London Correction Book* for November 1611 - October 1613, quoted in Mulholland 1977, 31.

<sup>13</sup> See Bunker 2005 for a brief discussion of this document.

<sup>14</sup> Frith appears to have claimed both separated and married statuses at different times, potentially to avoid legal action. Mark Eccles (1985) provides examples of both.

<sup>15</sup> References to Frith’s use of her married status in avoiding legal proceedings suggest that there may have been other cases; however, records only survive in these two instances.

pawnbrokers, they were also heavily associated with usury and ‘were frequently little more than receivers of stolen goods, and they charged extortionate rates of interest’ (Hawkes 2010, 33). In the records for this case, Frith claims to have been appointed a royal commission to be involved in the apprehension of other thieves, though it appears that her own reputation for thievery made her an unappealing jailor.<sup>16</sup> As Bunker (2005) and other scholars have argued, these cases demonstrate two important facts about Frith’s life: she was becoming increasingly wealthy and seeking to establish herself as a member of a fashionable merchant class, and she remained involved, however loosely, with criminal activity, though her role seems to have progressed from pickpocket to mediator.

The only additional extant document about the historical Frith’s life is her will, dated 6 June 1659.<sup>17</sup> In it, she describes herself as a widow and uses her married name, and she bequeaths a considerable sum of money to her inheritors, suggesting that her enterprises as criminal, performer and businesswoman were ultimately quite successful, particularly for a woman initially from the lower classes. Even in this document, Frith seems to be striving for further legitimacy after her death. She requests and eventually received burial in the parish church of St. Bridget’s in Fleet Street, ‘a privilege confined to those of greater wealth and higher standing’ (Ungerer 2000, 74). From her beginnings as a pickpocket, Frith fashioned herself into a local celebrity, then used her notoriety to succeed in an increasingly competitive quasi-legal market of stolen and second-hand goods. Her success can largely be attributed to her knowledge and manipulation of the early modern English legal system and the fame that she built for herself as Moll Cutpurse.

### 6. *Moll Cutpurse’s Legacy*

While the historic Frith’s life – or, at least, her criminal trials – immediately after *The Roaring Girl* has received a fair amount of historical and critical attention, Moll’s appearances in later drama have often been written off as minor allusions or topical references meant to elicit no more than a quick laugh. However, Moll’s next dramatic appearance, in Dekker’s *If This Be Not a Good Play, The Devil is in It* (1611),<sup>18</sup> offers us one possible reading of Frith’s punishment. In the final scene of the play, Pluto asks his attendant devils if Moll Cutpurse has arrived yet in hell. They attempt to rally sympathy for Moll by informing him that ‘Tis not yet fit Mall Cutpurse here should houele, / Shee has bin too late a sore-tormented soule’ who has been ‘beating hemp in bridewell to choke theeues, / Therefore to spare this shee-ramp [Moll] she beseeches, / Till like her selfe all women wear the breeches’ (Dekker 1966, 5.4.104-105, 109-111). Though there is a clear connection between Frith and Moll here through the reference to Frith’s punishment at Bridewell, the scene suggests that Moll, at least as she existed in the public imagination, had little penitential feeling despite the language used in reporting her trial.

<sup>16</sup> A full transcription of Frith’s plea in this case, alongside an analysis of the broader case in which she was involved, can be found in Dowling 1934.

<sup>17</sup> For the full text of the will, see Ungerer 2000, 73-74.

<sup>18</sup> Dates for the following plays come from Martin Wiggins and Catherine Richardson’s *British Drama 1533-1642: A Catalogue*, vol. VI (2015), verified via email due to the COVID-19 pandemic. Special thanks to Michaela Baca for her assistance with fact checking. In the *Catalogue* dates suggest that *If This Be Not a Good Play* and *Amends for Ladies* (discussed below) are roughly contemporaneous with *The Roaring Girl*; however, the first printings of the plays are in 1612 and 1618 respectively, leaving the precise order in which the plays were first performed uncertain. *If This Be Not a Good Play* is clearly post-*Roaring Girl*, since it mentions Frith’s penance at Bridewell; however, *Amends for Ladies* may possibly pre-date *The Roaring Girl*, and thus could be part of the body of myth that Dekker and Middleton attempt to reform in their presentation of Moll.



References to Moll in other plays seem to offer some evidence for Frith's actual life, though, of course, any conclusions drawn from fictional texts are speculative at best. In *The Witch of Edmonton* (printed 1658, but performed 1621), Cuddy Banks tells the devil, who is disguised as a dog, that 'if you have a mind to the game either at bull or bear, I think I could prefer you to Moll Cutpurse' (Dekker 1966, 5.1.162-164). This passage alludes to a hobby that *The Life and Death* makes far more explicit: Moll's (and, likely, Frith's) participation in bull and bear-baiting and dog-fighting. The line here suggests that Moll can only be outdone by the devil, which is in keeping with the portrayal of Moll's prowess depicted in *The Life and Death*, even if here her actions have a negative rather than positive valence. The first reader's note describes such games as 'consecrated to this Bona Roba, and goodly Matron' (Anonymous 1662, A1v). At several points, Moll's dogs and their uses in her exploits are described at length, including a tale in which she names two dogs Pym and St. John's to use as anti-Parliamentarian allegories in a bull baiting (Anonymous 1662, 112). Because Dekker almost certainly knew Frith, and because these two texts agree on this element of Frith's history, it seems likely that Frith did participate in bear and bull baiting with both frequency and skill. However, no historical records exist to clearly tie Frith to such activities.

Nathan Fields' *Amends for Ladies* (first printed in 1618, republished in 1639, performed as early as 1610) also includes a cameo from Moll. She appears briefly in the second act to deliver a letter from a knight, Sir John Lovall, attempting to arrange a sexual affair with a virtuous citizen's wife, Grace Seldom. Both Grace and her husband comment on Moll's appearance; he calls her 'Mistriss *hic & hac*,'<sup>19</sup> while Grace claims

I know not what to tearme thee man or woman,  
 For nature shaming to acknowledge thee  
 For either; hath produced thee to the World  
 Without a sexe, some say thou art a woman,  
 Others a man; and many thou art both Woman and man, but I thinke rather neither  
 Or man & horse, as the old Centaures faign'd. (Fields 1639, C2r)

Moll seems unbothered by their commentary on her gender, and instead remains intent on her task, attempting to persuade Grace that more virtuous women than her have maintained both affairs and their appearance of modesty. Though her appearance is brief, it serves to reinforce some elements of Moll's character established in *The Roaring Girl* – her crossdressing (and the tendency of her detractors to read it as a kind of hermaphroditism) and her ability to move and negotiate between classes – even as it adds, or perhaps simply perverts, a new component to the myth: Moll's services as a bawd. While Moll ostensibly serves a similar function in *The Roaring Girl* – the core of the plot is, after all, her negotiation of the relationship between a pair of young lovers – here, she has been tasked not with subverting parental authority, but with arranging an extramarital affair. Moll occupies this same role throughout later depictions, though there is no clear record that Frith ever worked as a bawd.

Fields' depiction of Moll was clearly seen as 'good box office or good for the publisher's receipts', since when the play was reprinted in 1639, the title page had been from *Amends for Ladies With the Humour of Roring. A Comedie to Amends for Ladies. With the merry pranks of Moll Cut-Purse: Or, the humour of roaring: A Comedy full of honest mirth and wit* (Todd and

<sup>19</sup>A reference to the anti-crossdressing pamphlet *Hic Mulier* and its pro-fashion, pro-woman response *Haec Vir*, both published in 1620.

Spearing 1994, xv-xvi). Though Moll's role in the play remains the same – she is on stage for a mere thirty-eight lines, only eighteen of which she speaks – her name seems to have only gained cultural currency throughout the 1620s and 1630s. This steady popularity can in part be traced to Moll's continued, if infrequent, reappearance in Dekker's plays. As in Fields' play, the Moll of the later drama is usually quite different from her portrayal in *The Roaring Girl* as a heroic rogue, instead becoming emblematic of theft, prostitution, and London's supposed criminal underworld.

By the 1640s, Moll Cutpurse had transformed into a criminal mastermind, overseeing the actions of thieves across London. Richard Brome's *The Court Beggar* (1632) includes a character named Dainty, who complains of being plagued by cutpurses. His companion, Cit-wit, claims he will 'go to honest Moll about it presently', suggesting that not only does she have authority over all cutpurses in the city, but that she keeps them tightly controlled and prevents them from harassing London's respectable citizens (Brome). Similarly, pamphlets throughout the 1640s imagine Moll as a Sargent at Arms for the 'Parliament of Ladies' that gives the pamphlets their names. In *An Exact Diurnall of the Parliament of Ladyes*<sup>20</sup> (Neville [?] 1647a), she 'musters up her witty *Mermidons*', to arrest a series of 'delinquent' men including Prince Rupert and the Archbishop of York. The men are brought forward to defend themselves against charges of cowardice, self-serving betrayal, and a general failure to protect the lives and property of the women during the ongoing Civil War. The women find each of the men guilty and devise bizarre and poetic punishments for them, though ultimately the men's tears drive the women to relent and offer 'a generall Reprive'.<sup>21</sup> This portrayal of Moll as the leader of a women's (or, at least, female-directed) militia is repeated in another 1647 pamphlet, *The Parliament of Ladies, or Diverse remarkable passages of Ladies in Spring-Garden, in Parliament assembled* (Neville [?] 1647b).<sup>22</sup> In this pamphlet, Moll is, alongside another woman named Moll Sebran, 'appointed to guard the House, who being there placed with pipes in both their mouthes, with fire and smoake in a very short time, had almost choaked both the passage and the Passengers'. Though Moll Sebran does not appear to have been mythologized beyond this mention, this passage is enlightening in that it portrays Moll Cutpurse not as a lone and anomalous figure, but as the leader of a royalist military force.

In 1662, a purported autobiography of Frith, *The Life and Death of Mrs. Mary Frith, Commonly Called Mal Cutpurse* (Anonymous 1662)<sup>23</sup> was printed to be sold by William Gilbertson. Two modern editions of this text exist, the first edited in 1993 by Randal S. Nakayama and the second accompanying a biography of Mary Carleton in Janet Todd and Elizabeth Spearing's *Counterfeit Ladies* (Todd and Spearing 1994).<sup>24</sup> Both sets of editors of *The Life and Death* assert that the biography should be treated, at least in part, as authentically Frith's. Nakayama argues that the bulk of the text 'purports to be, and in large measure appears

<sup>20</sup> Though both the author and printer of this pamphlet are anonymous, Wing's edition of the *English Short Title Catalogue* has attributed it, along with several similarly named pamphlets from the same year, to Henry Neville.

<sup>21</sup> For example, Prince Rupert is sentenced 'to be fast bound to a Post amongst *Porcupins*, and so to remaine untill he be stuck to death with their quills,' while the Archbishop of York is exiled to 'the lake of *Lerna*, and there to be confined to a *Welch Cottage*, And get his living by Angling for Frogs out of those ditches' (Neville 1647a, 7).

<sup>22</sup> This pamphlet is also attributed to Neville, though his authorship is uncertain.

<sup>23</sup> The full title is *The Life and Death of Mrs. Mary Frith. Commonly Called Mal Cutpurse. Exactly Collected and now Published for the Delight and Recreation of all Merry disposed Persons.*

<sup>24</sup> Both Nakayama and Todd and Spearing's editions of *The Life and Death* are based on the sole extant copy at the British Library, filed as Wing 2005, BL c.127.1.a.25, which is also available via microfilm on *Early English Books Online*.



to be, her autobiography'. though he does note that the hands of multiple editors make the validity of the document as a whole somewhat unclear (1993, xi). Similarly, Todd and Spearing believe that *The Life and Death* is a 'told-to' biography, written with the help of an amanuensis (1994, xiii). Indeed, *The Life and Death* claims to be 'Mal Cutpurse's Diary', as the primary tale is titled, and is presented through a first-person narrative. However, the details of the biography bear little semblance to the known facts of Frith's life. Instead, Frith's biographers present a fictionalized version of Frith who can easily trace her lineage not only to her earlier incarnation in *The Roaring Girl*, but also to other tales of outlaw heroes, many of whom were imagined as royalist heroes, fighting against Parliamentary forces through acts of highway robbery and other crimes.

In *The Life and Death*, Moll is reimagined as the criminal mastermind of these royalist outlaws. The biography depicts Moll's 'constant intimacy' with Hind, calling him a 'daring adventurer' (Todd and Spearing 1994, 65). She also claims to be the mastermind behind his criminal exploits: 'there was no ... hazard in his pranks for most of the chief of them I set; both of us concurring to be revenged of Committee Men and Parliament People, by those private assaults [highway robbery], since publique combating of them would not prevaile' (*ibid.*). Another highwayman, Richard Hannam, is also supposed to have been directed by Frith, though she emphasizes that their connection ended when Hannam robbed the king (67).<sup>25</sup> Though the author never presents Frith herself as a highwaywoman hero, he does set her up as a key figure in the London criminal underworld. Much as Robin Hood traditionally heads his own band of outlaws, so does Frith take on the role of a proverbial prince of thieves for whom 'money [is] a portable and as [*sic*] partable Commodity', and who is capable of directing not only famous highwaymen such as Hind and Hannam, but also operating a gang of unnamed, lesser thieves and cutpurses within the city (22). As Mowry notes, 'Frith's biographers celebrate her entrepreneurial success and validate her alternative legal authority in terms of her commitment to the status quo distribution of wealth and goods ... As the narrative continues, the notorious rogue becomes increasingly prince-like' (2005, 35). From cutpurse to performer to businesswoman to queen of thieves, Frith's reputation grew ceaselessly throughout her life, culminating in years immediately after her death with the publication of the anonymous biography.

However, as with most of the published texts purportedly about Frith, the accuracy of *The Life and Death* is questionable at best. Many elements of Frith's life, such as her early arrests, her marriage, and her appearance in *The Roaring Girl*, are omitted entirely. This text is both highly selective about the factual evidence of Frith's life as well as extremely political in the fashion of the 'Parliament of Ladies' pamphlets, which suggests that *The Life and Death* is largely fictional, even as it creates a comprehensive view of the legends that evolved around Mary Frith. Gustav Ungerer notes that *The Life and Death* 'is bound to be fallacious considering that the biographers were committed to adjusting their subject in conformance to the stereotypical criminal of fictional biography' (2000, 47). Gilbertson used Frith's reputation for crossdressing to cast her in a startling variety of transgressive forms, including 'as a transvestite usurping male power, as a hermaphrodite transcending the borders of human sexuality, as a virago, as a tomboy, as a prostitute, as a bawd, and even as a chaste woman who remained a spinster' (42). Indeed, the contradictory nature of *The Life and Death* is far more suggestive of the episodic adventures of both jest biographies, like that of Long Meg, and criminal biographies, such as those written about Frith's contemporaries

<sup>25</sup> Gilbertson also published a criminal biography of Hannam entitled *Hannam's Last farewell to the world* in 1656. Here, the author defends Hannam against accusations of robbing the king. His commentary in *The Life and Death* appears to be a recanting of his earlier pamphlet.

James Hind and Richard Hannam. Though it seems that her ‘biographers’ knew little of her personal history, their familiarity with her fictional representations is augmented by these other popular tales, the evolving socioeconomic atmosphere of an increasingly urbanized London, and the political turmoil of the English Civil War and the Restoration.

The politicization of Moll Cutpurse remained a common thread throughout later iterations of the Moll Cutpurse story, which variously portrayed her as a royalist highwayman,<sup>26</sup> a criminal mastermind, and the pinnacle of debauchery. Even in modern popular culture, Mary Frith and Moll Cutpurse remain figures of interest both within and beyond the academic community. *The Roaring Girl* remains a popular play for theatres with an early modern focus, including a 2014 performance by the Royal Shakespeare Company and a performance from The Shakespeare Project of Chicago in 2019. Frith and Moll have likewise fascinated readers of fiction and true crime aficionados. A 1984 novel by Ellen Galford, *Moll Cutpurse, Her True History* reimagines Moll’s life through the eyes of a fictional lover, an alchemist’s daughter. Though this novel has little basis in Frith’s real history, it is still an evocative reimagining of Moll’s mythic history, one which captures modern debates about gender and sexuality through one reading of Moll’s character, particularly as she arises out of *The Roaring Girl*. Galford is skeptical of the iteration of Moll we have received – or perhaps constructed – from her fictional portrayals. When Galford’s Moll views a performance of *The Roaring Girl* near the end of the novel, she comments that ‘it is the strangest mixture of the Moll you know and a Moll that never was nor could be’ (1985, 181). Here, Galford summarizes the relationship between Frith and Moll that has developed over the last four hundred years: a mixture of truth and impossible, alluring fantasy.

Throughout this essay, I have sought to disentwine the historical woman Mary Frith from her ever-evolving fictional counterpart(s) Moll Cutpurse. Frith, via *The Roaring Girl*’s Moll, is still a recognizable figure through the play’s continued popularity in anthologies of early modern drama, a small but steady stream of scholarship, university and professional performances, and occasional coverage in popular media as a roguish and transgressive anti-hero. However, the facts of Frith’s life and the broader mythology of Moll Cutpurse created in later literature has largely been lost or conflated into *The Roaring Girl*’s heroic iteration of Moll. By disentangling the disparate threads of Frith’s life and Moll’s myth, though, three intriguing narratives become clear, each worthy of further exploration: Frith the fashionable entrepreneur, Moll the mercurial heroine, and Moll the notorious criminal.

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<sup>26</sup> See, for instance, Alexander Smith’s *History of the Lives and Robberies of the Most Notorious Highwaymen*, 1714.

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# 'For Fear to Be Infect' Reading the Female Body in Early Modern Revenge Drama

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## Abstract

The article examines representations of female revenge within early modern drama. While much scholarship frames revenge as a primarily masculine form of expression, the article argues that revenge is not solely a male-specific endeavour. Rather, there is an interconnectedness between female revengers' modes of vengeance and their identities as women. This is present across multiple comedic and tragic works, with the bodies of female characters becoming the instruments of their revenge. Accordingly, these characters' quests for vengeance signify not a departure from, but an embracing of female agency and nature. However, while this may suggest that revenge helps empower and showcase female characters, the language used to define their actions is often filled with imagery of disease and suffering. Thus characterised as agents of infection, female revengers are often more vilified than they are empowered. And, as female bodies are integral to the expression of female revenge, so too are feminine identities deemed transgressive. The article develops this argument over three sections: a discussion of early modern discourses on bodies, gender and infection; an analysis of how female bodies are implicated in dramatic depictions of female revenge; and a discussion of how such representations conflate female bodies with infection, subversion and violence.

Keywords: *Early Modern Drama, Gender, Infection, Revenge*

## 1. Introduction

Despite attempts to limit revenge violence in real life – as seen through James I's command for his subjects to 'presume not vpon their owne Imagination and construction of wronge ... to reuenge (as the Lawe findes it) their owne quarrels' – such highly impassioned, honour-driven acts seem only to multiply within the worlds of Elizabethan and Jacobean plays (quoted in Bowers 1959, 10-11). From Hamlet's desire to avenge his father's

‘foul and most unnatural murder’ (*Hamlet* 1.5.25)<sup>1</sup> to Maria’s plot to punish Malvolio’s pride ‘on that vice in him will my revenge find notable cause to work’ (*Twelfth Night* 2.3.128-129), representations of revenge are anything but limited.<sup>2</sup> However, although these narratives are indeed diverse, modern scholarship tends to marginalise the role of female revengers, framing instead revenge as a specifically masculine endeavour. Alison Findlay, for example, argues that ‘female characters often assume a masculine persona in the execution of their tasks’ (1999, 72). This has certainly been said of one of William Shakespeare’s most infamous female revengers, Tamora in *Titus Andronicus*. Derek Cohen claims that as Tamora’s quest for vengeance sees her provoking the rape of Lavinia, her revenge signifies a ‘renounc[ing of] her own sexual identity’ in favour of a ‘male lust’ (1993, 88). What is more, women were also seen to be incapable of exacting or imagining an effective revenge. According to seventeenth-century author Thomas Hill, ‘females haue a more dead minde, and are lesse patient’ than their male counterparts (1613, 11). Gail Kern Paster elaborates on this differentiation between male and female bodies, stating that within early modern culture, female bodies were considered too unstable and erratic to channel their passions towards a specific goal. They are (supposedly) ‘leaky vessels’ and lack ‘bodily self-control’ (1993, 25). As such, the female revenger must presumably fight against her female nature in order to exact a focused, reasoned vengeance; she must adopt ‘a language and manner that is inevitably masculinist’ (Cohen 1993, 85). Marguerite Tassi remarks on this supposed rejection of female nature in her study of Shakespearean female revengers: ‘If the avenger is a woman, she steps over the bounds of culturally prescribed gender norms to pursue an action that may be deemed unwomanly’ (2011, 28).<sup>3</sup>

While such characterisations of female revengers are certainly tempting, this article offers an alternative view of female-inflicted revenge. Rather than being an act devoid of features of female nature, I argue that representations of female revengers emphasise a link between their bodies and their vengeance. For example, in John Marston’s *The Dutch Courtesan* (1605), Franceschina’s body is central to her plot, as she is decried to wield her alleged ‘loose blood’ to make Malheureux sick with ‘lust’ (1997, 5.3.66-67). Additionally, in Thomas Kyd’s *The Spanish Tragedy* (1587), the violence Isabella inflicts upon her body – ‘So shall my womb be cursèd for his sake; / And with this weapon will I wound the breast, / The hapless breast, that gave Horatio suck’ – signifies the inseparability between her desire for revenge and her role as a woman and mother (1995, 4.2.36-38). The relationship between revenge and the female body is examined at length by Liberty Star Stanavage, as she argues that ‘it is not despite their “leaky” and unstable female bodies but precisely because of them that these female characters can employ revenge as a rhetoric to empower their actions’ (2011, 64). However, though the revengers’ bodies are certainly implicated in their acts of vengeance, the portrayal of these revengers is perhaps less empowering than Stanavage claims. Namely, these representations are often infused with languages of disease and suffering, characterising the revengers as infectious and catalysts of sickness. For instance, Tamora in *Titus Andronicus* speaks of feeding Titus’s supposed ‘brain-sick humours’ (11.71), and Sir Toby in Shakespeare’s *Twelfth Night* describes

<sup>1</sup> All Shakespeare quotes are taken from Taylor *et al.* 2016.

<sup>2</sup> For Marguerite Tassi, ‘revenge comes in many guises, ... not simply through unpalatable acts of violence, but also through purposeful scenes of comic plotting and shaming’ (2011, 23). This article acknowledges the diversity of revenge narratives present within early modern drama. Useful examples of plays featuring revenge plots include: Thomas Middleton’s *The Revenger’s Tragedy* (1606), George Chapman’s *The Revenge of Bussy D’Ambois* (1613), John Marston’s *Antonio’s Revenge* (1600-1601) and Cyril Tourneur’s *The Atheist’s Tragedy* (1611-1612).

<sup>3</sup> Useful scholarship that engages with the representation of female revengers includes Green 1989; Cohen 1993; Willis 2002; Bach and Kennedy 2010; Tassi 2011.



Maria's scheme against Malvolio as an 'infection' (3.4.109). As such, while there is indeed a correlation between revenge and female bodies, the portrayal of these bodies as dangerous and potentially sickening undermines the possibility of a wholly 'empowered' female revenger.

The following sections of this article will examine the role early modern discourses on medicine and physiology play in dramatic representations of female-inflicted revenge. This discussion occurs over three sections: 1) an analysis of how bodies were conceptualised within the period's medical discourses and how these bodies (particularly women's bodies) were thought capable of infecting others; 2) a discussion of how female bodies are implicated in representations of female revenge; and, 3) an examination of what these representations imply about how early moderns were invited to read female bodies, infection and violence. Discussing these issues, this article will explore how female revengers' bodies are implicated in (rather than removed from) their acts of revenge, and how such representations contribute to a cultural vilification of female bodies and female agency.

## 2. *Bodies, Health and Gender in Early Modern England*

Much of the knowledge about human bodies during the Elizabethan and Jacobean periods can be traced to classical scholarship. In particular, ancient Greek philosophies (such as those of Aristotle, Hippocrates and especially Galen) wielded significant influence over medical discourses. This is evident in the large number of ancient writings revived during the sixteenth and seventeenth centuries. Such notable publications include Latin translations of Galen's *Opera Omnia* (from 1490 through 1625).<sup>4</sup> Galen's philosophy argues for a link between the human body and material world. To his mind, the body is born from and composed of the earth's elements:

The seed having been cast into the womb or into the earth (for there is no difference), then, after a certain definite period, a great number of parts become constituted in the substance which is being generated; these differ as regards moisture, dryness, coldness and warmth, and in all the other qualities which naturally derive therefrom. (1916, 19 and 21)

Such a description creates an ecological image of the female body, as the coupling of nature and anatomy implies an equivalency between earth and woman. This is largely indicated through Galen's initial claim that 'there is no difference' between earth and womb. Galen thus suggests that all human life is endowed with earthly and womanly properties. For, as all men 'naturally derive' from the womb, they are likewise born from and composed of female and natural elements ('for there is no difference').

<sup>4</sup> Useful scholarship on the various Latin editions of Galen's *Opera Omnia* may be found in Fortuna 2012. Here, Fortuna emphasises the proliferation of such translations throughout the early modern period, noting how physicians 'promoted the study of Greek medicine in its original language, in order to improve medical knowledge in every field, from anatomy to therapy' (2012, 392). Accordingly, the numerous printings and editions of Galen's works highlight the authority of classical philosophy within early modern medical discourses. This authority, as evidenced in Giovanni Battista Montano's collection *Giuntine* (published between 1541 and 1542) – the largest assemblage of Galen's works printed as of 1542 – encompass a range of medical spheres, including biology, hygiene, pharmacology, therapy and surgery (to name a few) (Fortuna 2012, 402–403). Other useful sources on the relevance of Galen's works include Temkin 1973 and Nutton 2004.



These elements were believed to exist in humans' bodies through the four humours (blood, phlegm, yellow bile and black bile). Hippocrates argues that each of these humours corresponded to natural elements: blood synonymous with air and 'qualities of heat and moisture'; phlegm with water and 'coldness and moisture'; yellow bile with fire and 'heat and dryness'; and black bile with earth and 'cold and dryness' (Hoeniger 1992, 103). Further detail on this relationship appears in Hippocrates' description of the body's humoral composition:

The body of man has in itself blood, phlegm, yellow bile and black bile; these make up the nature of his body, and through these he feels pain or enjoys health. Now he enjoys most perfect health when these elements are duly proportioned to one another in respect of compounding, power and bulk, and when they are perfectly mingled. Pain is felt when one of these elements is in defect or excess, or is isolated in the body without being compounded with all the others. (1959, 11-13)

Appearing to anticipate Galen's views, Hippocrates likens man to nature as he describes the body's composition as 'the nature of his body'. Particularly critical to this makeup is a sense of balance. Only when the humours are 'duly proportioned' and 'perfectly mingled' does the body function appropriately and 'enjoy health'. Consequently, human health was seen to depend upon the stability of the body's nature. This reliance bears strong resemblance to that of nature on its elements. Just as humoral imbalance leads to changes in health, so too does a surplus of one natural element lead to environmental shifts (for example, rain, blizzard, drought). In thinking about human anatomy, it follows that the body was seen in ecological terms. More precisely, health and wellness were determined based on changes in the body's landscape (i.e. the behaviours of the body's earth, air, water and fire humours). This comparison, drawn by Galen and Hippocrates, is at the centre of early modern ideas on medicine, and provides an important rationale for the relationship between the environment, female bodies and physical health.

Conceptions of early modern bodies are further distinguished by the notion that they do not exist in isolation; just as bodies have an elemental connection to nature, so too are they connected to each other. Paster acknowledges the ease with which bodies may influence one another, describing the sixteenth and seventeenth centuries as 'a moment in intellectual history when bodies were open and porous' (2003, 157). As such, human bodies were characterised as open to suggestion and persuasion from others' bodily humours. This notion of interaction surfaces in the period's medical tracts, as demonstrated in physician Robert Hooke's 1665 *Micrographia*. Dubbed 'the father of microscopy', Hooke describes a kind of active space between bodies wherein the humours may travel from person to person (Langley 2011, 103). According to Hooke: 'for the Offices of the five Senses being to detect either the *subtil* and *curious Motions* propagated through all *pellucid* or perfectly *homogenous Bodies*; Or the more *gross* and *vibrative Pulse* communicated through the Air and all other convenient *mediums*, whether fluid or solid' (1665, c2v). Here, Hooke describes the 'five Senses' as the portals through which the 'curious motions' of the body may travel. The 'Air' between bodies then becomes a communicative space (a 'convenient medium') for one person's humours to interact with and manipulate those of another. Though Hooke's work comes after the early modern period, his 'Notion of a Fluid body' echoes ideas found within early seventeenth century medical discourse (1665, 15). Thomas Walkington, for example, attests that 'Of all men wee count a melancholicke man the very sponge of all sad humours' (1607, 67). The reference to 'sponge' recalls Paster's conception of a 'porous body', with human bodies seeming to not only detect or sense another's humours, but actively soak them up. This invites a contagious reading of the humours, and, by extension, the dispositions and diseases associated with them. The humours are not presumed to exist trapped in individual bodies. Rather, they appear to float between and have a direct influence over others' wellbeing.

Such ‘infectious interaction’ is also deemed to occur between bodies and their environment. According to Paster, the ‘self is not a condition of disembodied inwardness independent of the material world that it inhabits. Self is rather inhabited reciprocally by that world, shaped by its elements’ (2003, 154). As the body is made up from the earth’s natural elements, it follows that its state of being is subject to the state of nature (and vice versa). An example of how the body is ‘shaped by the world’s elements’ appears in sixteenth-century physician Andrew Boorde’s remedy for ‘lunatic men & women’: ‘First be not solitary, nor muse not of studious or supernatural matters, use mery company, & use some mery & honest pastime, be not long fasting, use warme meates, and drinke wel to bedward, to make or to prouoke slepe’ (1587, 73r-73v). Boorde’s proposed remedy reinforces the relationship between bodies and the environment, as he argues that ‘lunatics’ must combat their dispositions with merriment, company and warmth (they must ‘use mery company’ and ‘warme meates’). Thus, just as bodies may infect one another, so too does a person’s environment possess contagious qualities.

The notion that bodies are inherently contagious is especially prominent in discourses on female bodies. While all bodies were seen as ‘open and porous’, female bodies were believed to be the epitome of openness (Paster 2003, 157). In Paster’s view, female bodies were ‘leaky vessels’ whose humours were prone to both shape and be shaped by their surroundings (1993, 25). Such characterisations likely stem from perceptions that female bodies had a significant influence over bodily health. Being at the core of man’s nature-based composition, female/earthly humours (‘for there is no difference’) dictated both the composition of human anatomy and its overall wellness (or illness) (Galen 1916, 19). A notable example of how female nature is portrayed as being influential over others’ health appears in early modern discourses around lovesickness. Also known as love melancholy, lovesickness was often aligned with dangerously heightened passions and disturbing behaviour. According to seventeenth century physician Jacques Ferrand, ‘The diverse and violent perturbations which afflict the mind of a Passionate Lover, are the causes of greater mischiefs, then any other passion of the mind whatsoever’ (1640, 7). In arguing that love was the cause of ‘greater mischiefs’ than any other passion, Ferrand distinguishes lovesickness as a particularly dangerous and destructive affliction. Robert Burton remarks on this in his 1621 *The Anatomy of Melancholy*, claiming that while love ‘first united provinces, built cities, and by a perpetual generation makes and preserves mankind’, should love ‘rage, it is no more love, but burning lust, a disease, frenzy, madness, hell’ (1857, 448). Here, love is characterised by a dual ability to bring elation and despair. Though in its best form love ‘makes and preserves mankind’, if allowed to grow (or ‘rage’), love becomes a danger to the individual’s health (a ‘burning lust, a disease’).

What is interesting, though, about this malady is how it was believed to arise in its sufferers. Burton argues that such an ailment required an external catalyst. In particular, he claims that, ‘sight, of all other, is the first step to this unruly love’ (457). The emphasis on eyes draws attention to how the ‘burning lust’ of lovesickness was sparked by a force outside of the body. Thus, though ‘ingendred within the body’, love was catalysed by something outside oneself (Ferrand 1640, 11). This follows with the view that the body was a ‘sponge’ to other humours (Walkington 1607, 67). Burton highlights this notion in describing how ‘spiritual vapours’ may travel from one person to another: ‘So the beams that come from the agent’s heart, by the eyes, infect the spirits about the patients, inwardly wound, and thence the spirits infect the blood’ (1857, 469). Here, the body is deemed to absorb another’s humours, or ‘beams’, through the eyes, and from there into the bloodstream. In doing so, the humours impose a physiological reaction on the body, as they come to ‘inwardly wound’ every part of the body with lovesickness. Women, by virtue of their appearance, were considered especially powerful catalysts for men’s lovesickness.

Burton explains this view in noting how, 'Kings sit still and command sea and land, &c, all pay tribute to the king: but women make kings pay tribute, and have dominion over them' (459). Accordingly, women were viewed as having a kind of power over men through their perceived ability to upset both men's physical wellness and social order. Though of a lowlier rank than men, women may have 'dominion' over even the most noble.<sup>5</sup> Such subversion of men's roles suggests that lovesickness was not only a symbol of mental and humoral imbalance; it was also a sign of women's capacity to destabilise a traditionally patriarchal society.

This invites an anxious reading of women's bodies within early modern culture: if women exercise 'dominion' over men, men may potentially lose control over both their bodily and societal wellbeing (Burton 1857, 459). For, in addition to infecting men's bodies, love's 'beams' were also presumed to threaten the very fabric of Elizabethan and Jacobean society. Burton describes the threat of lovesickness as follows: it 'subverts kingdoms, overthrows cities, towns, families, mars, corrupts, and makes a massacre of men' (1857, 448). The threat of love melancholy (and, by extension, female bodies) was then all the more severe, as it affected both individual bodies and the environment around them. Moreover, the notion that lovesickness made a 'massacre of men' implies a potential for women to usurp men's position of social authority ('women make kings pay tribute') (459). As such, women's sexuality represented a catalyst to not only bodily illness, but social unrest.

### 3. *Reading Female Revengers: Interpreting the Body in Female Revenge Narratives*

According to Paster's description of early modern gender discourses, women's bodies were considered 'leaky vessels'; they were prone to become overwhelmed by their emotions and likely to 'infect' others with their violent passions (1993, 25). Such characterisations suggest that women's bodies were too unstable to channel their passions into a calculated plot of revenge. Alexander Roberts describes the supposedly erratic female nature as follows: 'when it conceiueth wrath or hatred against any, is vnplacable, possessed with vnsatiabie desire of reuenge, and transported with appetite to right (as they thinke) the wrongs offered vnto them' (1616, 43). Though Roberts notes that women may be quick to revenge, it is their alleged 'vnsatiabie desire' that makes them unable to control these emotions. John Sterne further comments on this notion of uncontrollability, claiming that, 'where they [women] can command they are more fierce in their rule, and reuengefull in setting such on worke whom they can command' (1648, 12).<sup>6</sup> In being irrepressibly vengeful and 'more fierce in their rule', women are therefore painted as being perhaps too passionate to channel their revenge towards the appropriate target; they become 'revengefull' on whomever 'they can command' (*ibid.*).

However, despite the image of a tumultuous and 'porous' female body, early modern plays offer strong examples of female revengers whose bodies are instrumental in enacting their vengeance (Paster 2003, 157). As Stanavage argues, female revengers are not hindered by their 'lack of fixity' but enabled by 'the force of the passions' within their bodies (2011, 6). One example of such a revenger is Franceschina in Marston's *The Dutch Courtesan*. Scorned by Freevill in favour of the virtuous Beatrice, the titular courtesan Franceschina plans to seek her revenge: 'Ick sall be revenged! Do ten thousand hell damn me, ick sall / have the rogue troat cut; and his love, and his friend, and / all his affinity sall smart, sall die, sall hang!' (2.2.43-45).

<sup>5</sup> Cristina Malcolmson describes the period's patriarchal standards arguing that, 'for the Renaissance, a woman was considered to be analogous to other social inferiors in a hierarchical society' (1991, 30).

<sup>6</sup> Further discussion on Roberts and Sterne's descriptions of female nature may be found in Dolan 1994.

Though indeed enraged by being set aside, Franceschina is effectively able to channel her outrage into a calculated scheme of revenge. This involves her persuading the infatuated Malheureux into killing Freevill: 'So long as Freevill lives, I must not love' (2.2.167). Franceschina's chosen method may initially suggest that she herself is not actively, physically involved in the act of vengeance. Edward Muir remarks on women's participation in revenge during this period, arguing that, 'In the eyes of men, vendettas could only be a matter among men, a belief that created in their relationships with women an island of repose in which women lived safe from the world of masculine violence' (1993, 191).<sup>7</sup> Thus distinguished from 'masculine violence', women are presumed to be likewise physically detached from enacting revenge. Deborah Willis further claims that much scholarship suggests that female bodies tend to only be physically implicated in revenge plots when cast as 'victims' (2002, 22).

While such assumptions are tempting, Franceschina's revenge plot demonstrates how female revengers have, as Stanavage argues, a 'fundamentally different relationship to revenge itself' (2011, 3). Though perhaps not always the instruments of violence, female bodies are still very much implicated in their acts of vengeance. Franceschina, for example, is characterized by the men involved in her revenge plot as having an innate power over others' bodies. Malheureux announces this upon first meeting Franceschina, exclaiming, 'Now cold blood defend me! What a / proportion afflicts me!' (1.2.79-80). Figuring himself the opposite to Franceschina – he is cold, while Franceschina is 'heat' – Malheureux regards her as a potentially dangerous and 'othered' presence (she must be 'defended' against) (1.1.12). He further likens Franceschina's alleged danger to an infection, as seen through his attempts to draw Freevill away from her: 'But to grow wild in loose lasciviousness, / Given up to heat and sensual appetite, / Nay, to expose your health and strength and name' (1.1.90-92). Here, not only may Franceschina 'afflict' one's reputation; she may also introduce 'pain' to one's 'perfect health' (Hippocrates 1959, 11-13). Such attention to health is notably significant due to Franceschina's occupation as a courtesan, a profession repeatedly referred to as being a catalyst for disease. Freevill regards Franceschina as, 'an arrant strumpet; and a strumpet is a / serpigo, venomd gonorrhoea to man' (2.1.133-134). Likewise, the characters jest that her place of work, Mary Faugh's brothel, is so rife with illness that it must have its own doctor: Freevill: 'How far off dwells the house-surgeon, Mary Faugh?' (2.2.69).

Thus associated with a place of disease, Franceschina has ample opportunity to 'afflict' men's bodies (1.2.80). She is both a 'Woman corrupted' and a woman who corrupts (2.2.201). She then naturally becomes a focal point for the characters' concerns over physical wellness (*ibid.*). This anxiety is soon validated as Franceschina carries the theme of infection into her chosen method of revenge. She hints at this around the start of her plot, when she wishes the plague upon Freevill and 'all his affinity': 'Now legion of / divel seize him! De gran' pest, St. Anthony's fire, and de / hot Neapolitan poc rot him!' (2.2.45-47). Such 'gran' pest', or plague, signifies Franceschina's desire to wreak widespread havoc through her revenge. In particular, it represents a desire to inflict physical consequences, like those bred by disease, upon those who have wronged her. This is realised through Franceschina's interactions with Malheureux, wherein she is presumed to use her charms as a courtesan, a supposed purveyor of illness, to infect Malheureux with lovesickness: Malheureux: 'I do malign my creation that I am subject to passion. I / must enjoy her' (3.1.245-246). Referring to his 'creation', Malheureux draws attention to how his body is vulnerable (or 'subject') to Franceschina's, despite his awareness

<sup>7</sup> Though Muir deals specifically with Renaissance Italy, the assertions in this passage reflect views held more broadly across early modern Europe. This is touched upon in Willis 2002, 24.

of her purported threat: 'How easy 'tis to err / When passion will not give us leave to think!' (2.2.220-221). Franceschina is likewise reduced to anatomical terminology (i.e. a 'passion'). Only, in being the 'passion' that unsettles Malheureux's 'creation', Franceschina is not vulnerable; she is in full authority. She is soon seen to exercise her supposed powers, as she uses her 'impassioned' body to transform the 'cold-blooded' Malheureux into '[her] slave' (1.2.79; 2.2.12). Such a ploy signifies how she intends for her 'gran' pest' to grow contagious, since she hopes that by infecting Malheureux she can incite Freevill's murder (the success of this plan will be discussed in a later section). Franceschina's body may then rightfully be viewed as not distinct from, but wholly immersed in her plot for revenge. For, she is fully cognisant of how her 'leaky' body may influence others, and how it may lead to the harming of many more (Paster 1993, 25). This is affirmed in Franceschina's reaction to successfully wooing and manipulating Malheureux: 'Now does my heart swell high, for my revenge / Has birth and form' (2.2.196-197). The reference to 'birth' evokes a specifically feminine image; while the revenge has a growing 'form' outside of her, it is still very much dependent upon the female body. This awareness then indicates that, unlike Malheureux, Franceschina is not a 'slave' to passion. Rather, she is in perfect control of her 'porous' and infectious nature, and uses it as the vehicle for her revenge (Paster 2003, 157).

The notion that women could purposefully make men lovesick is not uncommon during the early modern period. Burton argues that women's influence – as it stems from their appearance – becomes 'much more when those artificial enticements and provocations of gestures, clothes, jewels, pigments, exornations, shall be annexed unto it' (1857, 470). This is certainly exemplified through Franceschina, as such 'enticements' and 'provocations' were indeed exaggerated to enable her profession. For, in being 'a money-creature', her 'Beauty's for use' (1.1.96; 1.2.136). Accordingly, women (according to Burton's view) were very much aware of and could purposefully enhance their infectious natures. It is fitting, then, that Franceschina's revenge is described through a language of infection. To Malheureux, it is her body that grants her power over others; she is the 'beast of man, loose blood' who is sent to 'distemper' him (5.3.66). Such control over men's humours is notably acknowledged by other female revengers. One example appears in Maria's plot against Malvolio in *Twelfth Night*. Angered by Malvolio's scolding, Maria conspires with Sir Toby and Sir Andrew to seek their revenge. Maria describes her scheme as follows:

I will drop in his way some obscure epistles of love, wherein by the colour of his beard, the shape of his leg, the manner of his gait, the expresseure of his eye, forehead, and complexion, he shall find himself most feelingly personated. (2.3.131-134)

Through her speech, Maria reveals herself to be the instigator of Malvolio's alleged spiral intomadness.<sup>8</sup> She is the first to conspire against him and chooses to do so by means of deception and manipulation. Specifically, she enacts her plan by instilling a kind of lovesickness in Malvolio, wherein he believes that Olivia loves him and that he may rise above his station: Malvolio reading Maria's forged letter: 'some achieve greatness, and some have greatness thrust upon them' (2.5.120-121).<sup>9</sup> Malvolio consequently seems changed upon reading the

<sup>8</sup> It should be noted, however, that Maria's plot does not truly 'madden' Malvolio. Rather, her revenge comes in humiliating Malvolio by making others (namely Olivia) believe Malvolio is mad.

<sup>9</sup> Malvolio's desire for social mobility is evidenced in his subversion of his steward role. Barbara Correll describes the role of an early modern steward as follows: 'In addition to their specific administrative duties on estates and in households, stewards are factors of power, instrumental men tasked to concretize the desires of others, desires



letter, with his appearance transforming from that of a stern, pious steward into a ridiculously attired, 'smiling' fool (2.5.142). Olivia confirms this change in exclaiming, 'Why, this is very midsummer madness' (3.4.50). Malvolio's transformation then leads him to fall out of favour with Olivia, as confirmed by him later being removed and imprisoned: Sir Toby: 'Come, we'll have him in a dark room and bound' (3.4.113).

Once more, it may be argued that Maria is detached from her plot of vengeance. Rather than physically harming Malvolio, Maria merely writes a letter. However, such manipulation was likely only achievable by Maria due to her knowledge of Malvolio's character. He is, according to Maria's opinion:

... so crammed, as he thinks, with excellencies, that it is his grounds of faith that all that look on him love him; and on that vice in him will my revenge find notable cause to work. (2.3.126-129)

Such insight, though certainly biased, is not held by Sir Toby or Sir Andrew – Sir Toby: 'Possess us, possess us, tell us something of him' (2.3.117) – thus making Maria most fit to carry out the scheme. Maria goes on to designate herself as the most skilled for the task by claiming she can impersonate Olivia: 'I can write very like my lady your niece; on a forgotten matter we can hardly make distinction of our hands' (2.3.134-135). Malvolio soon confirms this ability when reading the forged letter: '[reads] "To the unknown beloved, this, and my good wishes." / Her very phrases!' (2.5.77-78). Maria, therefore, does not merely possess a skill for handwriting; she has an especial understanding of people's behaviours and emotions, and is well placed to manipulate them.

It is this knowledge, and how Maria wields it, that marks her revenge as female-specific. For, in being so aware of Malvolio's vices, Maria reinforces the idea that women were more attuned to the inner lusts and humours than men. Likewise, Maria's intention to use Malvolio's lusts against him ('on that vice in him will my revenge find notable cause to work') suggests she relies on this female intuition to perform her vengeance (2.3.128-129). This is evidenced through Maria's belief that making Malvolio expose his vices (i.e. his desires for Olivia and for social mobility) will bring about his downfall. Maria's use of love as the primary vehicle for her revenge further distinguishes the act as gender-specific, since, according to Burton, love is a tool that allows women special 'dominion' over men (1857, 459). Her vengeance may hence be viewed as an exercise of female agency. As Maria uses lovesickness to gain power over Malvolio, her revenge depends on the perceived 'dominion' women have over men's passions.

The attention to lovesickness in Maria's scheme also serves to couple female agency with infection. Like Franceschina, Maria is well aware of how to distemper those around her and incorporates this skill into her revenge. Maria's aim to distemper is first acknowledged through her describing her plot as a 'physic', or medicine (2.3.144). This language frames Maria's letter as an agent of infection, whose message will be consumed like a pill and have physical consequences for the reader's health. The letter highlights this intent through its reference to the body's humours: Malvolio reading the letter: 'Thy fates open their hands, let thy blood and spirit embrace them' (2.5.121-122). Through mentioning the 'blood and spirit', the letter not only implores Malvolio to heed its words; it also suggests these words may change his disposition, causing him to think, act and otherwise feel differently. Such change is evidenced by the physical

about which they may know very little' (2007, 67). Thus, stewards were largely in positions of service, asked to prioritise and cater to the 'desires of others'. Since Malvolio chooses to cater to his own desires – he is 'opposite with a kinsman' and 'surly with servants' (2.5.123-124) – he therefore undermines his purpose as the submissive steward.

alterations Malvolio undertakes. He has become ‘most feelingly personated’ (2.3.134), having abandoned his formerly austere attire to appear ‘strange, stout, in yellow stockings, and cross-gartered’ (2.5.138-139). These changes are further believed to be symptomatic of Malvolio’s supposed lovesickness, with Olivia diagnosing it as ‘midsummer madness’ (3.4.50), and Sir Toby claiming Malvolio ‘hath taken the infection’ (3.4.109). Thus, Maria’s letter is not merely a set of words; it is, per Fabian’s account, a ‘dish o’ poison’ that brings harm to its reader’s health (2.5.97).

The idea that women could not only cause lovesickness but inflict other types of pain is likely a product of the period’s medical rationale. For example, Walkington argues that ‘the soule sympathizeth with the body and followeth *her* crasis and temperature’ (1607, 9v; my emphasis). The use of a female pronoun in describing the body gives the impression that female nature can (and will) influence the soul. If the soul ‘sympathizeth’ with the body, and the body is ‘her’, then the soul is at the mercy of ‘her’ nature. This idea is foregrounded in Galen’s view that the body receives its earthly qualities from the female body (specifically, the womb). As such, it is only fitting that women were thought to wield power over men’s bodies. Thus, rather than being hindered by their supposedly unstable bodies, female revengers could purportedly use their ‘temperature’ to create instability and devastation in others.

An example of this appears in Isabella’s effort to avenge her son Horatio’s murder in *The Spanish Tragedy*. Upon her first appearance in act 2, scene 4, Isabella is presented as an overly impassioned female character: ‘My husband’s absence makes my heart to throb’ (2.4.96). Isabella’s proclamation notably comes before she learns of her son’s death, thus suggesting her nature (her ‘temperature’) is already unstable. This is then exacerbated when she discovers Horatio’s body: ‘O gush out, tears, fountains and floods of tears; / Blow, sighs, and raise an everlasting storm’ (2.4.105-106). Unable to contain her passions, Isabella is revealed to have gone mad in her next appearance in act 3, scene 8, declaring that ‘there’s no medicine left for my disease, / Nor any physic to recure the dead’ (3.8.4-5).

Such a representation paints Isabella as not in control of herself, echoing Hill’s conclusion that women ‘may sooner be conuerted, and are sooner angred’ (1613, 11). However, though indeed ‘conuerted’ by her passions, Isabella uses these tumultuous passions as instruments in her revenge. This is first hinted at in act 3, scene 8, when the maid responds to Isabella’s fits by saying, ‘Madam, these humours do torment my soul’ (3.8.13). Accordingly, Isabella’s humours are seen to adversely affect those around her, as they ‘leak’ out of her body and inflict pain onto others (Paster 1993, 25). Such effect is later confirmed in act 4, scene 2, when Isabella vows to avenge her son’s death: ‘Since neither piety nor pity moves / The king to justice or compassion, / I will revenge myself upon this place / Where thus they murdered my belovèd son’ (4.2.2-5). Such a pledge rejects an appeal to society in favour of an appeal to nature. This is demonstrated through Isabella’s treatment of the garden where her son was killed:

Accursèd complot of my misery!  
 Fruitless forever may this garden be,  
 Barren the earth, and blissless whosoever  
 Imagines not to keep it unmanured!  
 An eastern wind, commixed with noisome airs,  
 Shall blast the plants and the young saplings;  
 The earth with serpents shall be pesterèd,  
 And passengers, for fear to be infect,  
 Shall stand aloof, and, looking at it, tell:  
 ‘There, murdered, died the son of Isabel.’ (4.2.13-22)



Isabella not only destroys the garden – ‘*She cuts down the arbour*’ – but appears to cast a spell upon the site (4.2.5.1). She dooms the place to be forever ‘fruitless’ and a place of great infection for all ‘passengers’ who come too near. This fruitlessness is solidified at the end of the scene when Isabella stabs herself and dies: ‘And as I curse this tree from further fruit, / So shall my womb be cursèd for his sake’ (4.2.35–36). In so referencing the cursedness of both her ‘womb’ and ‘this tree’, Isabella’s speech directly reflects Hippocratic views on the interconnectedness of female bodies and nature. Such a notion is prefaced in act 1, scene 4, through Lorenzo’s statement to Horatio that, ‘women oft are humorous’ (1.4.105). In being so ‘humorous’, it is then fitting that Isabella wields significant influence over the play’s environments. This is soon confirmed as Isabella’s devastation of the garden (an act she vows symbolises her revenge by striking fear in the hearts of ‘passengers’) foreshadows the deaths of Balthazar and Lorenzo two scenes later. Thus, though Isabella is not physically present for Balthazar and Lorenzo’s deaths, the play ties Isabella’s destruction of the garden (and of herself) to the deaths of her son’s murderers. They are, in a sense, the very ‘plants’ and ‘young saplings’ Isabella has cursed.

Isabella’s revenge plot may then be read as evidence for how female bodies are implicated in, rather than divorced from, their modes of revenge. Just as Isabella’s humours ‘torment’ her maid, so too do they imbue the site of Horatio’s murder with a kind of plague. Likewise, Isabella’s suicide marks a physical commitment to her vengeance, as her body quite literally becomes the garden’s first ‘infect passenger’ (4.2.20). Accordingly, Isabella’s distempered body is both the symbol and instrument of her revenge, as the despair of the garden stems from and reflects her own maddened and tumultuous state. Such effect is further articulated through a language of infection, with Isabella claiming that the ‘curse’ she places on the garden travels through ‘noisome airs’ (4.2.17). This mention of wind recalls Hooke’s theory that the air is a ‘convenient medium’ through which humours travel between bodies (1665, c2v). As Isabella later alludes to passers-by ‘fearing to be infect’, it is implied this convenient medium breeds and spreads illness to those who come near (4.2.20). Not only, then, is the earth made ‘barren’ and ‘blissless’; so too are the ‘passengers’ made unwell by Isabella’s fury (4.2.15 and 20). The attention to barrenness is especially significant in Isabella’s plot, as her later references to her womb being ‘cursèd’ denote a self-awareness of how her body is implicated in her revenge (4.2.36). In particular, there is a recognition that her revenge is driven by her role as a mother. She becomes unhinged upon hearing of her son’s murder and is driven to avenge him shortly thereafter. Curiously, though, the notion that motherhood may be connected to revenge invites some confusion into discourses around female nature. Tassi, for example, argues that, ‘The very coupling of the concepts of *woman* and *revenge*, much less *mother* or *wife* and *revenge* activates – and upsets – long-standing gender norms of feminine nurturance, domesticity, and subordination that form the basis of Western constructions of femininity’ (2011, 20). As the term ‘mother’ is colloquially equated with ideas around caregiving, love, and nourishment, there is an uncertainty as to how to situate the roles of mother and revenger within the same body. Such confusion likely contributes to perspectives that revenge is a mainly ‘masculine picture’, in which women are portrayed as a ‘mere backdrop’ (Muir 1993, 191). Regardless, Isabella’s direct references to her body undermine such views by placing female nature at the centre of female revenge narratives. Moreover, her language suggests that her role as a mother fuels, rather than hinders, her desire for vengeance.

The notion of a maternal revenger is certainly not unheard of within early modern drama. Alongside Isabella in *The Spanish Tragedy*, a significant example of a maternal revenger may be found in *Titus Andronicus* through the character of Tamora. After losing the war with Rome and watching Titus kill her eldest son, Alarbus, Tamora is driven to avenge her family’s suffering. This revenge is first touched upon by Demetrius following Alarbus’ death:

Then, madam, stand resolved; but hope withal  
 The selfsame gods that armed the Queen of Troy  
 With opportunity of sharp revenge  
 Upon the Thracian tyrant in his tent  
 May favour Tamora, the Queen of Goths –  
 When Goths were Goths, and Tamora was Queen –  
 To quit the bloody wrongs upon her foes. (Scene 1.138-144)

Though equally enraged by the violence, Demetrius's speech identifies Tamora as the main revenger of their plot. She is, according to Demetrius, even likely to receive a godly blessing for seeking to 'quit the bloody wrongs'. Moreover, Demetrius implies that Tamora is most fit to exact revenge because of her status (she is 'the Queen of Goths'). Such a statement unsettles the idea that women existed on the peripheries of revenge narratives, as Tamora is immediately placed at the centre of the action. This is later confirmed in act 1, scene 1, when Tamora tells Saturninus of her plan to seek revenge on Titus:

I'll find a day to massacre them all,  
 And raze their faction and their family,  
 The cruel father and his traitorous sons,  
 To whom I suèd for my dear son's life,  
 And make them know what 'tis to let a queen  
 Kneel in the streets and beg for grace in vain. (Scene 1.453-458)

Here, Tamora describes her revenge as being personal and honour-driven, as she notes how her motivation stems from her status as a the former 'Queen of Goths'. Interestingly, such a drive is traditionally thought to be reserved for male revengers. Fredson Bowers attests to this view in his seminal text *Elizabethan Revenge Tragedy, 1587-1642*: the 'Elizabethan gentleman ... felt obliged by the more powerful code of honor to revenge personally any injury offered him' (1959, 37). In being similarly 'obliged' by the 'powerful code of honor', Tamora may initially be read as adopting masculine qualities in her vengeance. As Tassi notes, revenge narratives often align pursuits to avenge 'moral transgressions and perceived injustice' with masculinity (2011, 18). However, Tamora's language rejects such assumptions. In particular, her dialogue with Demetrius and Chiron in Scene 3, suggests that her revenge is driven by her status not only as a queen, but as a mother: 'Give me the poniard. You shall know, my boys, / Your mother's hand shall right your mother's wrong' (Scene 3.120-121). The reference to a 'mother's wrong' complicates the notion that Tamora's revenge fits into a 'masculine honour' trope, as her scheme is very much connected to her role as a woman and mother.

This idea is reinforced through repeated references to Tamora's body and her relationship with her sons. For example, Tamora, much like the other previously discussed revengers, is portrayed as having special power over men's humours. Tamora cites this alleged power when she claims she can manipulate Titus into delaying Lucius' army. Here, Tamora asserts she will 'enchant the old Andronicus / With words more sweet and yet more dangerous' (Scene 9.87-88) and 'fill his agèd ears / With golden promises' (Scene 9.94-95). Such language suggests that Tamora may have a supernatural influence (it will 'enchant'), and that such influence will have a physical effect on Titus' body (it will be consumed through his 'agèd ear'). Tamora further declares she will 'temper him with all the art I have' (Scene 9.107), thereby implying that she both has a particular skill (or 'art') for the task, and that such a task will sway Titus' humours (his 'temper'). As such, Tamora appears to align her 'art' of persuasion with the 'art' of infection;

her 'art', according to her own description, is a kind of poison she will pour into Titus' ear and use to distemper him. This infectious imagery is reinforced through Tamora's interaction with Titus in Scene 11, when she appears before Titus disguised as 'Revenge': 'I am Revenge, sent from th'infernal kingdom / To ease the gnawing vulture of thy mind' (30-31). Again, Tamora draws attention to how her plot will affect Titus's health. Tamora confirms this intention soon thereafter in her instructions to Demetrius and Chiron: 'Whate'er I forge to feed his brain-sick humours / Do you uphold and maintain in your speeches' (71-72). Tamora also implies her own body is an instrument for this effect. 'Sent from th'infernal kingdom' (30), Tamora represents a 'hot' humour that will disturb Titus's seemingly melancholic and cold temperament (i.e. his 'strange and sad habiliment', 1). Tamora's body is hence made integral to her revenge, as it is her own 'infernal' nature that she uses to infect Titus.<sup>10</sup>

The centrality of Tamora's body, and its purportedly infectious quality, is further realised through how her sons feature in her plot. As noted earlier, Demetrius first identifies Tamora as the rightful leader in their quest for revenge. This leadership is epitomised in Tamora instructing her sons to attack Bassianus and Lavinia: 'Revenge it as you love your mother's life, / Or be ye not henceforward called my children' (Scene 3.114-115). Thus employing her sons as instruments to her revenge, Tamora uses her authority as a mother to incite violence. She later echoes these sentiments when she disguises herself as 'Revenge' (Scene 11.30) and names her sons 'Rape and Murder' (the very assaults committed upon Lavinia and Bassianus) (45). This does not, however, suggest that Tamora is kept at a distance from the attacks. Rather, the characters' dialogue identifies Tamora's body as being the source and perpetrator of the assaults. Lavinia attests to Tamora's culpability when she begs for mercy from Demetrius and Chiron: 'O, do not learn her wrath! She taught it thee. / The milk thou suck'st from her did turn to marble; / Even at thy teat thou hadst thy tyranny' (Scene 3.143-145). Such language suggests that Tamora's sons act not only out of loyalty to their mother; they are compelled by the 'tyrannous milk' they consumed as infants. They have, in a sense, been infected by Tamora's temper and are henceforth driven by her wrathful humour. Demetrius and Chiron, therefore, do not act as independent agents in their revenge. As the 'lustful sons of Tamora' (according to Marcus' description), they are physical extensions of Tamora's own 'lusts' and passions (Scene 6.78). This connection is again acknowledged by Titus in Scene 12, when he gives Tamora the pie made from her dead sons: 'Why, there they are, both bakèd in this pie, / Whereof their mother daintily hath fed, / Eating the flesh that she herself hath bred' (59-61). By referring to Tamora's sons as the 'flesh that she herself hath bred', Titus ties Demetrius and Chiron's bodies to their mother's. Thus, Tamora is not distinct from her sons or their actions. Instead, the play frames the maternal body as the source of Demetrius and Chiron's violent passions, thereby drawing attention to how a woman (and, especially, how a mother) may infect others with her 'temperature' (Walkington 1607, A4r).

#### 4. *Weaponised Bodies: Implications for Female Revengers, Agency and Identities*

Whereas some critics, like Muir, claim that revenge is a 'masculine picture' with women existing as a 'backdrop', the consistent references to female bodies within dramatic revenge narratives suggest that these 'pictures' embrace, rather than relegate, female experiences (1993, 191). As discussed in the previous section, women's 'leaky' bodies do not inhibit their ability for revenge

<sup>10</sup>The success of this plan will be discussed in the following section.

(Paster 1993, 25). On the contrary, such characters are portrayed as channelling their emotions and experiences – whether these be as a scorned lover, an angered gentlewoman, a heartbroken mother or a disgraced queen – into their schemes. And, though these characters' motivations indeed may vary, the manner in which they all enact their revenge utilises and relies upon the supposed 'art' they possess as women (*Titus Andronicus*, Scene 9.107). These plots therefore reject the notion that revenge requires a woman to either adopt a 'masculine persona' or be marginalised (Findlay 1999, 72).<sup>11</sup> Recent feminist critiques have further claimed that, in seeking revenge, there are more opportunities for female characters to assert their agency. Tassi, for one, argues that 'feminine power and agency are awakened through the spirit of revenge' (2011, 20). Similarly, Stanavage attests to the 'potential of revenge to affirm and empower these transgressive identities' (2011, 64). These notions are perhaps best supported by the centralisation of female bodies and experiences in their revenge narratives. Just as Franceschina's body is instrumental in her revenge in *The Dutch Courtesan*, so too is Isabella driven by her maternal instinct *The Spanish Tragedy*. In so featuring female nature, such narratives then certainly allow for female identities to be 'awakened' and 'affirmed'. More than merely being awakened, though, representations of female-driven vengeance paint revenge as being reliant upon and inseparable from the characters' bodies. This gendered reading of revenge extends Stanavage's assertion that women have a 'fundamentally different relationship to revenge itself' (2011, 3). For, as the female revengers are portrayed as being driven by and using their bodies to exact vengeance, their revenge is distinguished as a female-specific act.

On the surface, such a distinction supports beliefs that revenge helps 'empower' and embolden female identities. This may certainly be the case for the female revengers discussed earlier, as each character's vengeance is in some way connected to their identity as a woman. Furthermore, such representations help broaden and contradict the stereotypical notion of a servile, pleasant female character. Franceschina, Maria, Isabella and Tamora are not 'nice'; they are very much aware of their female nature and express it through their revenge. However, though indeed an opportunity for female identities to be more fully explored, the suggestion that female revenge truly 'empowers' them is problematic. Namely, the idea that revenge may 'awaken' their identities contributes to an alignment of female agency with violence. If their revenge is linked to female agency, then their identities are likewise conflated with danger and destruction. This sense of destruction surfaces in the female revengers' plots, with the characters' actions leading to social turmoil. Maria's manipulation of Malvolio in *Twelfth Night*, for example, leads to a kind of social unrest, with Malvolio being humiliated and temporarily imprisoned. Similarly, Tamora's scheme in *Titus Andronicus* contributes to political turmoil amongst the play's noble characters (namely through the perpetuated violence and deaths of major characters).

Accordingly, the representation of female agency in these revenge narratives is not wholly 'empowering' for female identities. Rather, it is painted as a weapon. This weaponisation is reinforced by the language of infection that appears alongside these revengers. As demonstrated by Isabella's speech in *The Spanish Tragedy* and Franceschina's revenge in *The Dutch Courtesan*, female revengers are characterised as using their bodies to manipulate the wellbeing of others. Thus, female agency is portrayed as not only disruptive to social order, but to physical health. This note on health is especially significant given cultural concerns over preserving one's physical

<sup>11</sup> Carolyn Asp, for example, argues that Tamora does not operate as an independent female character, but rather as a 'subject, i.e. as an agent, within the patriarchal order' (1995, 335). The suggestion that Tamora has become 'unwomanly' is indeed remarked upon in the play, as demonstrated when Lavinia begs for mercy from her attackers: 'No grace, no womanhood – ah, beastly creature, / The blot and enemy to our general name' (Scene 3.182-183).

wellness. For example, in his treatise *De habitu et constitutione corporis* (1561), translated into English by Thomas Newton in 1576, Levinus Lemnius argues that knowing that the ‘health of bodye and health of minde’ should be a person’s ‘chiefest care and whole diligence’ (1576, 2v). This view of health as ‘chiefest’ priority is reflected across a number of the period’s publications, including William Vaughan’s *Directions for Health, both Naturall and Artificiall* (1617), which states on the title page: ‘Teaching how euery Man should keepe his body and minde in health: and sicke, how hee may safely restore it himselfe’.<sup>12</sup> Such a preoccupation with health is largely a product of contemporary anxieties over the plague, which threatened not only an individual’s personal health, but also the order and wellbeing of Elizabethan and Jacobean culture. Thomas Lodge – a proclaimed ‘Doctor of Physicke’ – stresses the prevalence of plague as he regards the significance of the ‘Feuers, Botches and Carbuncles that raigne in these times’ (1603, title page).<sup>13</sup> In then being aligned with infection, female agency and bodies become an even greater source of anxiety. Just as revenge ‘awakens’ female identities, so too do these identities help ‘awaken’ pre-existing concerns over physical and societal stability.

What this ultimately means for representations of female revengers is that, instead of being empowered, these characters tend to be further solidified as ‘transgressive’ (Stanavage 2011, 64). This is made evident in how these characters feature within the dramaturgy of their respective plays. For one, such revengers are more often than not left injured by their actions. Burton remarks on how revenge often hurts the revenger, arguing that revenge will ‘precipitate ourselves into that gulf of woes and cares, aggravate our misery and melancholy, heap upon us hell and eternal damnation’ (1857, 168). Tassi likewise claims that ‘revenge brings satisfaction and pleasure, yet it may ultimately pain and destroy the avenger’ (2011, 28). This is certainly the case in the tragedies, wherein the female revengers are more or less destroyed by the ends of their plays. For example, Isabella in *The Spanish Tragedy* and Tamora in *Titus Andronicus* suffer gruesome deaths. They also become socially disgraced. Isabella is made to appear unstable and overwhelmed by her passions. Such passions fail to bring justice for her son, and are also claimed to be the cause of her demise, as seen through the Ghost’s claim that ‘Fair Isabella by herself misdone’ (*Spanish Tragedy*, 4.5.6). In addition, Tamora (who is notably unsuccessful in either maddening Titus or avenging her family) is dismissed as a ‘ravenous tiger’ in Lucius’ closing speech: ‘throw her forth to beasts and birds to prey. / Her life was beastly and devoid of pity’ (*Titus Andronicus*, Scene 12.194 and 197-198). Tamora’s branding is particularly significant in this instance. By juxtaposing Tamora’s ‘memoriam’ against Titus’ (*Lucius*: ‘My father and Lavinia shall forthwith / Be closed in our household’s monument’, Scene 12.192-193), the play invites audiences to perceive female-driven revenge as a most troublesome and offensive form of vengeance. It is important, though, to acknowledge that male revengers are certainly not unharmed by their quests for revenge; Titus and Hieronimo both suffer ill fates in *Titus Andronicus* and *The Spanish Tragedy*, respectively. Nonetheless, the ‘woe’ that is heaped upon female revengers is not merely related to their actions. Since female revenge is portrayed as manifesting from female bodies, the punishment of female revenge is also a punishment of female nature.

<sup>12</sup>Other contemporary publications regarding the significance of bodily and mental health include Sir Thomas Elyot’s *The Castel of Helth* (1541) and William Bullein’s treatise *The Gouernment of Health* (1595). Bullein’s work in particular draws attention to concerns over preserving health via the following inscription on the title page: a treatise ‘for the especiall good and healthfull preseruacion of mans bodie from all noysome diseases, proceeding by the excesse of euill diet, and other infirmities of Nature: full of excellent medicines, and wise counsels, for conseruacion of health, in men, women, and children’.

<sup>13</sup>Useful scholarship on plague anxiety during the early modern period may be found in Healy 2001; MacKay 2011; Gilman and Totaro 2011.



This theme of punishment is likewise apparent in how female revengers are treated in the comedies. However, unlike in the tragedies, the 'woe' heaped upon female revengers in these plays is not compounded by a complete collapse of order. Instead, order is more or less preserved in the end. Duncan Salkeld acknowledges this distinction, stating that 'At close, either the contradictions are resolved, as in the comedies ... or they remain and madness leads to tragedy and death' (1993, 61). Female revengers may very well fall under the category of 'contradictions', since their schemes often represent a threat to social stability. As such, the comedies avoid falling into complete chaos by 'resolving' the challenges created by these contrary figures. In *The Dutch Courtesan*, this is achieved through Franceschina being removed from society. Sir Lionel: 'To severest prison with her!' (5.3.55). In so punishing Franceschina, the characters identify her and her revenge as the very contradiction in need of settling. And, as Franceschina's body plays a large role in her revenge (through 'infecting' Malheureux with lovesickness), there is a further conflation of this contradiction with the female body. Only through her physical removal may order be restored. This idea is reinforced with Franceschina's imprisonment giving way to a moment of realisation and resolution for the other characters. For example, Freevill discloses his plot to thwart Franceschina – 'I gave her line at will, till her own vain strivings / See here she's tired' – Malheureux is 'cured' of his infatuation and the other characters' turmoil is abated (5.3.47-48). This is evidenced through the following exchange. Sir Lionel: 'You 'maze us all; let us not be lost in darkness,' Freevill: 'All shall be lighted' (5.3.51-55). The imagery of dark and light reflects the characters' transition from confusion to clarity. As Malheureux soon exclaims 'I am myself', there is continued confirmation that the world has been put to right (5.3.61). Curiously, the play also suggests that Franceschina is aware of how her presence and actions have wreaked havoc. This comes towards the end of the play when Franceschina verbalises her surrender: 'me ha' lost my will' (5.3.58). Such resignation helps herald in a renewed sense of order. By losing her 'will', she has forsaken her supposed power of infection (i.e. her 'dominion' over men) and permitted the play's characters to return to health and stability (Burton 1857, 459).

Franceschina's acknowledgement of how her presence fits (or not) within the social balance of her play recalls the tenuous position of women within early modern hierarchies. Marianne L. Novy speaks of the dangers of rebelling against traditional gender roles, attesting that 'the obvious way for a woman to survive is to go along with social order' (1984, 152-153). As Franceschina does not go along with order (she is not, according to Freevill's account, a 'lawful love' like Beatrice), she is not able to survive socially within her play's world (1.2.94). The play then implies that, unlike male agency, female agency does not hold a firm place within early modern society. It is instead antithetical to societal health. Such interpretations, however, are slightly obscured by the treatment of female revenge in *Twelfth Night*. Though the 'contradictions' are indeed resolved at the end of this play, such resolution is not brought about through Maria's removal (Salkeld 1993, 61). Unlike Isabella, Tamora and Franceschina, Maria ultimately benefits from her scheme. The plot enables her marriage to Sir Toby and her subsequent rise in station.

*Fabian ... Maria writ*

The letter, at Sir Toby's great importance,

In recompense whereof he hath married her. (*Twelfth Night*, 5.1.342-344)

This benefit is hinted at earlier in the play when Sir Toby praises Maria for her plan: 'I could marry this wench for this device' (2.5.147). The idea that the marriage was a reward for her scheme adds an alternative reading to Maria's revenge plot. Namely, it may be argued that Malvolio was not the only target of Maria's ploy; she intends for her 'physic' to also be consumed by Sir Toby

(2.3.144). Only, instead of humiliating Sir Toby (like she does Malvolio), Maria hopes to use him to aid her own ambitions of social mobility. Tassi remarks on the similarity between Malvolio and Maria's lofty goals, claiming that 'If Malvolio's transgression lies, in part, in his wish to cross class lines through marriage – to become *Count* Malvolio – so, too, does Maria's... Revenge advances her suit, which is to become *Lady* Maria' (Tassi 2007-2008, 36-37). Accordingly, Maria aims to distract from her own agenda by finding a scapegoat in Malvolio.

Such a sequence of events suggests that, while other representations of female revenge may vilify female nature, it is possible for these characters to be truly empowered by and succeed in their vengeance. Despite their 'leaky' bodies, female revengers may be able to defend against the harm they spread (Paster 1993, 25). Moreover, Maria's success may imply that feminine agency actually has a place within early modern culture (despite other plays' efforts to admonish their female revengers' reputation and agency). The question then becomes how such success may be feasible for Maria when it is not for others (Franceschina, Isabella and Tamora are all unsuccessful in accomplishing their goals, and are all undone by their actions) (Paster 1993, 25). On the one hand, Maria's revenge is potentially more set up for success, as, according to Tassi's argument, 'comedy offers an hospitable environment for the exercise of feminine agency, creativity, and modes of justice' (2011, 23). Maria's creativity is certainly on display with her scheme's humour: it 'May rather pluck on laughter than revenge' (*Twelfth Night*, 5.1.346). Her actions are also deemed entertaining, as evidenced by John Manningham's 1601 account of seeing the play: 'A good practise in it to make the Steward beleve his lady widdowe was in love with him' (in Bruce 1868, 18). Female revenge, then, seems agreeable so long as its 'sportful malice' adds to the ultimate 'sport' of the comedy (*Twelfth Night*, 5.1.345). Maria's marriage to Sir Toby provides further confirmation that her revenge is acceptable; if 'comedy demands a marriage', then Maria's revenge helps fulfil these demands (Howard 1994, 127). Such fulfilment distinguishes Maria from female revengers in other comedies. For, while Franceschina's scheme in *The Dutch Courtesan* may be entertaining, its intention is to break up Freevill and Beatrice's union and is therefore not conducive to the 'comedy demands'.

Regardless of Maria's satisfaction of the 'comedic marriage', however, the play does not appear to glorify her behaviour; her success is revealed only in passing, and neither Maria nor Sir Toby are present. The lack of celebration is compounded by the revelation that Maria only gained her success through deceit. Such a presentation invites audiences to likewise 'pass over' their union, giving the impression that it is not the marriage the comedy wanted, but the marriage the comedy got. This becomes clear when comparing them to the protagonist couples, who are all present and who arguably invite more sympathy than either Maria or Sir Toby. Additionally, Sir Toby is not the romanticised lover typical of such a happy, comedic ending. He is instead portrayed to be a fool and a drunkard. Olivia remarks on his buffoonery, crying, 'Ungracious wretch, / Fit for the mountains and the barbarous caves, / Where manners ne'er were preached – out of my sight! –' (*Twelfth Night*, 4.1.42-44). Maria, similarly, dubs Sir Toby a nuisance, claiming that his 'quaffing and drinking will undo you' (1.3.11). Thus, while the marriage is socially advantageous, Maria's 'success' comes at the price of being tied to (and 'undone' by) Sir Toby's vices. The 'hospitality', then, of comedies to female agency is indeed conditional (Tassi 2011, 23). Even when female revengers manage success, there is a limit to how much freedom and empowerment their agency can have.

## 5. Conclusion

In then interpreting how female revengers are represented in early modern drama, there appears to be more than a mere worry for how vengeance harms individual persons. As revenge arguably



'awakens' female agency, female-driven vengeance also 'awakens' broader fears around masculine identities and social order (Tassi 2011, 20). The idea that vengeance emboldens female identities is well demonstrated through repeated references to female bodies. Specifically, the female body is portrayed as a 'weapon', with Franceschina, Maria, Isabella and Tamora all being portrayed as catalysts for disease and suffering. More than simply being 'weapons', though, these bodies are deemed inseparable from and integral to female revenge. This negates the assumption that women must assume a 'masculine persona' in their vengeance (Findlay 1999, 72). Instead, revenge is 'fundamentally different' for female revengers, as the language around their bodies distinguishes their revenge as a female-specific act (Stanavage 2011, 3). Ultimately, though, such a pronounced exhibition of female agency does not help promote female identities within the plays, since these characters are often confined, removed or otherwise disgraced from their plays' social worlds. The lesson then arising from these narratives serves to embolden a cultural vilification of female bodies. For, in so conflating female nature with infection and destruction, the plays appear more concerned with warning against than enabling female agency.

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